DEBATES

OF THE

LEGISLATIVE ASSEMBLY

FOR THE

AUSTRALIAN CAPITAL TERRITORY

FIFTH ASSEMBLY

WEEKLY HANSARD

18 NOVEMBER

2003

Tuesday, 18 November 2003

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

Privileges—Select Committee
Report

MS DUNDAS (10.32): Pursuant to order, I present the following report:

> Privileges—Select Committee—Report—*Possible unauthorised dissemination of committee material, standing order 71 (Privilege), Minister's refusal to answer questions in committee hearing and distribution of ACT Health document*, including a dissenting report, dated 3 November 2003, together with a copy of the extracts of the relevant minutes of proceedings.

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

Leave granted.

MS DUNDAS: I move:

> That the report be authorised for publication.

Question resolved in the affirmative.

MS DUNDAS: I move:

> That the report be noted.

I will be brief in speaking to the tabling of this report. It is only a brief report, considering the number of issues that we were looking at, but there were some things that came together as we looked at the four different issues.

I believe that the inquiry we undertook illustrated that, within both members of this Assembly and the public service, there is little understanding of the actuality of the powers and privileges of the Legislative Assembly. If there is an understanding of those powers and privileges, there is not a lot of respect for how they actually operate and the role of this Assembly in the ACT. That is of great concern and is something that needs to be addressed. I believe that the recommendations lead to that by putting in place a more cohesive understanding of the role of the Assembly and how it operates and trying to generate more respect for the procedures and practices.

I will now go through the four main issues into which the committee was tasked with inquiring. The first was to examine whether there was a breach of privilege and whether a contempt had been committed in relation to the dissemination of information to the ABC. Of course, that was going to be a difficult question to look at, considering the

confusion that currently exists around standing orders 241 and 242. The bulk of the report looks at standing orders 241 and 242 and how they could be greater clarified to put some more stability into what we mean by privilege and contempt and when such things would occur. The main recommendation was that, based on what this Privileges Committee has reported and the previous Privileges Committee's definition of "privilege", the Standing Committee on Administration and Procedure do a further investigation of how we can rewrite standing orders 241, 242 and 243.

In terms of whether information had been leaked, it was impossible for the committee to determine whether there had been a leak in each case and, if there had been a leak, to attribute the origin of the leak. In considering this matter the committee endeavoured to apply the test of whether there had been a substantial interference with the work of the two committees by the premature release of their recommendations. We came up with the answer that possibly not. Hence, there was not enough evidence to conclude that there was a breach of privilege or contempt. We concluded that, while there seemed to be prior knowledge of the recommendations, it was impossible to attribute this knowledge to any particular member of this Assembly or anybody else working in the Assembly.

I would like to thank members of the Assembly for taking the time to participate in this inquiry and providing information particularly in relation to our first resolution, but the main issue that I think needs to be addressed is how our standing orders currently work in relation to privilege. I hope that the Administration and Procedure Committee will consider this report in depth and move to address the concerns that we have raised.

The second major issue was Minister Corbell's response to the Estimates Committee and his refusal to provide information at the time it was asked for. Again, we looked at this issue in depth and considered *Hansard* as to Minister Corbell's evidence to the Estimates Committee and his statement in the chamber as well as his further statements to the committee in hearings and, as a consequence, found that Minister Corbell had indeed acted in contempt of the Assembly but, considering the nature of the contempt and the Estimate Committee's actions after the situation took place, the majority of the committee recommended that no further action be taken. The minister has apologised to the committee and to this Assembly in statements previously and I agree that there is no need for further action to be taken at this point in time. However, one member of the committee has dissented from that recommendation.

In relation to the budget estimates 2003 document that was circulated under ACT Health letterhead, it was made quite clear to the committee, I believe, that this was possibly due to a lack of understanding of how the Assembly works or, if that understanding was there, a disregard for it. The circulation of the document was found to be possibly not in the best interests of the people who circulated it and not in the best interests of the Assembly. Everybody agreed that it was a flippant document. The author and the officer who circulated the document have since apologised on public record, through the Privileges Committee, for the document.

I was quite pleased to see the action taken by Dr Sherbon, as chief executive, not only in relation to those two officers but also in relation to the members of the executive of the department who received the document for not realising that it needed to be called in. We have recommended that the training brought about in ACT Health as a result of this incident be taken up more broadly across the public sector, through the Assembly, to

provide a greater understanding of what the Assembly is doing and of the privileges and practices of the Assembly so that this issue will not arise again in the future.

Whilst we found the officers responsible for authoring and disseminating the budget estimates 2003 document to be in contempt of the Assembly, we recommended that no further action be taken as they have apologised and proper steps were taken within the department to make sure that the officers concerned were fully aware of the seriousness of their actions and will not endeavour to undertake them again.

The inquiry was quite complex, given the scope of it and the number of questions before the committee, and I thank the Assembly for its indulgence in granting the committee an extension of time to examine further the evidence before it so that it could make sure that this report was one that the committee considered fully addressed the issues that were put before the committee by the Assembly. The report makes recommendations that I believe are quite clear about where it is we think things should go.

I thank also the members of the committee, Mr Stefaniak and Mr Quinlan, for their time and for their thoughtful consideration of the issues before the committee. I would also like to thank the secretary, Mr Pender, for his dedicated research into a number of similar incidents in terms of breach of privilege and contempt and how that should be reflected in the Assembly. I also thank the clerk for his support in that regard.

The committee found some gaps in knowledge and some gaps in respect for how the Assembly operates and steps need to be taken to address those. I hope that this report will provide the basis for that further work, so that we will all have a greater understanding of the respect with which committees should be treated as well as the work of this Assembly and the privileges of this Assembly. If we are to regard this Assembly as a parliament in Australia, it is important that we give it the same respect as other parliaments have received in terms of their privileges.

I commend the report to the Assembly and hope that the recommendations will be acted on in a timely manner.

MR STEFANIAK (10.42): Firstly, I thank my fellow committee members and Jim Pender for their diligence. The report is fairly short, but the committee met on quite a number of occasions. These matters are always difficult. I think that this is only the second time in this Assembly's history that there has been a finding of contempt. I will deal now with the various matters before the Assembly. I will also refer, of course, to my dissenting comments in relation to two of those matters.

Firstly, dealing with the leak to the media, all persons who responded to the inquiries of the committee did so appropriately, but no-one was able to shed any light on the particular subject that the committee was examining. Indeed, the responses raised some doubts as to whether the ABC journalists, in commenting on the two inquiries, had seen the reports at all. The committee approached the ABC reporter in question, Mr James Gruber. He was unable because of normal journalistic ethics to assist the committee on the source of the story he reported. That was probably of no surprise to the committee.

The committee was unable to attribute whether there had been a leak in each case and, if there was a leak, the origin of such a leak. There was fairly strong evidence in relation to

one of the two matters before the committee that it could well have been simply very good journalism. It was fairly well known that rates were an issue on which there would be certain recommendations and that a certain course of action would follow as a result. I think that that was pretty well common knowledge and you would not have to be an Einstein to work it out.

The other matter was probably a little bit more difficult, but it was not beyond the realms of possibility that it, too, could have been a result of some pretty good journalism. I am not quite sure what standard should be applied to a select committee but, applying the criminal standard of beyond reasonable doubt, the committee was unable to be satisfied as to whether there was a leak. Certainly, it was impossible to source the origin of any leak there may have been.

The committee, in looking at the matter, looked at the various standing orders and felt that there were some problems with the wording of standing orders 241 and 243. Those standing orders limit or even prevent the committee following the publication trail of the two draft reports and, while there is a limited distribution initially, there can be subsequent publication of the drafts to third parties who, in turn, could be the source of information on the reports' contents or of the leaks. It is because of that difficulty that the committee recommended a rewording of the standing orders along the lines proposed in paragraph 3.28, to replace standing orders 241, 242 and 243 and asked that that be referred to the Standing Committee on Administration and Procedure for consideration.

Without reading out the suggested format for standing order 241, I would say that that type of standing order would enable a committee to give limited publication to enable it to have the best of advice and often to test its conclusion against an expert or experts. It would also enable a committee to authorise the release of reports under embargo so that when the presentation occurs in the Assembly it is immediately followed by an informed debate and not simply a recitation of recommendations by the various members of the committee who were involved in the inquiry.

I turn to a matter that caused the committee a great deal of concern. Indeed, it was of concern to the Estimates Committee at the time, too. I refer to the incident on 22 May of this year, during the Estimates Committee hearings, when the Minister for Health, Mr Corbell, refused to provide answers in relation to hospital waiting lists. The information was released publicly the next day—indeed, as a result of some questioning I did of Mr Corbell, early in the morning of the next day. The minister indicated that it was common practice to do media releases early in the morning. I have to accept that that may well be so. The information was released then, but it was not provided on the day it was sought.

Mr Corbell admitted that he should have provided the information that the Estimates Committee had requested of him when it was requested and not at a later time. He made a number of other comments and they are included in the report for people to see. He admitted that he had made an error of judgment and that he should have responded positively to the request by the Estimates Committee. He apologised to the Assembly and he reiterated that apology to the committee.

It is a very serious matter when a minister, a not inexperienced minister, does that. Mr Corbell has been a member of this Assembly since 1996. He agreed, and I think it

would be common knowledge, that in opposition he had been to a number of estimates committees as a shadow minister. Indeed, his appearance at this Estimates Committee was his second as a minister. The practice in this place has always been that ministers answer questions to the best of their ability and give assistance to an estimates committee, which is a committee of the Assembly doing the business of the Assembly. It is quite clear that not giving information hinders the work of the committee. Giving information is something that all ministers have been able to do since the time this Assembly started, perhaps not always satisfactorily to the people actually asking for the information, but that is the nature of business in this place. At least they have given that information.

Contempt is a very serious matter. This is the only case of contempt that we have had before this Assembly and the committee has found Mr Corbell to be in contempt. The part of the recommendation I do not accept and have dissented from is that no further action should be taken. I do not think it is really the role of the Privileges Committee to make such a recommendation. The role of the committee should be to make findings on facts. Was there or was there not a contempt? We have found that there was a contempt. It is up to this Assembly, after we have reported, to consider what action should be taken against the minister, not for the committee to make any particular recommendation. Obviously, a finding of contempt is very serious. I think it is very sad that it had to come to this. No doubt, Mr Corbell is very much the wiser now. Nevertheless, the committee has unanimously found that he was in contempt and I believe that it is for this Assembly, not the committee, to recommend what further action should be taken.

In relation to recommendation 3, it is quite clear that everyone concerned felt that the officers concerned had been incredibly stupid in what they had done, everyone from the minister himself through to the officers concerned. The author and the officer who circulated the memorandum, Messrs Tatz and Rosenberg, have since apologised to the senior management of ACT Health and to their minister. They also took the opportunity of their appearance before the committee to express their very deep regret for their part in this incident. I would have to say that they both seemed quite genuine in that regard. I have been involved quite often in the past in examining witnesses in court matters and they certainly seemed quite genuine there. They both realised that the wording of the document was not appropriate and they did deny that the document was intended to be used to undermine the estimates process.

The committee was told that senior management in ACT Health commissioned an investigation into the circumstances surrounding the composition and publication of the document. The report on that was received on 22 July by the chief executive and, as a result, both officers were spoken to and admonished by the chief executive and the admonishment was recorded on their files as a formal disciplinary measure. The chief executive, Dr Sherbon, told the committee that it was of concern to him that none of the portfolio executives in Health who were recipients of this memorandum via email had picked up any problems with the document. He went on to say that the broader implications for the portfolio executive had been taken into account by him and that was why all members of the executive underwent leadership and integrity training.

Also, Health received a presentation from the former clerk of the Assembly on appropriate committee preparation, behaviour and service for the department and the chief executive assured the committee that the training would remain as part of an

ongoing program of senior leadership development. The two officers of Health admitted being naive, admitted they failed in their duties and apologised to all affected by their actions. I think the committee was quite impressed with the fact that Health itself has taken a number of steps in relation to this matter, including disciplinary action. As I have indicated, the officers concerned have had details of the matter placed formally on their records. Other senior executives as well as these two officers have received counselling regarding their action or inaction.

I am quite satisfied that the department has taken proper steps. However, I have again dissented from the recommendation of the majority of the committee. The committee recommended that no further action be taken. I do not think that that is a position for the committee to take. It may be a position for this Assembly. It is certainly a matter on which Health should take action. Indeed, in this instance it has taken action.

Turning to recommendation 4, we felt as a committee that a seminar series similar to the one the former clerk conducted in relation to Health should be conducted for departmental officers by Assembly staff. I think that that is a very sensible recommendation.

All in all, Mr Speaker, this was a disturbing matter for the committee to have to look at. I think that the practice which has been followed pretty effectively in estimates by all ministers on all occasions bar this one has been a proper one and it is crucially important for the proper running of this Assembly that information which is at hand is not concealed or not given for a petulant reason, a political reason or whatever. If the information is there and it is asked for in a proper forum, such as an estimates committee, the person in the position of the minister has a duty to give that information. Contempt is a serious matter and it is in many ways unfortunate that this whole incident occurred. Nevertheless, it did and there is a unanimous recommendation in relation to a contempt having been found. I believe that it is now a matter for the Assembly.

MR QUINLAN (Treasurer, Minister for Economic Development, Business and Tourism, and Minister for Sport, Racing and Gaming) (10.54): I also extend my thanks to my fellow committee members and to the secretariat. My comments in relation to the matters that the committee was appointed to examine commence with the information on ABC Radio and the possibility of a leak. I agree with Mr Stefaniak's summary. Yes, what might have happened in the Assembly a little later could have been inferred from what had been discussed in public hearings. However, the language of some of the reportage on the ABC would seem to indicate that some form of information had passed to ABC Radio. However, as is traditional, the media are not going to divulge their sources. I think that the Assembly ought to take serious note of that and be aware of its responsibilities in relation to confidentiality, in particular of committee reports.

In relation to Mr Corbell's refusal to give information, I have incorporated into the report my comment as a matter of emphasis rather than a matter of dissent. I think that it is important to understand the gravity of a contempt and the support for the committee provided significant information which did, in fact, indicate that a contempt would have to result in a significant obstruction to the work of that committee. It is quite clear that what happened here not only did not cause any significant obstruction to the committee but also did not cause any obstruction at all. In fact, I think Mr Corbell said at the

hearing that he would be issuing the figures within a week of the hearing anyway, so that the figures would be available to all and sundry. The point really swung on a refusal to provide the figures then.

I think that the Assembly ought to look at events that followed that hearing and, particularly, events that did not follow that hearing. Mr Corbell did publish the figures on the next day, as Mr Stefaniak stated. The Estimates Committee did not recall Mr Corbell to examine those figures. The Estimates Committee showed no interest in those figures beyond the moment. Mr Corbell appeared before the Estimates Committee at a later stage wearing another portfolio hat and the committee did not even take the opportunity at that stage to discuss the particular waiting list figures, so that quite clearly the committee was not particularly interested in those figures for the purposes of its deliberations. Ergo, the deliberations were not obstructed in any manner at all.

We need to be a little careful. This Assembly, since the advent of self-government, has struggled for community acceptance and it has struggled for community respect. That respect starts with us and we must respect the Assembly and its various committees and structures. However, we need to maintain a balance and a perspective. I do recall the headline "The house of farce", with this place being labelled as such. There is a danger that we can overdo the breast beating for purely petty political ends. We all know that the estimates committee operation, in practice, is generally quite wide-ranging, which is not a bad thing. It is not a bad thing that we have a committee that gets to question the government on a wide range of topics; the opportunities are not presented that often. Quite often the estimates committee is a meandering process and quite often it is a short-term political point scoring opportunity.

Clearly, this incident, which could be described, I think, as a little bit of antler rattling between a couple of members of this place, falls into that category of political point scoring. The Estimates Committee, by its actions beyond the incident, by its inaction beyond the point of the incident and by virtue of the content of its report, had no particular interest in these figures. The Estimates Committee was advised that those figures would be available within days. They were, in fact, available virtually immediately, but the committee was advised that they would be available within that week.

That should not and cannot be interpreted as a significant obstruction. There might have been a little bit of schoolboy disobedience by Mr Corbell in front of the committee, but that is what it boiled down to and it was quite clear from the evidence that this was a minor point scoring exercise. I still think that it is the responsibility of members to answer when they can or to advise the committee that they will take the question on notice and provide information, but let me say that this incident does not qualify as a significant obstruction to the work of that committee.

I disagree strongly with Mr Stefaniak's conclusion that it was not the job of the committee to make recommendations as to further action. That was exactly our job. We were not there simply to find facts, otherwise virtually every committee report that is tabled in this place would be deficient because you would just get a catalogue of data, maybe a catalogue of what other people said, and you would not get the benefit of the committee's deliberations. We have what are called deliberative meetings within our committee process in order that a committee can do its job and its job is to examine a

matter and make recommendations. This committee, by a majority, has made recommendations to this house and it behoves this house to take those recommendations on board and to take them seriously.

Question resolved in the affirmative.

Minister for Health
Motion of want of confidence

MR SMYTH: (Leader of the Opposition) (11.04): Mr Speaker, I seek leave to move a motion of want of confidence in the Minister for Health.

Leave granted.

MR SMYTH: I move:

> That the Assembly expresses a lack of confidence in the Minister for Health for being found to be in contempt of the Assembly by a Select Committee on Privileges.

Mr Speaker, this is a serious charge. We have had from the committee charged with determining whether Mr Corbell had committed a contempt a decision that he did. It was a unanimous decision of the committee. All three members of the committee found that Mr Corbell had committed a contempt.

Mr Speaker, contempt is a very serious charge to lay at a member and at a minister and the whole issue must be treated very seriously. There is no degree of contempt that I am aware of: either you are in contempt or you are not. If you are in contempt, there is a consequence. I think that the clear tradition is that ministers, in particular, found guilty of contempt either should do the honourable thing and resign or should be removed by their leader. It is a spurious argument to say that it was just schoolboy disobedience or that it was a minor offence; it is a contempt.

Mr Quinlan spoke earlier about the struggle by this place for community respect, yet we have sitting on the front bench a minister who apparently is not willing to resign. Mr Corbell could jump up and finish the argument now by tendering his resignation, but I do not think that he will. You cannot say that it is a minor offence: either it is or it is not a contempt. If it is a contempt, then it has a consequence. The consequence quite clearly set out by practice and by tradition in the House of Representatives is that individuals found guilty of contempt, particularly ministers found guilty of contempt, have to go.

The point of the matter seems to be that it is a degree of contempt. I do not understand or believe that there is anywhere outlined in any of the readings that I have a degree of contempt defence: either it is or it is not. As I have said, it is one of the most serious findings against a minister. If Mr Quinlan is correct and sincere about what he says concerning the Assembly wanting to be taken seriously by the people of Canberra, that it does not revert to being a house of farce, a serious finding against the minister should not be something that we brush under the carpet. It is not something on which we say that he apologised, that it was schoolboy disobedience or that it was a small contempt or a large contempt.

We would not be arguing about the degree of murder, whether it was a big murder or a little murder, whether it was a bad murder or a good murder, if there is such a thing—it is murder. In this case, it is contempt; there is no degree. If it is the will of the Assembly to set a precedent today by saying that there are degrees of contempt, we will be setting a precedent, not just for us, but for all those that follow parliamentary practice in the way that we do. I think that by not finding in favour of a motion of no confidence in the minister we would be setting up this place as a house of farce and saying that we have standards that mean absolutely nothing. It is important to take into account the standing of the Assembly in this regard. We must truly consider the position of this place and actually do hold people accountable for things they do.

Much is made and much was said of Mr Corbell coming down and apologising. Mr Corbell only came down and apologised when he was actually facing the prospect of being the subject of a committee inquiry. Let's go back to when the motion was moved that the committee be established. The unanimous recommendation of the Estimates Committee was that a contempt committee be established. All sides of this house agreed that something needed to be investigated and that that committee should determine whether a contempt existed. Everyone was interested; everyone agreed equally.

Mr Corbell had some time between the tabling of that report and the moving of the motion to come down and apologise to this place for what he had done. Did he take that opportunity? No, he did not. He waited until a minute to midnight to come down and say, "Okay, I was wrong. You don't need to do the contempt thing because I've admitted that I was wrong and I will never do it again." But it does not work like that. We set standards and we set precedents by what we do in this place every day and, if we do not adhere to those standards and those precedents, we undermine the system, we ignore the system, and we actually do what Mr Quinlan is afraid of, that is, we lose the struggle for community respect. Basically, we would be saying, "Yes, he is guilty of contempt, but who cares? It was a minor infraction." No, it was not a minor infraction.

When the committee tabled its report, I asked my office to check with the Clerk of the House of Representatives, Mr Harris, on the seriousness of the issue. Mr Harris rang back and spoke to my chief of staff. He said, "Clearly, the well known example is the Profumo affair where a minister was found guilty of contempt and the minister resigned before the house could find him guilty of grave contempt." The advice from Mr Harris was that it is a very serious offence and the house would suffer if it did not punish a contempt. Indeed, it is his view that not to do so would undermine the authority of the house.

I would put to Mr Quinlan that if he agrees, as he has, that, according to paragraph 3.40, the committee has found that Mr Corbell was in contempt of the Assembly, and if he is afraid of this place being diminished in the eyes of the public, then, if he is true to his own words, he should vote for want of confidence by this place in Minister Corbell.

Mr Wood: Did you get this report early? You said that you sought some advice when it was tabled. That was 10 minutes ago. Is that another contempt?

MR SMYTH: Yes, I asked them to ring and calls have been exchanged. You saw my chief of staff come into this place and give the attendant a note and the attendant bring

the note down to me. It is not hard to get clear advice. It is not a murky issue; it is a black and white issue. This one is a very clear issue. The clear issue is that contempt has been found.

Mr Quinlan's other defence in objection to what Mr Stefaniak had said was that Mr Stefaniak had said that it was not the role of the committee to determine what the punishment should be. Mr Quinlan said that it was, otherwise for some odd reason all committees would be neutered. If Mr Quinlan reads the resolution of appointment he will see that it simply asks the committee to examine the refusal of Mr Corbell to answer the questions and determine whether it constitutes a contempt of the Assembly. The resolution of appointment of the committee that was passed by this Assembly does not say anywhere that the committee should also determine what the punishment may or may not be. That is not the right of the committee; it is actually the right of this Assembly. It gets back to what we are doing here today, Mr Speaker.

What are we establishing? We are establishing the most dangerous of precedents that says the executive are not accountable; that they can do whatever they want, they can be found guilty of breaching the rules, they can be found guilty of contempt, but we as an Assembly do not have any power or choose not to exercise any power to bring them to task. That is the important issue here today. It is the setting of a principle, it is the setting of a precedent, that says that the executive have unfettered power. They do not. This Assembly appoints a chief minister and the chief minister appoints the executive. There is a clear line there, Mr Speaker, that must be respected.

Let's go to the issue of the objection not being significant. Apparently, it is now the fault of the committee for not following up on what happened: we did not object enough; we did not protest enough; we did not do enough; it is our fault that Mr Corbell committed a contempt and we did not do anything about it. First and foremost, the Estimates Committee can only recommend, as we did, that a possible contempt be inquired into. We had no power to determine whether there was a contempt. That is for a special committee, a privileges committee. The Privileges Committee has done so.

Mr Quinlan said that there was a recall date. Mr Corbell had already put the numbers out. There was no purpose; the debate had been had well and truly in the public as to the effect of these numbers and the consequences for the waiting list. To say that somehow it was almost the committee's fault has to be the most spurious argument ever put forward. It is a most disingenuous argument put forward by somebody who has lots of debating skills and who knows normally how to put an argument together. The question is: who is responsible to whom? It is a question of whether the executive is accountable. If we believe that contempt can be found but no action is taken, we have neutered this place to such a degree that it will have absolutely no respect from anyone into the future. We would set a dangerous precedent that may, in years to come, appear in *House of Representatives Practice* that says the ACT Assembly once found a contempt, that there was a unanimous decision of a committee that a contempt had occurred, and did not do anything about it. That is absolutely ridiculous.

The apology is also important. Much has been made by Mr Quinlan that Mr Corbell came down and apologised. I think that that is important. I know that I am going over ground that I have already covered briefly, but you have to look at the whole timing of

the issuing of the apology. Mr Corbell apologised only when he realised that he would face a contempt committee if he did not. You have to question that apology, you have to question the timing of the apology and you have to question when and where the apology was made. The apology was made at absolutely the last minute. He was not going to give in until he had to, until he was facing something much worse.

What did the Assembly decide at that time? The apology was given and the apology was accepted. But the matter here is far more important than the matter of an apology. The matter here is the standing of the Assembly and where we see ourselves and where the community sees us if somebody deliberately does something wrong, and these numbers were deliberately denied to the committee.

There are many forms used in this place of answering questions and Mr Quinlan is a past master. I suspect that Mr Quinlan has a whole section of the *Macquarie Dictionary* on the meaning of the word "soon". Mr Quinlan has not deliberately been in contempt of any committee that I have sat on because he answers questions in a particular form. Perhaps the form is wrong and we need to address that, but Mr Quinlan has done the right thing under the way we operate. Some people might not like the way we operate. Okay, let's change it, but that is a debate for another day. But Mr Quinlan has never said, "No, you can't." His definition of "soon" runs from something like 15 minutes to 2½ weeks, but it is a definition that he lives by. He uses it skillfully, as a skillful politician may.

Mr Corbell does not. Mr Corbell in his arrogance—the growing arrogance for which he is confronted today by this finding against him—said, "No, I don't have to." In effect, he said, "No, I don't want to. No, I won't." That is the problem. We have from the committee that has reported on this matter a confirmation that what he did was wrong. We talk about having a bill of rights. What about having responsibilities? Are we going to have a bill of right that says that ministers can commit contempt and not be found guilty? Let's not water this down any more, Mr Speaker.

The important thing here is that we have a process. Let's look at what happened the last time there was a privileges committee inquiry into contempt and what the individual who was found guilty of contempt did. He did the right thing; he resigned. The report was tabled and that individual resigned on the spot, because he had respect for the processes and the outcomes of the committee. He did the honourable thing. He did the right thing. He did what would have been expected of him. I suspect that, if he had not done it, this place would have gone further and taken action.

That person, of course, was not a minister, holding a much higher office and a much more responsible position than any of us as ordinary members of the Assembly. If a minister breaks the rules and does not accept that he is accountable to the Assembly and it does not hold that minister responsible for his actions, the Assembly will be setting a precedent that we will all rue.

Mr Speaker, it is quite clear that Minister Corbell is guilty of contempt. That was the unanimous decision of the committee. The committee went on to say that there should be no further action. I reject that notion. If he is guilty of contempt, something that the Clerk of the House of Representatives says in advice is a very serious offence and that the

house would suffer if it did not punish a contempt, and if we do not find in the affirmative today for this motion that we lack confidence in Minister Corbell, we have diminished this place and we have diminished all of us, because we would be saying, "You can go and do whatever you want, if you are willing to bop back into the place at the last minute and say, 'Sorry, I got it wrong.'" That is not how it works. Ministers must be held responsible, members must be held responsible, all of us must be held responsible for what we do. I think that it is very important that we go for the ultimate sanction that he be found to lack the confidence of this Assembly and that he actually do resign.

That does raise the issue of the proposed ministerial code of conduct. This government has been in place now for some two years and we still do not have a ministerial code of conduct. Perhaps today we are finding out why that is. It is because the people opposite do not want to be judged against any standard. This minister will not be judged against any standard because the standard has not been set by the Chief Minister. The Chief Minister has left the chamber and debates on motions of no confidence are normally attended by all members and heard in silence because of the seriousness of the situation. *(Extension of time granted.)*

The question may well come back to what the Chief Minister will do. We have from the Labor members of the Estimates Committee a recommendation that contempt be looked at. We have a contempt committee formed by this Assembly saying that it has enough concern that the minister's action should be reviewed by a committee of his peers. That committee of his peers has unanimously found him guilty of contempt. The minister should go. I do not know how the day will unfold. I hope that the crossbenchers will hear the logic of these arguments and I hope that the crossbenchers will vote with us to find the minister guilty of want of confidence or lacking the confidence of this Assembly. If they do not, it will come back to the Chief Minister and the standard that he sets because he is the head of the executive, he is the one that appoints the ministers, he issues the warrants.

It will be interesting to see what standard Jon Stanhope sets himself, because he is on record over the last five years about standards under the Westminster system of government and how he respects those ongoing traditions, how we have to live by them and how ministers are responsible. The test today will not be only for Mr Corbell. The test today may well end up being for the Chief Minister as to whether his actions in the past were just lip-service to the Westminster system and he believes in it only when it suits his own purpose.

Mr Speaker, this is a serious motion. It is a serious motion because I believe that we should find that we have a lack of confidence in the Minister for Health. He has been found guilty of contempt by a committee of his peers. He should go. We should not be debating this matter. As soon as the report was tabled he should have done the honourable thing and stood up and resigned. He should have scribbled a note to his leader saying, "I will resign. I will save you the embarrassment of trying to defend me being found guilty of contempt by a committee of my peers."

But no, we have the dogged arrogance of him saying, "I can and will do whatever I want, whenever I want, because I'm not accountable." This is about accountability. It is about

the standing of this place. It is about setting a standard, it is about adhering to that standard and when that standard is breached the punishment must be meted out. In this case this Assembly must find that it lacks confidence in the Minister for Health because he is guilty of contempt. The minister must go.

MR QUINLAN (Treasurer, Minister for Economic Development, Business and Tourism, and Minister for Sport, Racing and Gaming (11.22): This is clearly a matter of petty politics. I do want to congratulate the Liberal machine on the speed with which Mr Smyth absorbed the report, framed the motion, had it typed, signed it and had it distributed. I would ask him to table the details of that time line in this place as a matter for this debate.

Mr Smyth: You saw it brought down to me.

MR QUINLAN: Just let us know the time of day that you signed it and how long it took you. Apparently, Mr Smyth, you have absorbed this report today, you have framed a motion, you have had it typed and you have signed it "Brendan Smyth, 18 November 2003".

Mr Smyth: I signed it in here.

MR QUINLAN: I would like to see details of the time line, thank you. Just put them on the record. That is all I want to see, Mr Smyth; I want them on the record, thank you.

Speaking of arrogance, I did mention in the debate on the introduction of the paper into the Assembly the breadth of the way that the Estimates Committee operates. I express no great objection to the way it operates, but Mr Smyth talked about the arrogance of Mr Corbell. Mr Smyth, let's just dwell for a moment on your arrogance as the chair of the Estimates Committee. I do have recollections of appearing and being told, "I decide what goes on around here." There was, as I said, some childish antler rattling in that room and you were part of it.

If you wanted to make politics out of this incident, you have blown it because you did not in any way as chair of that committee follow up on these figures. You were so concerned that you had to have the figures and you had to have them then, not later in the week, even though you were not reporting for weeks. Why did they have to be available then? Was it to inform the committee or to have a minister of the territory obey? What other reason could there have been for this demand to have those figures and to have them then, if not, "I want to make petty politics in the public forum out of them, so it's not to do with the committee" or, "I want you to do what I tell you, because I am the chairman of this committee?"

You were told in that committee that you were going to get those numbers. Your interest in them did not go further to recalling the minister to examine those figures or even taking the opportunity to examine the minister on the figures when he appeared again before the Estimates Committee. So, particularly on the part of the chair of the Estimates Committee, there was no interest in the figures. The interest was in what politics you could make out of this little head butting competition, which is trivial in the extreme.

I do take this place seriously, but if we are to take ourselves seriously we do need to maintain a perspective on ourselves. For God's sake, if we are to hold our heads up in the public forum, let's demonstrate to the people of the ACT that we are mature, that we are balanced, that we can filter what is serious from what is trivial. I challenge any of you to take this out into any group in the community and discuss it and not get a dismissive reaction, with people saying, "Haven't you people got anything better to do than to argue about whether you're going to get your figures today or tomorrow or whether the minister does what he's told in a committee?" Can we please show some maturity in this place? There have been in this place debates on lack of confidence, of censure. Let me say that to this point they have had a serious element to them. This one does not.

MRS CROSS (11.28): Mr Speaker, I move the following amendment:

> Omit 'a lack of confidence', substitute 'grave concern'.

Mr Speaker, a motion of no confidence is a very serious motion and I understand the sentiment of the motion. However, the minister did apologise, albeit at the 11th hour—in fact, one minute to midnight. The committee did note that. It does need to be noted by this Assembly that the minister needs to learn that this Assembly is not interested in being treated badly. He has been found to be in contempt by an Assembly committee and that is a very serious matter. This is not the first time that this minister has been found to be wanting in his approach to his duties in this place. However, I should point out that I for one can count and I do feel that the amendment that I have moved is more appropriate as the committee did recommend that no further action be taken.

I did find a little amusing what Mr Quinlan said about the community's concern about moving motions such as this one, given that my understanding from going back in *Hansard* to when Mr Quinlan was in opposition is that there were a number of no confidence and censure motions and the like. They were done on such a regular basis as to debase the value of a censure motion and a no confidence motion, so it was a little bit like the pot calling the kettle black. I feel that the amendment I have circulated will address the grave concerns that we have with Mr Corbell's actions and that it should suffice.

MR CORBELL (Minister for Health and Minister for Planing) (11.30): Mr Speaker, I made an error of judgment and I accept that. I have apologised to the Assembly and to the committee for that. I take the finding in the committee report very seriously and it is a fact that I would rather not be in this situation today.

The decision that the Assembly takes in relation to this motion is a matter for the Assembly and I will, of course, accept that decision. I am not going to seek to enter into the politics of this discussion. I think that the facts are clear. People understand what occurred and they have to make a decision in their own minds as what is the most appropriate course of action.

For me, when I reviewed the situation, I felt that it was appropriate to apologise. I have reiterated that to the committee. It was a human error on my part and something which I regret. But it is up to the Assembly itself to decide on the most appropriate course of

action. Regardless of the outcome, I am more conscious perhaps than I have been previously of my responsibilities in that regard.

MR STEFANIAK (11.32): Mr Speaker, as I think I indicated when we spoke about tabling the committee report, this is a very serious situation. It is one of only two findings of contempt that have come before this Assembly. I do not necessarily follow at great length what happens in other parliaments, but my understanding is that, again, findings of contempt do not occur often there.

The *House of Representatives Practice*, from pages 706 through to 708, outlines things that may constitute contempt. It cites *May's Parliamentary Practice*, stating that contempt may be "disrespectful conduct in the presence of either House or a committee". In failing to provide information to the Estimates Committee when he should have, Mr Corbell was clearly guilty of disrespectful conduct before that committee. If the Assembly does want to retain respect for its committee systems, it should treat disrespect of its committees as a very serious issue.

As I said, this is only the second finding of contempt that we have had. The other was last year. In fact, we seemed to go for about four assemblies before an issue of contempt cropped up, and that involved a staffer, Mr Strokowsky. In that case, the committee wanted a prompt and unreserved apology for his conduct, then did not want to take the matter any further and made no further recommendation. Mr Strokowsky resigned his position and left the employ of Mr Humphries and the Liberal Party at that particular time; so it is a very, very serious matter.

In backing Mr Smyth's motion, I would point out to members that the history of parliaments, and of this little parliament, shows us that this action does not have to be fatal to Mr Corbell's career. We have had motions of no confidence before, in the first Assembly. Yes, Mr Quinlan, at times that was referred to as the House of Farce. We did have three governments. There was a motion of no confidence in Chief Minister Rosemary Follett in December 1989, and there was a motion of no confidence in Chief Minister Trevor Kaine in June 1991, both of which were successful. Mrs Carnell was subject to motions of no confidence. I think one was reduced to a censure but then, facing a motion of no confidence, she resigned.

You, yourself, Mr Speaker, were subject to a successful motion of no confidence. However, you went on to be deputy leader of the opposition, leader of the opposition, and now Speaker. It is clear that there is some history of this most serious of matters, misconduct by members.

Yes, we have had a number of successful censures, too, though not very many in this Assembly—obviously, numbers are always crucially important in parliament—there have been several successful censures in previous assemblies. I am sure that there have been several successful motions in relation to the kind of amendment proposed by Mrs Cross.

However, this is a grave matter. Members should not resile from accepting that fact. It is a very, very serious matter when an Assembly committee indicates that a member of the Assembly, a minister, is guilty of contempt. It is rare, thankfully. I note what Mr Corbell

says about what he has learnt from it, but that does not take away from the seriousness of this particular matter. I want to impress that upon members of the Assembly.

MS TUCKER (11.36): When I was reading this committee report, I was reminded again of the work that we did in the previous Privileges Committee, to which Mr Stefaniak just referred, on the definition of contempt. While I understand that it was the unanimous view of the committee that Mr Corbell was in contempt, I am not sure that I would have agreed with that. However, I can understand why they came to that decision.

One of the things that came out really clearly when we had to deal with this issue before were the questions of intention, seriousness and "improper interference with the free exercise by a House or a committee of its authority or functions". The Parliamentary Privileges Act says:

> Conduct (including the use of words) does not constitute an offence against a House unless it amounts, or is intended or likely to amount, to an improper interference with the free exercise by a House or a committee of its authority or functions, or with the free performance by a member of the member's duties as a member.

The argument that I imagine the committee has supported is that refusing to answer a question was an improper interference with a committee, which I can accept. However, there is not a lot of argument in the report actually supporting recommendation 2 and, as I understand it, Mr Corbell said that the information would be made available later, so he was not preventing the information from reaching the committee.

I am not suggesting that was appropriate, but I think it is something to be taken into account when making a judgment about culpability for contempt. The *House of Representatives Practice* goes on to say that:

> Provision should be taken into account at all stages in the consideration of possible contempts. It is important to recognise that the Act does not codify or enumerate acts or omissions that may be held to constitute contempts.

The houses of the Commonwealth parliament, while treating contempt seriously, have tended to exercise their powers with great circumspection. The Senate Privileges Committee has generally confined its investigations to "serious matters potentially involving significant obstruction of the Senate", and now regards a culpable intention on the part of the person concerned as essential for the establishment of contempt.

When we had the privileges inquiry looking into the other matter, to which Mr Stefaniak referred, of the staff member accessing emails, printing them, circulating them and so on, the culpable intention on the part of the person was something on which the committee spent a lot of time deliberating. They decided that they could establish that culpable intention was there. I don't see that you could actually argue that for Mr Corbell because there was no culpable intention to avoid providing the information to the committee. He said that he would, as I understand it, but that he was going to release it in a different form. If I have misunderstood that, I am sure someone will correct me, but that is my understanding.

I agree that Mr Corbell was not respectful of the committee process and I think that the Assembly does have a responsibility to make a statement about that fact. I believe that

the motion, as amended by Mrs Cross, is making a statement of grave concern about Mr Corbell's approach to the committee and the importance and role of committees in the Legislative Assembly. He has obviously thought about that and has apologised for his actions. That is also something that has to be taken into account. As I understand it, that was the thinking of the committee, although, as I said, they have not gone into a great deal of detail about why they did that in recommendation 2.

Even though contempt has been found, I do not think you can have serious or not serious contempts: there is a contempt or there is not a contempt. Not having a lot of time, although we have this motion to debate, I am arguing about whether I would have found contempt because the culpable intention was not there. Taking that into consideration now, I am prepared to support Mrs Cross's amendment because I think it is taking action.

It is a form of discipline that Mr Smyth has said he wants to see taken by this Assembly. Mr Smyth has a concern that, in some way, if we do not support this want of confidence motion, this Assembly will be seen to be lacking power or not taking a responsible attitude to the role of the executive and how it works with the parliament and the committees. I do not agree with that. I think that, by making a statement here today expressing grave concern and by forcing Mr Corbell to apologise on several occasions about his conduct, this Assembly has held the executive and, in this case, Mr Corbell, accountable.

It is through the debate that we are having today—I am glad to see that no-one opposed its occurrence and that leave was given to have this debate—that it has been raised, as well as through a whole committee process. This Assembly has, in fact, taken very strong steps and appropriately used the mechanisms available to it to challenge Mr Corbell's performance as a minister regarding his response to the committee's request for information. However, as I said, it is nothing like the situation that we dealt with before, which looked at serious, culpable intention and serious impediments to the work of the committee. You cannot really argue that that is the case here, even though the committee did end up finding Mr Corbell in contempt.

In conclusion, I will be supporting Mrs Cross's amendment. Thank you.

MR CORNWELL (11.43): Mr Speaker, it is important that we are having this debate today, in spite of the comments of some other members. We have now had an Assembly for something like 14 years. I think it fair to say that, within that time, we have not always covered ourselves with glory. We have certainly not impressed upon the people of the ACT that we are a fully fledged parliament with parliamentary powers at our disposal, and that those powers should apply equally to the people we represent coming before us and to ministers of this Assembly or its members. Contempt is contempt.

If we read the report we find, at point 3.34:

> On 22 May 2003, during Estimates Committee hearings, the Minister for Health, Mr Corbell, refused to provide answers in relation to hospital waiting lists.

What could be more contemptuous to a committee of this Assembly than a blanket refusal by a minister to answer a reasonable question put to that minister, a question that I suggest could have been anticipated?

Yet, after we read this at 3.34, we see that recommendation 2 of a majority of this committee finds that the Minister for Health, Mr Corbell, was in contempt of the Assembly, but recommends that no further action be taken. I have repeatedly said in this house that, under this government, nobody is responsible for anything in this territory. Everybody has rights but nobody has any responsibilities, far less obligations. It appears that this disease is now spreading to the crossbenches as well, because we have the chair of this Privileges Committee making the same point.

Mrs Cross: Point of order, Mr Speaker: that was an imputation. I ask the member to withdraw that statement.

MR CORNWELL: I have no reason to withdraw it, Mr Speaker. I will simply make the point that it did not involve Mrs Cross.

MR SPEAKER: There is no point of order, Mrs Cross.

MR CORNWELL: Thank you, Mr Speaker.

Mrs Cross: It is an imputation, Mr Speaker. The standing orders clearly state that it is an imputation. You have made an imputation. I ask you to withdraw that statement, Mr Cornwell.

MR CORNWELL: The imputation, sir, applies only to question time, as you would be aware, Mr Speaker.

MR SPEAKER: Order! This is a debating point. I cannot find that that is an imputation.

MR CORNWELL: Thank you, Mr Speaker. The fact is that a contempt has been found but the recommendation is that no further action be taken. What sort of message does this send to anybody in this territory coming before a committee of the Assembly? "We can say what we like because, if we are even taken before a Privileges Committee, and that Privileges Committee finds us guilty of contempt, no further action will be taken anyway." What a weak, wimpish approach! What sort of leadership by their elected representatives does this show to the people of the ACT?

My leader, Mr Smyth, quite rightly said that this place is diminished by such a performance. It also indicates to the executive that they can have unfettered power. It looks as though the matter has spread even further than just the crossbenches, because I see here at point 3.50, in relation to comments made by the ACT Health officers in their document:

> The publication of the ACT Health document shows a complete ignorance of the nature and powers of Assembly committees in some areas of the ACT public service.

I admit the committee had the grace to go on to say that this matter was of concern to the committee but, again, it is indicative of the attitude of the bureaucracy that it does not have to worry about this committee or about this Assembly. They can simply come before us, presumably, and say what they like because no action will be taken.

Mr Quinlan talks about going out into the community and talking to any community group, and how dismissive that group and the community would be of what he regards as a petty matter in this chamber. Mr Quinlan, I agree with you: that group would be dismissive of what they regard as a petty matter in this chamber, because it is no business of groups out there in the community, but it is a matter of great concern to this Assembly and its operations.

We are the guardians of the contempt procedures in this place. If we do not uphold them, how can we expect any community group to bother with the Assembly? If we do not take it seriously, who will? We must also challenge this absurd majority recommendation to take no action on the contempt, because there is an expectation that the Assembly will and it has a responsibility to do so. If we do not, then we are belittling ourselves. We are suggesting that this Assembly is not important enough: you can do pretty much as you like either before the Assembly itself, which is unlikely, or certainly any of its committees.

I know that members of committees take their roles very seriously. Is it fair, is it reasonable and, more to the point, is it right that they should have the ground cut from under them in their committee work simply because the majority of members of this committee have given a clear demonstration that anybody in contempt of a committee of this Assembly will not have to worry about further action being taken? I do not believe that this is the approach that this Assembly should adopt in relation to the community, in relation to members, or in relation to any member of this so-called executive government.

MRS DUNNE (11.52): Mr Speaker, we have come here today presumably to conclude this serious matter that has been hanging over the Assembly and over this minister since June this year. This is a serious matter. Mr Quinlan says it is "a trivial contempt" and other people have said that, as Ms Dundas said in her presentation speech, given the nature of the contempt, it is not a serious matter.

As I think all the members here have demonstrated, there is no degree of contempt: it is either contempt or it is not. As with other things, you are just not a little bit pregnant, you are pregnant. If you have committed contempt, it is just not a little bit of contempt, it is contempt. Ms Tucker realises that. She says that you cannot have serious and non-serious contempt. What we are talking about is contempt; it is not graded or anything like that.

You can work out whether or not it was deliberate. It has been demonstrated here today by the minister's own admission that it was deliberate. It was deliberate and it was done with the clear intention of avoiding questioning on a particular issue when he was before the Estimates Committee on a particular day. This was a deliberate, culpable contempt, with the intention of avoiding questioning.

Mr Speaker, I was a member of the Estimates Committee and I was present at the time when the questions were asked. The response was: "No, you cannot have that. You can have it some other time, a time of my choosing, in a format of my choosing." "Do you have the documents with you today, Minister?" "No," he said, but one of the other officials was quickly going through their papers, rifling them. They had the document.

The document was there. It was not in the minister's possession, but the document was there and that information could have been provided.

The minister brushed the official away when that person went rifling through the papers to produce the document that existed and was in the room on the day. He said, "No, you may not have it." The reason that the minister said that was that he wanted to avoid questioning.

The Estimates Committee came into this place—and I will give you a time line, Mr Quinlan—at 10.36 on 17 June. Mr Smyth presented his report, which contained a recommendation that we consider whether or not a Privileges Committee be established, at 10.36 am on 17 June. This was debated and listed on and off for the rest of that sitting fortnight. It was eventually debated on 26 June. At not one minute to midnight, Mr Smyth, but one minute past 9 pm, the minister came in here and very shamefacedly said that he had reflected carefully on the evidence that he gave at estimates and went on to give an apology. This was an apology which—Ms Tucker quite rightly used these words—was forced out of Mr Corbell. She said we had forced him to give an apology.

Yes, and because we forced him to give it, he has not shown sufficient contrition and has not shown that he had sufficient understanding of the situation that he has brought us to. What this minister has done in this place, and in the Estimates Committee, is to say, "Any means is available to me to avoid questioning on a subject that I find inconvenient." Yes, it was inconvenient, because the figures were a shambles and this minister did not want to face the music on the day.

Mr Quinlan: Why did you not follow it up?

MRS DUNNE: As Mr Smyth has already said, there was no point following it up with the minister because, by the time the minister had come back, there had been full and public disclosure of the matter. He had avoided the questioning of the Estimates Committee but the matter had been fully and completely exercised in the public arena.

You have to remember that the Estimates Committee, when it brought down its report on 17 June, brought down a unanimous report. There was no demurring by the members of the government on that committee that a committee should be established to investigate whether a contempt had been committed.

We have all come to this place by a very circuitous route because a young and arrogant minister, who has not learnt anything very much in two years here, thinks that he can get away with anything. This young and arrogant minister will come here and again apologise when he is forced to, but not before. It was at the very last minute, to try to prevent the matter being referred to a Privileges Committee, that this man came in here and gave a grudging apology.

He did not apologise to the committee before whom he had committed the contempt, now clearly demonstrated. He did not do it when this matter first arose, on 17 June, in this place. I am glad to see that the Chief Minister has eventually come in here in an attempt to defend his minister. I was wondering about his absence.

MR SPEAKER: Relevance.

MRS DUNNE: It is very relevant, Mr Speaker. One of this Chief Minister's ministers' jobs is on the line here and he cannot even bring himself to come down and defend his minister. It is pathetic. We have been sitting here since about quarter to 11 and he has not even deigned to darken the door of the place. It shows how much confidence he has in this minister.

MR SPEAKER: Would you come back to the debate, Mrs Dunne?

MRS DUNNE: It is all part of the debate. It is about the timeliness of this minister's apology. At the very last minute, when he had nowhere else to go, we had an apology, in many senses a scandalous apology.

He did say it was an error of judgment and he seriously regretted it, but he only seriously regretted it when he got into trouble for it. He got caught red-handed. Everybody in this place, including his own colleagues, in the representation of Mr Quinlan, admits that he committed a contempt. He has been caught red-handed. That is not when you apologise. You apologise beforehand. That is contrition; this is just trying to wriggle out.

As I have said before, there is no degree of seriousness of contempt. Erskine May says about contempt, as is quoted in *House of Representatives Practice*, that it is:

> … any act or omission which obstructs or impedes either House of Parliament in the performance of its functions, or which obstructs or impedes any Member or officer of such House in the discharge of his duty, or which has a tendency, directly or indirectly, to produce such results may be treated as a contempt even though there is no precedent of the offence. It is therefore impossible to list every act which might be considered to amount to a contempt, the power to punish for such an offence being of its nature discretionary.

It is a matter of discretion and it is a matter of discretion for this house, which is why, as Mr Corbell has said, it is not appropriate for the Estimates Committee to make a recommendation as to whether or not there should be a punishment. It is the responsibility of the Estimates Committee to find out whether a contempt has been committed and to report on that. It is inappropriate for this committee to have made a recommendation that no further action should be taken, as it did in recommendations 2 and 3; that is a matter for this place.

On this occasion, this recalcitrant minister, who did everything he could to avoid questioning on the day, should be found guilty. He has been found guilty of contempt and he should be punished in the appropriate way, as precedent would set down, by either having the courage to resign himself, showing that he is a man. If he does not, his Chief Minister should have the courage to sack him and show that he is a man. If that does not happen, this place should find want of confidence in this minister and then he should resign.

As precedent shows, there has been one other case of contempt brought before this place where a contempt was found, and that person lost his job. He resigned. He did the right thing and walked out of this building, never to return. There is one rule for us and there is a different rule for Simon Corbell.

MR HARGREAVES (12.01): In theatrical terms, that was a big act to follow. I was thinking about standing up here and proving that I was a man, but I was afraid of what she would want me to do, and I am not going to do it.

MR SPEAKER: You are going to come to the point, aren't you?

MR HARGREAVES: I want to talk about my perspective as a member of the original Estimates Committee. If I remember correctly, the facts were that Mr Corbell was asked for the details of a waiting list, and he said he did not have it. However, everybody became apoplectic when it appeared in the paper the next day, in the blink of an eye.

On the basis of the facts themselves, this is a pretty minor thing. Over the whole of the estimates process, the focus has been on this one issue. Was there reasonable examination of the government's position of the day? No. As soon as that little glitch happened, everybody became fixed on that. That is appalling.

When I was in opposition, Mr Speaker, and I was a member of the Standing Committee on Justice and Community Safety, I can recall the erstwhile leader of the opposition doing just that. We, as a committee, asked for information on how the prison project was going. One part of it was the cost-benefit analysis. Was it provided to the committee when asked for? No. We picked it up in the paper.

Mrs Dunne: Did it exist?

MR HARGREAVES: I do not know if it existed or not, but somehow it got into the paper. I wonder who put it in the paper, because it certainly was not me. Did we go apoplectic and say there was a contempt of the committee process? No. When I asked Mr Humphries whether he had the information about the cost-benefit analysis, he said, "No." It was the same story. You are right, there is one rule for you and one rule for us, and we are always on the short end of the stick. You can just settle down. This is a storm in a teacup.

What this minister has done, which is somewhat unique, is come into this place to apologise. You people seem to be allergic to the word "apology". You take your lead from your nearest and dearest on the hill. I do not recall any of your ministers coming into this place and saying, "I looked that up and I realise that I have done something wrong, and I am sorry for that." I do not remember you doing it once. If you can dig back into the deep, dark pages of *Hansard* and reveal one of your Liberal colleagues coming into this chamber and apologising for something he or she had done, then I will admit that I am wrong on that.

Mrs Cross: Kate did it.

MR HARGREAVES: Not in my time.

Mrs Dunne: Yes, in your time.

MR HARGREAVES: So Kate did it, and what did we do then, Mrs Dunne? Did we say, "No, let's whack a no confidence motion on her."

Mrs Dunne: You continued to move censures. You harassed her out of the parliament.

MR HARGREAVES: No. Get real.

Mr Quinlan: Come on, she broke the law.

MR HARGREAVES: That is what this is all about. You are trying to harass this minister. You are trying to create a witch hunt. You are trying to single this guy out and put some pressure on him. I have some sad news for you: this minister can resist any amount of pressure you people can place on him collectively.

This is an absolutely pathetic piece of abuse of the parliamentary process. What a pathetic little excuse to run a no confidence motion! Has this minister broken any laws? No. Has he misappropriated any funds? No. Has he blown a hospital up? No. Has he painted grass green? No.

Mrs Dunne: Has he committed a contempt? Yes.

MR HARGREAVES: What has he done? He has realised that something was wrong, come into this place and apologised.

Opposition members interjecting—

MR SPEAKER: Order, members of the opposition!

MR HARGREAVES: I have to say that, as a member of that Estimates Committee, I found there was no contempt. I did not feel as though there was a contempt.

Opposition members interjecting—

MR SPEAKER: Order! Mr Hargreaves, please direct your comments through the chair. Members of the opposition will remain silent.

MR HARGREAVES: Thank you, Mr Speaker. I did not feel that I was being held in any contempt. I do believe that the minister was trying to avoid answering a question. Heck, that was the first time I had experienced that one. That was the first time in all of my five years I had experienced that. It was part of the normal process and no different to what any other minister has ever done in any other estimates process. It is a case of get real and grow up. This minister has done the appropriate and the honourable thing. You people will do the appropriate and honourable thing, and withdraw that motion.

MS DUNDAS (12.06): This has become quite a colourful and heated debate. I would like to put on the record that I do not think the actions of any minister have anything to do with his or her age or gender. I am disappointed that the debate has reached that level.

The issue before us is whether or not this Assembly believes that we should put on the record our feelings about the committee's finding of contempt. I believe that a motion of no confidence or a motion of censure, if passed, calls for further action on the part of the minister and the ministry. The committee made it quite clear that, while they agreed that a contempt had been committed, no further action was required.

Contempt is contempt and I believe that contempt has been committed in this case. However, as with any crime, there are different degrees of punishment. Not everybody who commits the same crime commits it in the same circumstances, with the same history or with the same surrounding incidents. That is why we have in our court system the ability to hand down different levels of punishment, be that through fines or jail sentences. I think that is an important reference to make.

The Assembly is not a court of law but we can recognise that there are different punishments, depending on how crimes are committed and when they are committed. Is this a contempt for which asking the minister to step down is a worthy punishment? I do not believe so. After reading the *Hansard* of the Estimates Committee and questioning the minister through the committee process—and I urge all members who are interested in this to read the transcript of the Privileges Committee and what the minister said under our questioning—I believe that a contempt has taken place, but it is not one for which this Assembly should pass a motion of a lack of confidence in the minister.

I am quite supportive, however, of a motion of grave concern, that this Assembly puts on the record that a contempt has taken place and we say that this is of concern. It does not require the minister to resign, but I think it requires the minister, and all ministers and all members of this Assembly, to consider their actions in relation to committees. That is what the report called for.

The committee put its view forward and now the Assembly is debating its view on the matter. I am happy to support the Assembly's recording its grave concern about a contempt being found. I hope against hope that this debate does make people think about their actions in relation to this Assembly and to committees, that we can have reasoned debate in the future and that committees can work freely to investigate the issues before them.

MR PRATT (12.10): Mr Speaker, Mr Corbell has treated the Assembly with very serious contempt. He refused to provide answers to the committee on hospital waiting list numbers. That is a fundamental question. His actions reflect his lack of respect, not only for the people of Canberra, but for the elected members of this Assembly. His inexperience and arrogance have shown the Assembly that Mr Corbell has no right to hold a portfolio in the ACT, or any jurisdiction, considering he has no respect for the system and people who have trusted him with this portfolio and all of his portfolios.

I will turn to Mr Quinlan's exercise in smoke and mirrors. Mr Quinlan's call for a time line from Mr Smyth on the framing of this motion this morning was a pathetic attempt to distract this place from the essence of this very serious issue. Mr Quinlan's statement that this issue was trivial and smacks of petty politics is indeed a stark example of Mr Quinlan's contempt for proper process in the Assembly. I echo Mrs Cross's criticism of Mr Quinlan's attempts, which clearly illustrate hypocrisy.

MR SPEAKER: I think you have two things you can withdraw: one is your accusation that Mr Quinlan is a hypocrite and the other is your claim that he is guilty of contempt.

MR PRATT: Mr Speaker, I withdraw both of those statements. Let us go back to Mr Corbell. I point out that Mr Corbell's arrogance on this matter is but one in a series of arrogant behaviours by this minister. I refer to two stark examples of his arrogance before the Assembly and the community: first, his thumbing of his nose at the community majority with respect to the Gungahlin Drive issue and, second, his desire to arbitrarily remove religious education from schools when in fact we still had a draft exposure bill to be examined.

MR SPEAKER: Relevance, I think, Mr Pratt.

MR PRATT: I am talking about a document being examined by this place, Mr Speaker. That is relevant.

MR SPEAKER: However, it is not relevant to this debate. It has to be relevant to this debate, Mr Pratt.

MR PRATT: Mr Speaker, I carry on. However, going to the nub of the issue, the government and the minister are accountable to the Assembly. Eventually, the government and its ministers will be accountable to the electorate through the ballot box but at all times the Assembly has a duty to scrutinise governments, and ministers must respond. The minister cannot hold the Assembly and its committees in contempt simply because he does not feel like being scrutinised. In failing to provide information to the Estimates Committee when he should have, he was clearly guilty of disrespectful conduct before the committee.

If the Assembly wants to retain respect for its committee systems, it should treat disrespect of its committees as a very serious issue, and that is the essence here, Mr Speaker. Let us look at this floating document. I refer to the document prepared and circulated within the ACT Department of Health. That was a clear case of conspiring to keep from the committee of this Assembly the facts about hospital numbers. Clearly, if we wish to have ministers and committees take the committee process seriously, there should be a penalty for this breach. I cannot agree, as is proposed by Mrs Cross, that this matter is only one of grave concern. It is much more serious than that. Ms Tucker reflected that there are no degrees of contempt.

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 when the Assembly and its committees rightly inquire into matters of governance, he should not be given the responsibility of a portfolio. Mr Corbell should have his portfolios taken from him and I call upon the Chief Minister, in that light, to remove him from his ministerial positions.

MS TUCKER (12.15): I seek leave to speak again.

Leave granted.

MS TUCKER: I will be very brief. This is a very interesting debate and I want to make clear that, while I have concluded that contempt is contempt, it is also obviously clear, as Ms Dundas pointed out, that there are degrees to which you can respond to anything. That is the point that I do not think I made clearly enough in my presentation. I did present the arguments—and I will not repeat them—for my thinking that the particular response that Mrs Cross has suggested is appropriate. It is the degree of the response that we obviously also need to bring into this discussion.

MRS BURKE (12.16): Mr Speaker, listening to the debate this morning, I picked up on a couple of things that a couple of people have said. I am not surprised, but more disappointed at Mr Quinlan's comments, which score cheap political points. We have all agreed in this place that this is an important issue. It is critical to the operation and function of this place. For Mr Quinlan to be saying that on an issue that is so important—I ask you! However, he did say that he is concerned about the public perception of this place. Surely, if we do not uphold the Westminster system and everything that it stands for, our credibility and standing in this community will be as nothing.

Mr Speaker, I am disappointed further that the Labor Party continued to pull stunts that demean us, lower the standing of this place and reflect upon us all. The disregard for the committee system that we are seeing now, in this instance, worries me greatly. We should understand what people out there are going to perceive. We tend to think nobody will hear what goes on in this place. I do not believe that to be the case. This is a serious matter and Mr Quinlan does take this place seriously, so he says. Why, then, does he not take seriously the refusal by one of the executive, a minister, Mr Corbell, to provide the relevant information when asked?

Mr Speaker, this motion goes to the very heart of what this place is all about: showing respect for this place, each other and the protocols and conventions that are in place. I am disappointed. That respect has been lost.

I realise that Mrs Cross wants to amend the wording, perhaps to soften the blow. Using the wording "grave concern" to amend it may have been appropriate had the committee not found Mr Corbell to be in contempt, but it did. This Assembly must therefore go further than simply expressing grave concern. Mrs Cross recognised that this was a serious matter and this is not the first time this minister has seen fit to blatantly disregard the will of this Assembly, to which I think Ms Tucker also alluded. She alluded to the fact that this minister has had reason to apologise to this Assembly on other occasions.

I cannot therefore understand why we should be amending this motion to reduce the level of severity. In other words, if Mr Corbell has held this place in contempt more than once before, we must express a lack of confidence rather than a grave concern. The issue is that the minister decided—

MR CORBELL: Point of order, Mr Speaker: Mrs Burke suggested I have held this place in contempt on more than one occasion. That is not accurate and she should withdraw the comment.

MRS BURKE: I withdraw that, Mr Speaker. We must express a lack of confidence rather than a grave concern, given the minister's previous actions in this place. The issue

is that the minister decided to act in the way he did. We must uphold the protocols, practices, procedures and conventions of this place.

I am disappointed that Mr Corbell has taken our committee system to such a low. In what state is the accountability and rigour of the executive if Mr Corbell does not now do the honourable thing and resign? How many times can and will the executive ride roughshod over the rest of the members of this Assembly. Clearly, that is what it is doing now. All the 11 other members do not count, or the six others or three others. We do not count. Is that the case? Are they immune from accountability?

Mr Speaker, I and my colleagues are most concerned about the future of the work of committees and the functions of this place in the eyes of the Canberra community. It seems that they want to ignore the appeals by the community to have a better run, a more solid and more mature Assembly. This is a serious matter. For Mr Quinlan to somehow fob it off as some cheap political point-scoring exercise is very low. I have to say that, if Mr Corbell's colleagues are condoning his actions—and they clearly are as I have not heard one say that he was wrong, although Mr Hargreaves may have done to some extent—this obviously means they support contemptible actions, which is quite a worry for the people of the ACT.

Ms MacDonald: That is an imputation.

MRS BURKE: Quite clearly, this government and more particularly this minister, Mr Corbell, believe that they can say and do what they want—

Ms MacDonald: Point of order, Mr Speaker: Mrs Burke has imputed that, because of the way that we have debated this matter today, members on this side of the house obviously support contemptuous actions. I ask her to withdraw that imputation.

MRS BURKE: I did not say that, Mr Speaker.

THE CHAIR: That is a point of debate, Ms MacDonald.

MRS BURKE: Thank you, Mr Speaker.

THE CHAIR: There are two sides to the argument and people may debate the issue. The issue is the report of the committee, which was about a contempt, so it is open to you to debate the issue if you so wish.

MRS BURKE: Thank you, Mr Speaker. This government and Mr Corbell believe that they can say and do what they want, when they want, to whom they want. Mr Speaker, I therefore fully support the motion and call upon the minister, Mr Corbell, to resign forthwith.

MS MacDONALD (12.22): I rise to speak briefly on this issue. Mrs Burke has just made the comment that this side of the Assembly is condoning contempt of the Assembly by carrying out the debate in the way that it has today. I disagree with that comment and the reason I say that is that a number of matters have been raised in this debate today, and how each of us in this place responds to those matters is up to each of

us and depends on our style of debating. Mrs Burke and others in this place have also said that the minister should resign because he has held this place in contempt, because he has failed to apologise or because he has only apologised after being dragged kicking and screaming to this place.

I want to put on the record at this point that, when Mr Corbell rose at the beginning of this debate, I had a lot of admiration for the humility that he showed to this place. The report shows—if the Assembly would go to paragraphs 3.35 and 3.36—that Mr Corbell indicated that he had made an error of judgment and that he was wrong. It also shows that he apologised and he also recognised that he should have provided the information. It also acknowledges further down, in paragraph 3.38, that he did not later receive a request for that data, nor was he recalled to the committee to discuss the information.

It was an error of judgment on the part of the minister not to provide that information at the time, and he has certainly admitted to that. However, not taking this issue further was also an error on the part of the committee at the time. I was a member of that Estimates Committee and I can say that it did not recall the minister to actually discuss this issue. For members on the other side of this place to comment that nobody from the government's side on the Estimate Committee opposed the minister being called for contempt, because we did not put in a dissenting report, is erroneous.

I want to say, in conclusion, that I believe that, as Ms Dundas has already said, there are levels of punishment. To ask the minister—

Opposition members interjecting—

MR SPEAKER: Order members! Ms MacDonald has the floor.

MS MacDONALD: —to resign over this issue would be like giving the perpetrator of a $50 crime a sentence of imprisonment. I think that is erroneous and it would be wrong for this place to seek that of the minister.

MRS CROSS: Mr Speaker, I seek leave to speak again.

Leave granted.

MRS CROSS (12.26): I want to make a comment. I understand that Ms MacDonald is obliged to defend and support members of her own side and that is admirable in itself. However, I must correct her: the committee, in its role of discharging its responsibilities, carrying out its duties and questioning people that come before it, did not make an error. The committee asked straightforward questions of the minister. We ask questions of many ministers and only two showed a lack of willingness to be forthright in their way of responding. I do not agree with the motion of lack of confidence, but I do believe that we have serious concerns, which is why I proposed this amendment.

If Ms MacDonald wants to suggest that the committee was wrong in discharging its duties then I suggest she looks up the terms of reference of any Estimates Committee. She should understand that this committee, and any committee, has a responsibility to ask questions of the people before it. That is not an error. Thank you.

Suspension of standing orders

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

> That so much of the standing orders be suspended as would prevent the order of the day, private members' business, relating to the motion of want of confidence in the Minister for Health, continuing after question time today.

Sitting suspended from 12.29 to 2.30 pm.

Questions without notice

Confidence in Mr Corbell

MR SMYTH: My question is to the Chief Minister. Mr Stanhope, do you have full confidence in your Minister for Planning and Minister for Health, Mr Corbell?

MR STANHOPE: I certainly do.

Visiting medical officer contracts

MS MacDONALD: My question is to the Minister for Health. Can the minister advise the Assembly of the most recent developments in the renegotiations for the visiting medical officer contracts?

MR CORBELL: I am very happy to provide to members an update on the visiting medical officer contract renegotiations in our hospitals. At a meeting last night, the AMA and the VMOA—those two organisations representing and being the bargaining agents for visiting medical officers in our public hospitals—sought and got the agreement of VMOs on the new contract, which has been negotiated between ACT Health and those two organisations.

This is the first time in the history of self-government that we have reached agreement about the details of the standard contract for VMOs without any disruption to public hospital services, and it is a significant step forward in relations between the ACT government and visiting medical officers, who provide such important services in our public hospitals. This is, of course, in marked contrast to the comments made by Mr Smyth, in the recent Assembly debate when the government proposed its new bargaining approach, where he suggested that we were unprepared and unable to conduct these negotiations in a timely way. I am pleased to have proved Mr Smyth wrong on this occasion.

The new contracts provide for a significant improvement in the competitiveness of rates of pay for visiting medical officers in our public hospitals. In particular, the new contracts offer sessional and fee-for-service payment levels that are nationally competitive. This recognises the need for the ACT to attract and retain highly skilled VMOs, in the context of national work force shortages.

There are also new arrangements for appropriate on-call allowances for all VMOs who participate in rosters at our public hospitals. This is particularly important in making sure

that we have the medical specialists in place at the time we need them to be in place—when an emergency occurs and their services are required. Special loadings will also apply where the on-call commitments are more frequent or require the VMO to attend for long periods after hours—another significant bonus when it comes to ensuring we have the specialities we need in our public hospitals. Minimum payments, and the loadings on payments, made to VMOs who are required to attend patients after hours have also been set at nationally competitive levels.

There are a number of other important elements in the new contracts, which I would like to outline to members. The first is that appropriate recognition is being given to safe hours within which VMOs work. The new contracts provide for full payment for sessions cancelled by VMOs due to fatigue following a demanding night on call in our public hospitals. This is, in addition, a key safety assurance measure, which will protect the quality of health care in our public hospitals.

VMOs will also be paid for undergraduate and postgraduate teaching. Again, this highlights both the government's commitment to making sure that we have the specialists we need to deliver services to the public hospitals and our commitment to making the new Canberra medical school happen. VMOs will also be paid for their activities in relation to quality in our public hospitals. Quality is about better practice and fewer adverse incidents in our public hospitals, and we are recognising the importance of quality for the first time in these new contracts.

Finally, contracts of up to seven years will be offered. This is a significant improvement on the three-year offer made by previous governments. VMOs will select between three to seven years and the conditions that come with those. The steps from here are for the ACT department of health to work with the individual VMOs in finalising the details of their specific contracts.

What is invaluable is that we now have the agreement of the two key medical organisations—the AMA and the VMOA—on the nature and form of that contract. They have put that to their members, and their members have endorsed this contract—and there are no disruptions to public health services, there is no antagonism and arbitrary fighting between the government and VMOs, and there is a commitment from this government to ensure that we have medical specialists in our public hospitals doing the work that is so dearly needed to make our system work.

The system is one that has worked—because of the government's endorsement of a collective bargaining approach—one that has allowed us to engage with representatives and one that has achieved agreement across the ACT government and the two organisations involved.

Canberra Hospital—angiogram waiting list

MRS CROSS: Mr Speaker, my question is to the minister responsible for health, Mr Corbell. Minister, the imaging section of the Canberra Hospital is a vital part of the overall care provided, as we all know. Recently, I have had complaints from constituents who are in need of angiograms to enable correct diagnosis of possible coronary heart disease. These constituents have found that the wait for their angiogram is well over the

desired length of time and far longer than in other jurisdictions. This, of course, causes great stress for people who are already in a delicate state of health.

Minister, can you provide for the Assembly the waiting times for angiograms to be done by the imaging section of the Canberra Hospital over the last six months?

MR CORBELL: I am happy to take the question on notice and provide the information to Mrs Cross.

MRS CROSS: Minister, are patients of the Canberra Hospital placed on the surgery waiting lists before they have their angiograms, or do they often wait eight weeks for the angiogram before they are designated category 1 patients, which means that, in effect, they are waiting three months instead of one month for their surgery?

MR CORBELL: I am happy to get the information for Mrs Cross and provide it to her in the Assembly.

Canberra Hospital—patient satisfaction survey

MRS BURKE: My question is to the Minister for Health, Mr Corbell. Page 25 of the ACT Health annual report notes that patient satisfaction at the Canberra Hospital has dropped. Over two years the emergency department has dropped nearly 10 points from 86.6 in 2000-01 to 76.8 in 2002-03. More dramatically, in in-patient services the rating has dropped from 85.4 in 2001-02 to 77.8 in 2002-03. Minister, was this a Press-Ganey survey and, if so, did it benchmark the Canberra Hospital against peer group hospitals as well as hospitals overall? If this benchmarking comparison was done, how did the Canberra Hospital rate and what was its percentile rating in that peer group?

MR CORBELL: I am not aware if there was any peer review done or peer rating against equivalent hospitals. But I am happy to inquire and find out for the member.

It is worth, though, putting this particular survey in some context. The context is that the survey was provided to approximately 800 patients who were discharged from the hospital. Of the 800 who received the survey, just over 180 or so responded. So it is important to put this in the context of the relatively small sample. In addition, I would challenge anyone to suggest that a 75 per cent approval rating, or three-quarters of everyone who returned the survey, is not a strong result for our public hospital. Given the relatively small survey numbers, it is important that we treat those figures with some caution. Nevertheless, a decline is a decline, and for that reason I am further investigating the issue to understand what particular issues people were raising as a cause for concern. But I still believe—and I think members in this place would believe also—that an approval rating of 75 per cent or higher is a significant level of approval. I am sure it is something Mr Smyth would be hoping for right now!

MRS BURKE: Mr Speaker, I have a supplementary question. Will the minister table the full Press-Ganey survey in the Assembly?

MR CORBELL: I will take the question on notice.

Weston Creek child-care centre

MR HARGREAVES: My question, through you, Mr Speaker, is to the Minister for Education, Youth and Family Services. Can the minister advise members of the actions taken by the Stanhope government in response to the recent fire that destroyed the Weston Creek child-care centre?

MS GALLAGHER: I thank Mr Hargreaves for the question. As members would know, the Weston Creek Childrens Centre was severely damaged by fire on 3 November. The centre was licensed for 70 places, and approximately 160 families use the service every week. The centre is owned by the Department of Education, Youth and Family Services and is leased to the Weston Creek Community Association to manage the centre.

Staff from the department went to the site immediately on advice of the fire, about 6 am from my understanding, to be there to support the families and the staff. Information was given on the availability of emergency child care through the department, and urgent action to relocate the service was provided to families.

For those who couldn't find care for their children, temporary care was arranged for 15 families at eight different services throughout the ACT over the following week. I certainly thank the child-care centres that extended their places for those children.

Following the fire, I think about three days later, we held a morning tea to speak with families and staff and to announce the service would be reopened on Wednesday, 12 November, at Rivett Primary School. There was a great turnout at this meeting, with about 80 families attending.

Over the next eight days the department and Totalcare worked to prepare the Rivett Primary School rooms for relocation of the centre. Three existing tenants were relocated from Rivett Primary School to provide the rooms required for the centre. I certainly thank those tenants as well for being so flexible.

Considerable renovation was completed at the site to meet the centre's licence conditions, including installation of a playground, fencing and plumbing work. Much of this work was completed out of hours and over the weekend. On 12 November the Weston Creek Childrens Centre reopened its doors at Rivett Primary School, eight working days after a fire had destroyed its site at Weston.

Relocation of the existing tenants is still under way. Alternative locations are being found for three existing tenants. Two have moved to Weston primary, and one will share space with Noah's Ark at the Rivett site. The fourth tenant, Woden Community Service, has agreed to move to a temporary location at the Rivett Primary School for the duration of 2003. The Weston Creek Community Association has agreed to the relocation of the playground equipment from the centre to Rivett Primary School in the interim.

I certainly think it is very impressive that it took eight days for the department and for the community to respond to a fire. Seventy per cent of the children or families using the Weston Creek Childrens Centre had been affected by the fires in January of this year. It

was certainly an additional strain on those families, and the ability to respond within a week was very impressive. I would just like to thank the groups who relocated and all the departmental officers with DEYFS, particularly Children's Services, who worked hard to achieve this outcome.

Rural leases

MRS DUNNE: My question is to the Minister for Planning, Mr Corbell. Minister, in relation to leases in the Molonglo Valley, you told the Assembly on 23 October:

> Let me give an example. Say a lease is issued for 99 years and the government decides after 20 years that the land is needed. The territory will have to pay compensation to the extent of 79 years worth of unused potential, unused property right.

Mr Wood: Mr Speaker—

MRS DUNNE: Wait for it, Mr Wood; let me ask the question. Subsequently, the government has been negotiating with lessees regarding the possibility of buying out their leases—negotiations that the government entered into only reluctantly, under pressure from the opposition and the Greens. These negotiations have revealed that the government's understanding of the entitlements of the lessees has been fundamentally flawed, particularly in respect of entitlements to new leases when the old ones expired, and that the statement about compensation for unexpired portions of the leases was wrong. Now that you know that your advice was incorrect and what you said on 23 October was incorrect, do you concede that you misled the Assembly?

Mr Wood: I take a point of order, Mr Speaker.

MR SPEAKER: Order! Resume your seat, Mr Wood. The imputation was that the minister misled the Assembly. I would like you to withdraw that.

MRS DUNNE: I am asking him whether he felt that he misled the Assembly. I would like the minister to clarify whether that was misleading of the Assembly.

MR SPEAKER: I think that the question posed suggests that somebody has misled the Assembly and it has not been allowed to pass. I think that it ought to be withdrawn if there is any imputation there.

MRS DUNNE: I will withdraw it, but I would like to rephrase the question. Do you think that the information you gave to the Assembly was incorrect?

Mr Wood: I take a point of order, Mr Speaker. This matter is listed for debate today. The specific issue that Mrs Dunne has raised is open for debate, I would expect, at that time, so the question is out of order.

MRS DUNNE: On the point of order, Mr Speaker: standing order 117 (f) says that questions may be asked to elicit information regarding business. Asking a question about whether the information is correct is eliciting information, not anticipating debate.

MR SPEAKER: The standing order to which Mrs Dunne refers invites people to ask questions to elicit information, but not to generate a debate or anticipate debate on the question.

Mr Wood: It was much debated in the question, which went on for about three minutes.

MR SPEAKER: I will allow the question, Mr Wood.

MR CORBELL: Mr Speaker, I would have to check the *Hansard* to see exactly what I said and then I could answer the question for Mrs Dunne.

MRS DUNNE: I have a supplementary question, Mr Speaker. Minister, in your negotiations with the lessees, will you make compensation to them on just terms in accordance with conditions set out in their current leases, and as swiftly as possible given the inordinate delays to date.

Mr Wood: That is debating the issue, Mr Speaker.

MRS DUNNE: No, it is not debating the issue. The debate is about amendment of a disallowable instrument.

MR CORBELL: Mr Speaker, the government is in negotiation with those lessees. I do not want to pre-empt the outcome of those discussions at this time.

Student accommodation

MS DUNDAS: Mr Speaker, my question, through you, is to the Chief Minister. The discussion paper *Building Canberra's Economy* highlighted the lack of student accommodation as a major constraint to growth in the tertiary sector. As a recent survey undertaken at the ANU has revealed that 60 per cent of postgraduate students spend more than 30 per cent of their income on accommodation and recent estimates show that up to 450 students will struggle to find appropriate and affordable accommodation next semester, will your government be working to ensure that there are adequate numbers of appropriate and affordable accommodation for students in the ACT?

MR STANHOPE: I thank Ms Dundas for the question. Certainly, I think we are all aware that there is some very significant pressure in Canberra at the moment in relation to availability of student accommodation. It is an issue certainly that the government is very aware of and is working with the sector, particularly the universities, to seek to address. We are more than happy to facilitate our responses to the shortages that we find exist in relation to student accommodation. Indeed, I am aware that as recently as today the ACT Council of Education Export met to look at the very issue of how to ensure the future and appropriate development of Canberra as a student destination.

It is certainly a fact, if one looks at the statistics over the last few years, that the number of foreign students in particular seeking to attend the Australian National University, the University of Canberra and the CIT has grown exponentially. We are now becoming an education centre of first choice of a number of nations, particularly in Asia, as a result of

the quality of the education offered by our institutions and as a result of the Canberra amenity. Certainly, there is a widespread and well held—justifiably held—view of Canberra as a wonderful destination and a safe place in which to live. Canberra is competing particularly well with other universities around Australia and throughout the world as a destination of choice.

I think it is a fact that to date the most direct array of connections that have been made with China as an emerging market for Canberra and Australia has been in relation to education services. We now are home to a significant number of students from China as well as many other places in Asia.

This is a significant issue. It is of significance to the universities. It is essentially their primary responsibility; it is not a primary responsibility of the ACT government. We have a major interest, however, in student accommodation and in ensuring that the ACT does maximise our capacity to play host to as many students as our educational institutions can handle. We are very keen as a government to work with all of the educational institutions in the ACT, private sector providers and student associations to ensure that we do have the capacity to provide as much accommodation as there are students to take it.

In that regard—and I will just say this by way of conclusion—I think many of us look with some regret at some of the decisions that particularly the ANU has taken in recent years in reducing its stock of student accommodation. We are now seeking to fill the shortfall created by these decisions. I think the ANU must seriously now regret these decisions which were taken to maximise what I think it saw at the time as opportunities for a fairly quick buck on some decent property that it held at the time.

MS DUNDAS: Mr Speaker, I ask a supplementary question. Minister, do you agree that hotels are not appropriate long-term accommodation for students? Will you convene an urgent meeting of the stakeholders to resolve the current issues facing the sector?

MR STANHOPE: Thank you, Ms Dundas. As I said, the ACT government is currently working with the full range of stakeholders in relation to the issue of student accommodation, and we will continue to do so. As I said, the ACT Council of Education Export met just this morning and identified the issue of ensuring that Canberra remains as attractive a destination for students as possible. In addition to that, my officers are meeting with a range of stakeholders. My colleague Ted Quinlan, through business development, is meeting with a range of stakeholders. He is working actively, particularly with the Australian National University where I think the greatest pressure is being felt.

Yes, the government is keenly interested in acting as a facilitator in relation to the development of student accommodation. A number of ministries and a number offices are working jointly to ensure that we coordinate our response. My office is involved. It is an all-of-government issue. The minister for economic development, Ted Quinlan, is involved. His officers and his office are working on this issue and the Minister for Planning is keeping a weather eye on the need for ensuring that we do have a capacity to meet the needs of student accommodation as they arise. It is something that we are very mindful of, something that we are working diligently to address and something that we are already heavily involved with the community in achieving.

Canberra Hospital—recruitment

MR PRATT: My question is to the Minister for Health, Mr Corbell. The *Canberra Times* of 15 November 2003 reported that four beds were closed at Canberra Hospital's oncology unit on Friday, 14 November 2003 because of staff shortages at the hospital, and that another four were unavailable for one shift. According to the *Canberra Times*, Colleen Duff, the ACT secretary of the Australian Nursing Federation, said that "nurses were unhappy about the failure to recruit staff and tell the community about the pressure on the hospital." She is also reported as saying that "Canberra Hospital was short between 20 and 25 nurses each shift" of that day, and that "Something has to give because it's getting dangerous."

Minister, why have you failed to recruit enough nurses to the hospital, leading to the closure of beds in the oncology unit?

MR CORBELL: Mr Speaker, the funding is there to provide those staff and the government is undertaking an extensive recruitment campaign. That has been ongoing since the change of government. In fact, it was an issue prior to the change of government. The reality is that there are work force shortages in a range of specialties. Anyone with even a slight understanding of the health sector would understand that.

The key issue is that the government is working to address these work force shortages but it is quite hard to fill the positions when the people are not there. That is the key challenge that we are working to overcome. The government has not cut funding, the government has not reduced the level of staffing available in those areas, but it is having difficulty recruiting people to fill the positions. In particular, the government has taken steps to increase the levels of employment of part-time staff and increase the role of part-time staff in planning, for example, in radiation oncology.

The government has also taken steps to improve the rates of pay available to radiation oncologists and radiation therapists. That has also been effective in improving our level of staffing. We now think we have competitive rates of pay for those key specialties. We now know that we have more flexible arrangements for utilising those staff in that part of the hospital. However, there is still more to be done. In fact, only about a week ago, a range of positions was further advertised nationally as part of an approach to attract people to come and work in Canberra.

The government is taking steps. We know there is an issue and we are working to address it, but we will not open beds if it is not safe to do so. That is obviously the cause of the complaint from Mr Pratt. We have to work at safe levels. If that means that beds are closed for a period of time then that occurs, because we do not staff beds at unsafe levels. At the same time, we are taking positive steps to address these particular work force shortages, shortages which are not unique to the ACT but which are being felt nationally and internationally.

MR PRATT: Minister, in that case, why have the recruitment campaigns that you have boasted about in this place, the steps that you said you have taken, failed to attract staff to the hospital?

MR CORBELL: I do not know if Mr Pratt understands the concept of a shortage—

Members interjecting—

MR SPEAKER: Order, members!

MR CORBELL: If you have this many positions and only this many staff, you cannot fill all those positions, Mr Pratt. It is called a shortage, Mr Pratt. There are not enough people, Mr Pratt. That is the reason, Mr Speaker.

School counsellors

MS TUCKER: My question is to the minister for education and it relates to the review of counselling services in ACT schools and colleges, and in particular to concerns that have been expressed by the Australian Guidance and Counselling Association in regard to the retraining of teachers to become school counsellors. I understand that the minister has received a letter and has been in contact with the Australian Guidance and Counselling Association, and that their concerns are that basically with this new training scheme you can have a situation where people are being put into a job that they are not equipped for and that this is ignoring serious consequences for students that may result from having undertrained and undersupervised people doing a highly responsible and sensitive job. Can the minister explain how she is responding to these concerns?

MS GALLAGHER: I thank Ms Tucker for the question. Yes, I have received a letter from the counselling association and I actually signed the letter of response back to them last week, I think from memory. I think there was a misunderstanding. Certainly, once they had written to me, I made some inquiries of the department. The counselling training that is being offered does not enable those teachers to be employed as counsellors in schools. Currently, a counsellor in a school has to have a teaching background but also, I believe, a psychology qualification in order to be a school counsellor. This retraining opportunity was part of progressing some of the outcomes of the review, which I think I have said before was about providing multidisciplinary teams within schools to provide support to students. Part of that is youth workers in schools. But a part of that is also to have some teachers trained—additional to their current training, to their bachelor of education—with a specific focus on counselling. But they would not be official school counsellors; they would just have an additional bit of professional development.

From my reading of the letter from the association, perhaps that information had not been relayed to them, and when they were looking at the ad that went in the paper they believed—and probably quite rightly—that we were training school counsellors in six months, which is not what is occurring. But I have relayed that back to the association.

MS TUCKER: I have a supplementary question, Mr Speaker. Do you think you might need to look at how the relationship and the consultation are occurring, given that the issue was brought to the working party meeting after an advertisement had already been placed on the departmental intranet, which advised of the new training opportunities.

MS GALLAGHER: Yes, I agree. I think it could have been handled better and certainly I have met with the association and agreed to have further meetings with them. I think it is useful. From listening to the association, I think there is a view that some of their issues have not been progressed or listened to. We need to be doing things a bit better, particularly if we are trying not only to retain counsellors but also to encourage more people to take up those jobs.

Land sale—Harrison 1 estate

MR CORNWELL: My question is to Mr Corbell. Minister, Harrison stage 1 was sold on 13 August for a record price. When the government had not settled three weeks after the due date we began to make inquiries about the reasons for the delay. Over a period of two days a number of reasons were given as to why the government had not settled. These were: firstly, failure to withdraw the rural lease properly; secondly, the land was subject to the Commonwealth's approval under the Environment Protection (Biodiversity and Conservation) Act; thirdly, the final development plan had not been lodged; fourthly, the final survey of the block had not been done; and fifthly, the old favourite, the perennial staff shortages.

Since then you have been reported as saying that the delay was due to the failure to send the new plan to the Land Titles Office. We now have six excuses. Could you, please, tell the Assembly, Minister, why the government failed to complete the sale of Harrison 1 within the 56 days allowed in the condition of sale?

MR CORBELL: I am very happy to answer Mr Cornwell's question. Can I first preface it, Mr Speaker, by saying that the government has sold Harrison 1 and the full payment has been made by the successful bidder. Contrary to the assertions by those opposite in past weeks who were hoping—secretly wishing, even—that the sale would fall through, I can assure the Assembly—

Mr Stanhope: Talking business down.

Mrs Dunne: On a point of order, Mr Speaker: I would like the Chief Minister to withdraw the comment. We were not talking business down. At no stage did anyone in the opposition say that the business could not pay for it.

MR SPEAKER: I cannot rule in your favour. There is no point of order.

MR CORBELL: I think Mrs Dunne protests too much, Mr Speaker. The details in Mr Cornwell's question surround the circumstances that resulted in the delay to settle. The fact is that the land was withdrawn. It was in the possession of the Land Development Agency. Before a new lease could be issued so that settlement could take place, there was a requirement that the withdrawal plan that indicated the withdrawal had occurred needed to be lodged with the Registrar-General's Office, the Land Titles Office. There was a delay in submitting that due to a person being absent from the planning authority. That was addressed. That work has now been done. When a new lease was available to be issued, the settlement occurred.

I know Mrs Dunne is thinking, "Oh, shucks, damn, I really wanted the opportunity to get stuck into Simon Corbell again," but, Mr Speaker, the bottom line is that the government conducted the sale in accordance with all due process. The sale was successfully negotiated. Those opposite might wish otherwise, but I have to report to them that is not the case.

MR CORNWELL: A supplementary question, please, Mr Speaker. Minister, why wasn't the appropriate work done before this sale went through and why did you give six excuses why there was a failure to complete the sale?

MR CORBELL: I didn't, Mr Speaker.

Student accommodation

MR STEFANIAK: My question is to the Minister for Planning. I refer to comments by Mr George Wason, a director of the Canberra Tradesmen's Union Club and damn fine second row forward, on the minister's failure to consider proposals to redevelop Tasman House in Civic to create 95 student apartments in a timely manner. Mr Wason said:

> There are ridiculous conditions and requirements. Every time we went back we got another problem.

Given that there will be a critical shortage of student accommodation for the first semester of next year, why have you imposed what George Wason described as ridiculous conditions and requirements on this proposal?

MR CORBELL: Ridiculous requirements like bicycle parking for a student accommodation residence! Are they suggesting that it is an absurd requirement that there should be parking space for bicycles at student accommodation premises? That is one of the requirements of the planning authority in relation to that development. The issue with that development is that the development went through the standard process for assessing the development requirements and what specific design issues needed to be addressed—nothing more, nothing less. A range of issues was addressed, including overshadowing and the requirement for bicycle parking for student residents—issues that needed to be satisfactorily resolved.

That said, I think that there is a reasonable argument that there needs to be an improvement in the overall process and timeliness of the preapplication system. For that reason, the government has already indicated its intention to undertake significant reform of that system, as I have said publicly on a number of occasions already, to ensure that we do have a timely system which achieves a reasonable certainty of process and, at the same time, protects the broader community interest. That will be the approach that the government will be working to deliver. The system at the moment requires a range of issues to be addressed. I do not doubt for a moment that those issues need to be addressed. But there are some concerns around timeliness and they will be addressed by me as minister and by the planning authority.

MR STEFANIAK: I have a supplementary question, Mr Speaker. Minister, why, then, is George Wason calling for you to be sacked as Planning Minister?

Mr Hargreaves: Mr Speaker, I take a point of order. That question calls for an opinion.

MR CORBELL: I do not recall Mr Wason calling for me to be sacked as anything, Mr Speaker.

Mr Stanhope: Mr Speaker, I think that the only sacking asked for was by Mrs Dunne in calling for Terry Snow to be sacked from the Bushfire Recovery Taskforce. I ask that further questions be placed on the notice paper.

Minister for Health
Motion of want of confidence

Debate resumed.

MR SPEAKER: The question is that Mrs Cross's amendment be agreed to.

MR SMYTH (Leader of the Opposition) (3.11): Mr Speaker, speaking to the amendment, it is a shame that we may have to downgrade our understanding of the seriousness of contempt. I understand what Mrs Cross is attempting to do here but I think to say that we have "grave concern" that a minister of this Assembly has been found guilty of contempt by the Privileges Committee is to understate the matter. Of course we are gravely concerned that he has been found guilty of contempt, but it is a question of the punishment fitting the crime. In all other jurisdictions, to be found guilty of contempt, particularly as a minister, warrants a far more severe punishment than the slap over the wrist that "grave concern" is. Indeed, in other jurisdictions in the past the precedent is that ministers actually resign, and they resign honourably before they are forced to do so. But it is apparent that we might not get to the stage of forcing Mr Corbell to resign.

I want to reiterate to members the importance of what we do in each jurisdiction on the issue of precedence. This importance was borne out for me particularly at a recent meeting of the Commonwealth Parliamentary Association in Bangladesh. You would think that a group of politicians going to Bangladesh would probably have minimal impact. But I suspect it has enormous impact because the jurisdictions compare what each other does. The jurisdictions note what goes on in each house of assembly, parliaments and upper houses, because it does affect them, because it does lead to change, because it does influence, because it does send a message.

If we send a message today that the first minister in the 14 years of this Assembly to be found guilty of contempt by a committee of his peers, including a member of his own party, is worthy of only "grave concern" then we will be letting down parliamentary process around the world. We will get some chuckles from the far side on that, but that is the nature of Westminster. If you respect Westminster, that is the effect we have on each other.

I am acutely aware now of how important it was that in Bangladesh, for instance, we had discussions on how to improve process and government procurement, how to defeat corruption, how to build up economies in small jurisdictions, and how to address the

issues affecting emerging countries and third world countries. They look to us and they look to the standards we set. They look to what we do, whether it be in the federal parliament, the state parliaments or the territory parliaments of Australia, Canada or South Africa.

Mr Speaker, all of the jurisdictions look to each other for the standards we set and what we are getting from this Assembly, from particularly this government, is the standard of the lowest common denominator. We have got a chief minister who will not give us his ministerial code of conduct. We have got ministers who think they can get away with contempt by coming down when the writing is on the wall and apologising. Why didn't the minister apologise earlier? Why not? Because he thought he could tough it out.

Ms Dundas said contempt is contempt, and she is right. Contempt is contempt. It is not minor contempt, major contempt, small, medium or large contempt. No other jurisdiction has defined levels of contempt but we will do so here today if we downgrade this to a matter of "grave concern". And that is the problem. We are setting the bar so low. This has been done by a government that promised greater accountability, more openness, more honesty, and what we get is less.

Ms Tucker said there are no degrees of contempt. Maybe there should be—I don't know. But the principle, as it stands at the moment, is that contempt is contempt. It should be punished. It is not a slap on the wrist issue. It is indicative of an attitude that a member or a minister has towards his or her Assembly and the attitude of the minister was that he just did not care. It is interesting to read what the minister said. Paragraph 3.35 of the report states:

> In evidence to the committee Mr Corbell indicated that he had made an error of judgement; he was wrong; and he apologised.

Paragraph 3.37 states:

> Mr Corbell claimed that he had not heard the Chair of Estimates Committee ask for "the raw figure now".

Well let us look at the final *Hansard*:

> **THE CHAIR**: Do officers have the March figure with them now? Has the waiting list grown or has it shrunk in March?
>
> **Mr Corbell**: Well, officers do have that, but I will be releasing those figures later this week.
>
> **THE CHAIR**: Could we have a raw figure now and the breakdown later this week?
>
> **Mr Corbell**: No.
>
> **THE CHAIR**: Why not, Minister?
>
> **Mr Corbell**: Well, the government will make the decision on when it announces and releases things. As I've indicated to you, I'll be releasing these figures later this week.

Let's go back to what I asked: "Could we have the raw figures now and breakdown later this week?" "No" said Mr Corbell—not, "Oh, sorry, would you repeat that" or "I didn't hear you?" He answered. We followed the discussion through. "Why not?" "Well, because the government will make the decision when it announces and releases things."

Mr Speaker, it is quite clear that Mr Corbell has been found guilty of contempt. Contempt, on the advice my office has received from the Clerk of the House of Representatives, is a serious matter and not to punish it in a serious way downgrades the standing of this place. And that is what we are about to do. We are about to downgrade, we are about to undermine, the authority of the house.

I would ask members not to vote for this amendment. I do understand that it will probably get up and that is unfortunate because what we are about to do is undermine the standing of this house, and that, Mr Speaker, is a continuation down the slippery slope of lowest common denominator standards started by the Chief Minister.

Amendment agreed to.

MR SPEAKER: The question now is that Mr Smyth's motion, as amended, be agreed to.

MR SMYTH (Leader of the Opposition) (3.18): Mr Speaker what we do is important in this place. Mr Quinlan made reference to headlines about the house of farce, and he is right. It is important that a house of assembly, a house of parliament in a jurisdiction, is held in high regard by the people—

Mrs Dunne: Point of order, Mr Speaker: the level of noise from the other side makes it very hard to hear or keep your train of thought.

Mr Quinlan: Oh, you are kidding.

Mr Hargreaves: Oh, what?

Mr Quinlan: From you—this from you?

MR SPEAKER: Order, I can't hear what Mrs Dunne is saying.

Mrs Dunne: That just reinforces my point of order, Mr Speaker. I can't hear what Mr Smyth is saying and I doubt that anyone else who is interested in what Mr Smyth is saying can hear because of both the level of conversation and interjection from the other side.

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

MR SMYTH: Mr Speaker, in his speech, Mr Quinlan referred to the headline "House of Farce" that I think we have all seen. Assemblies and parliaments and various houses, upper and lower, earn the respect of their constituents through the good law that they pass, through the standing of their members, through their openness and accountability.

They earn it by passing good law and making good decisions, and they do it I think with some circumspection. You need to make sure that the punishment fits the crime, the tax fits the charge, the fee fits the requirement. What we cannot afford to do is reduce standards to the lowest common denominator. If Mr Corbell does not understand what he has done, we should be taking action.

I think the amendment that has been passed to this motion to substitute the words "grave concern" changes fundamentally the view that we should have of executive government in this place. What it means is that the accountability measures are watered down. What we need to be aware of when we go out into the community is that they view all of us in the same way. We are politicians first and foremost, I suspect, and given that various surveys show that politicians rate somewhere between used car salesmen and often journalists, we should be working to build up our standing in the community.

Mr Quinlan: This is helping?

MR SMYTH: Mr Quinlan interjects in an ironical sort of way that he is so good at, "This is helping?" In the report Mr Quinlan found Mr Corbell guilty of contempt.

Mr Quinlan: With perspective on the incident.

MR SMYTH: He found him guilty of contempt. And so get a rider: Mr Quinlan interjects "With perspective"—a man with perspective.

MR SPEAKER: It doesn't help that you respond to interjections which are—

Mr Quinlan: You haven't got a speech. What is he going to do?

MR SPEAKER: Order, Mr Quinlan! The interjections are out of order and there is not much point in responding.

MR SMYTH: But it shows quite clearly, Mr Speaker, that not even Mr Quinlan could dissent from the finding of contempt. He has found excuses afterwards and he has got a couple of add-ons. But not even Mr Corbell's colleague could find against the contempt. The three members of the committee made a finding of contempt.

My fear is that now this has been watered down we will have a minister who thinks he has got away with it. My greater fear is that now we have started to codify what a contempt is we will have a sliding scale. As a result, we will diminish the way that we hold in check and we hold accountable those that would be in government.

Mr Speaker, I am in the main pleased with the report of the committee. The committee found that a number of contempts were committed and this provides to the rest of us the message that we need to be careful about what we do. I am disappointed that I think we are not taking seriously enough the finding of contempt because what we have now done is water down the whole concept that is set out so clearly in *House of Representatives Practice* and the clear understanding that other jurisdictions have of the seriousness of contempt. I think what we are doing sets a new benchmark and I suspect we may regret it.

Motion, as amended, agreed to.

Answers to questions on notice

Questions Nos 945 and 946

MRS DUNNE: Under standing order 118A I seek an explanation from the Minister for Planning as to the whereabouts of the answer to my Question No 945 in relation the failed auction of Harrison Estate stage 1, which was due on 23 October. I would also like an explanation as to why I received in my office only today the answer to Question No 946, which was due on the same day.

MR CORBELL: Mr Speaker, I apologise to the member for the delay in answering those questions. I anticipate the one remaining answer that is due to her should be delivered to her later today.

Questions Nos 931 and 932

MR CORNWELL: Mr Speaker, I have two questions unanswered by the Minister for Environment—931 and 932—concerning the community update propaganda report No. 31. They were due on 23 October, Minister.

MR STANHOPE: Mr Speaker, I regret that I was not aware that I had any overdue questions from environment and I will undertake to have those questions answered as quickly as possible.

I might just say, Mr Speaker, I think it is a matter of great regret that Mr Cornwell should consider our attempts to communicate with the affected bushfire communities to be propaganda, and that he should belittle our attempts to continue to support people who lost their homes and loved ones in the bushfire. I find most appalling the claim by Mr Cornwell that we should not be supporting people who lost their homes and their loved ones in the fire. It is really quite outrageous.

Question No 997

MR SMYTH: Mr Speaker, under the same standing order, my question 997 to the Minister for Environment should have been answered on 25 October; question 1003 to the Minister for Urban Services should have been answered on 25 October; and question 1006 to the Minister for Health should have been answered on 25 October.

MR STANHOPE: I will seek a response in respect of the answer that is outstanding. I regret that, Mr Speaker.

Question No 1003

MR SMYTH: Mr Speaker, as I have just pointed out, the answer to question 1003 was due from the Minister for Urban Services on 25 October.

MR WOOD: Okay, when we can, yes.

Mrs Burke: "When we can." Oh!

Mr Stefaniak: "When we can." Is that 2010 or something?

MR WOOD: Let me give a full answer. Yes, I deeply apologise if we have not answered absolutely every question. Can I also congratulate Mr Cornwell for his sterling effort today on the notice paper. He has done magnificently.

Question No 1006

MR SMYTH: Question 1006 is overdue from the Minister for Health. That was due on 25 October.

MR CORBELL: I was not aware that I had an overdue answer in the health portfolio, Mr Speaker. I apologise to the member and I will get it to him as soon as possible.

Executive contracts
Papers and statement by minister

MR STANHOPE (Chief Minister, Attorney-General, Minister for Environment and Minister for Community Affairs): Mr Speaker, 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:
>
> Craig Curry, dated 21 October 2003.
> Beverley Forner, dated 21 October 2003.
> Phillipa De Veau, dated 16 October 2003.
> Sandra Georges, dated 16 October 2003.
> Brett Phillips, dated 23 October 2003.
> Francis Duggan, dated 20 October 2003.
>
> Short-term contracts:
>
> Gordon Davidson, dated 29 October 2003.
> Dorte Ekelund, dated 21 October 2003.
> Garrick Calnan, dated 21 October 2003.
>
> Schedule D variations:
>
> Gordon Davidson, dated 24 October 2003.
> Peter Gordon, dated 23 October 2003.
> Geoff Keogh, dated 23 October 2003.
> John Thwaite, dated 8 September 2003.
> Adrian Robertson, dated 13 October 2003.
> Ron Shaw, dated 8 October 2003.
> Ken Douglas, dated 23 October 2003.
> Catherine Hudson, dated 29 October 2003.
> Gerry Cullen, dated 30 October 2003

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

Leave granted.

MR STANHOPE: Mr Speaker, I have presented another set of executive contracts. These documents are tabled in accordance with sections 31A and 79 of the Public Sector Management Act, which require the tabling of all executive contracts and contract variations. Contracts were previously tabled on 21 October 2003. Today I have presented six long-term contracts, three short-term contracts and nine contract variations. The details of each of these contracts will be circulated to members.

Papers

Mr Quinlan presented the following paper:

> Territory Owned Corporations Act, pursuant to section 19 (3)—Totalcare—Statement of Corporate Intent—1 July 2003 to 30 June 2006.

Mr Wood presented the following paper:

> Housing Assistance Act, pursuant to section 11A—Multilateral Commonwealth-State Housing Agreement 2003-08, dated November 2003.

Mr Corbell presented the following papers, which were circulated to members when the Assembly was not sitting:

> The Canberra Hospital—Information Bulletin—Patient Activity Data—October 2003.
>
> Calvary Public Hospital—Information Bulletin—Patient Activity Data—External Distribution—October 2003.

Development application No 20031944
Paper and statement by minister

MR CORBELL (Minister for Health and Minister for Planning) (3.28): For the information of members, I present the following paper:

> Land (Planning and Environment) Act—Statement pursuant to paragraph 229B(7)—Development Application No. 20031944, dated 31 October 2003, including a copy of a letter to the Minister for Planning from the Chair of the ACT Planning and Land Council, dated 14 October 2003.

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

Leave granted.

MR CORBELL: Mr Speaker, on 22 December this year I directed the ACT Planning and Land Authority to refer development application No 20031944 to me for

determination. On 31 October I approved the application, using my powers under section 229B of the Land (Planning and Environment) Act 1991. The application sought approval for the replacement of 11 Housing and Community Services dwellings lost in the January 2003 bushfires.

I have used my call-in powers in this instance because I consider the proposal to be of substantial public benefit. As stated, the proposal seeks to replace 11 ACT Housing dwellings lost in the January 2003 bushfires. These dwellings account for over 40 per cent of the public housing lost in the urban area. The government has given a commitment to facilitate recovery from the bushfires as soon as possible. I consider that it is important that the ACT Housing tenants displaced by the January 2003 bushfires receive the same level of timely response as other members of the community affected by the bushfires.

Section 229B of the land act specifies that, if I decide an application, I must table a statement in the Legislative Assembly within three sitting days of the decision. Mr Speaker, as required by the act and for the benefit of members, I have tabled a statement providing a description of the development, particulars of the land on where the development is proposed to take place, the name of the applicant, details of my decision and particulars of the grounds for the decision. I have also tabled advice from the Planning and Land Authority, which is a new requirement of me under the act.

Paper

Mr Corbell presented the following paper:

> Planning and Environment—Standing Committee—Report No 21—Variation to the Territory Plan No. 173—Government Response.

Territory plan—variation
Paper and statement by minister

MR CORBELL (Minister for Health and Minister for Planning) (3.31): For the information of members, I present the following paper:

> Land (Planning and Environment) Act, pursuant to section 29—Approval of Variation No. 173 to the Territory Plan—Heritage Places Register—Residential Precincts, dated 14 November 2003, together with background papers, a copy of the summaries and reports, and a copy of any direction or report required.

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

Leave granted.

MR CORBELL: Draft Variation 173 responds to the review of nine "garden city" planned residential heritage precincts undertaken by Environment ACT, in conjunction with the ACT Heritage Council. The precincts include Alt Crescent, Ainslie; Barton; Blandfordia 5, Griffith/Forrest; Braddon; Corroboree Park, Ainslie; Forrest; Kingston/Griffith; Reid; and Wakefield Gardens, Ainslie.

The current heritage registers in the Territory Plan for these precincts include a series of specific requirements that seek to ensure that our heritage values are protected. The requirements have been criticised by community members, professional bodies, the Administrative Appeals Tribunal and various government departments for their lack of clarity and their inability to provide appropriate protection for the precincts.

The heritage precincts review was initiated in response to this, with a seminar called "Managing Change in Heritage Precincts" which was held in November 1999. This was followed by a detailed assessment of the heritage values of the precincts. The review identified a number of potential threats, including the size and form of development, the loss of landscape, inadequate protection of original dwellings and concerns about specific issues such as dominance of garages, hard surfacing and two-storey development.

The review also included a series of community consultation workshops, initiated by Environment ACT, to discuss revised heritage value statements and broad policy directions. This was followed by a detailed survey of all precincts and the development of revised register entries.

ACTPLA considered the findings of the review and agreed to seek public opinion on the proposed changes to the register entries through the draft variation process. The draft variation was released for public comment in August 2001. Copies of relevant parts of the document were distributed to households within the residential precincts covered by the draft variation. A total of 66 written submissions were received as a result of public consultation on the draft variation, with a range of views expressed.

The ratio of comments for and against generally demonstrated that the controls have sought to achieve a balance between protecting heritage significance and planning for change. The draft variation was revised in response to comments and the changes proposed by variation 200 to the residential land use policy.

Mr Speaker, the draft variation was referred to the Planning and Environment Committee on 2 August last year. The committee handed down report No 21 on 10 July this year. The committee's report recommended that the government proceed with draft variation No 173, subject to its rewriting and presentation in simplified terms. The government considered the report and provided the government response out of session by sending a copy to all members of the Assembly on 13 November this year.

While the government acknowledged the committee's aims regarding the presentation and simplicity of the variation document, its format and content are largely constrained by the existing legislation. Nevertheless, in response to the committee's concerns and the passage of variation 200 residential land use policies, the document has been revised with a view to simplifying the controls wherever possible. The specific requirements have been reorganised to clearly separate mandatory controls from those subject to the discretion of the authority. They have also been rephrased and reformatted to simplify the wording and structure of the document.

In addition, a number of specific changes have been incorporated into the final variation. These include:

(a) At requirement 1.1(a) the reference to subdivision and consolidation of blocks has been deleted in response to the finalisation of variation 200. The residential policies prohibit consolidation and subdivision including unit titling for standard blocks where the land is subject to a heritage places register;

(b) At requirement 1.2(a) relating to new facilities in parks and reserves, it is now mandatory for any new facilities to be consistent with a conservation management plan endorsed by the ACT Heritage Council. This change responds specifically to recommendation 7(c) in the committee report;

(c) Former requirement 2.1(f) limiting development to not more than two dwellings on any block has been deleted because the residential policy does not allow for more than two dwellings unless the development is for the purpose of supportive housing;

(d) Requirement 3.1(g) has been amended to clarify that alterations and additions should be sited to retain the visual characteristics of the original dwelling when viewed from the street;

(e) Requirement 4.1(b) has been amended to delete the words "Additions shall only be permitted to the side and rear of dwellings" because the statement was inconsistent with the requirement 4.1(d) which permitted additions and alterations to the front of a dwelling in specific circumstances.

Mr Speaker, I commend the variation to members.

Paper

Ms Gallagher presented the following paper:

> Occupational Health and Safety Act, pursuant to section 96D—Operation of the *Occupational Health and Safety Act 1989* and its associated law—Fourth Quarterly Report 2002-2003, dated 13 October 2003.

Legal Affairs—Standing Committee
Report No 6—government response

MS GALLAGHER (Minister for Education, Youth and Family Services, Minister for Women and Minister for Industrial Relations): For the information of members, I present the following paper:

> Legal Affairs—Standing Committee—Report No. 6—*Crimes (Industrial Manslaughter) Amendment Bill 2002*—Government Response, dated 18 December 2003.

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

Leave granted.

MS GALLAGHER: On 12 December 2002, the Crimes (Industrial Manslaughter) Amendment Bill was introduced into the Legislative Assembly and referred to the Standing Committee on Legal Affairs for report.

The bill's intent is to ensure that employers can be held responsible where their criminally reckless or negligent conduct causes the death of a worker. The bill will enable a more effective application of the law of manslaughter to corporate employers whose conduct is grossly negligent or who take unjustifiable risks with the lives of their workers.

The bill also provides that senior officers of businesses, corporations, government entities, and government ministers can be prosecuted, as natural persons, for industrial manslaughter where they cause the death of a worker. The bill will introduce new financial penalties of up to $5 million for corporations.

The bill is a very important part of the government's occupational health and safety compliance and enforcement strategy. Referral to the committee has given the community an opportunity to comment on its provisions.

The committee released its report on 17 September 2003. The report details the findings of the committee's inquiry into the bill. The report makes six recommendations. The government has accepted the major recommendation of that report—that is, to proceed with the bill—and agrees in principle with the intent of the committee's recommendations.

The government notes that the committee was satisfied that concerns that the provisions of the bill weakened the criminal standards of proof in relation to manslaughter, hence exposing persons unfairly to prosecution, are unfounded and that there is no weakening of standards or watering down of the elements of the manslaughter offence.

The government also notes that the committee addressed concerns that natural persons as "senior officers" could be prosecuted under the provisions of the bill for the conduct of an employer—a form of "vicarious liability". The committee noted correctly "that for a natural 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" and that "this must be proved beyond reasonable doubt. The conviction of a corporation would not, automatically, result in the guilt of any particular officer of the corporation".

The government would like to thank committee members for their work on this complex and important legislation and I would indicate that we will be proceeding with the bill in the November sittings.

I move:

> That the Assembly takes note of the paper.

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

Paper

Mr Wood presented the following paper:

Annual Report 2003-2004—Department of Urban Services—Addendum.

ACT Health—annual report 2002-2003
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:

Annual Report 2003-2004 Volume 1—ACT Health—Erratum—Achievements and Financial Statements.

I ask for leave to make a statement.

Leave granted.

MR WOOD: ACT Health has identified several errors areas in the 2002-03 annual report. In relation to nursing services, under "Key Achievements" on page 51, paragraph 2, ACT Health has advised that there were in fact only three successful ACT nurse practitioner models trialled, not four as stated, as the military setting model was not completed.

The annual report provides information on consultancy and contractor services on pages 156 to 167. ACT Health has advised that on pages 162 and 163 under "Contractors and Consultants Report" the dates are shown in US format style.

Under "Community Health", on page 167, line 6, the entry for Morgan Disney and Associates should be deleted as this entry is a duplicate of line 2. These inaccuracies were caused by a print format error that occurred off site.

The annual report also provides financial documentation relating to capital works management on pages 168 to 170. ACT Health has advised that an error in the summation formula for the first totals has occurred and this also affects the second line of totals. A revised table is attached.

The chair of the Standing Committee on Health was advised of the errors and provided with the erratum in print prior to the hearing of the committee on 6 November.

ACT Health has identified a further error in the 2002-03 annual report and the following corrections to the ACT Health annual report, volume 1, "Achievements and Financial Statements" should be noted. TCH provided comparative rates for patient satisfaction survey results for 2001-02, 2002-03, and these figures were published on page 25. There has been a typographical error in the data provided where the day surgery figures were transposed with the emergency department figures. The figures should read as the erratum indicates.

Papers

Mr Wood presented the following papers, which were circulated to members when the Assembly was not sitting:

Performance reports

Financial Management Act, pursuant to section 30A—Quarterly departmental performance reports for the September quarter 2003-2004 for the following departments or agencies:

ACT Health, dated October 2003.
Attorney-Generals Portfolio within Department of Justice and Community Safety.
Chief Minister's, dated October 2003.
Disability, Housing and Community Services, dated October 2003.
Economic Development, Business and Tourism Portfolio and Sport Portfolio within Chief Minister's Department, dated October 2003.
Education, Youth and Family Services, dated October 2003.
Environment Portfolio within Urban Services.
Industrial Relations Portfolio, ACT Workcover, dated October 2003.
Planning Portfolio, within Urban Services.
Police and Emergency Services' Portfolio within Department of Justice and Community Safety.
Treasury, dated October 2003.
Urban Services.

Mr Wood presented the following papers:

Legislation Act, pursuant to section 64—

Consumer and Trader Tribunal Act—Attorney General (Determination of Fees and Charges for 2003/2004) Amendment 2003 (No 2)—Disallowable Instrument DI2003-277 (without explanatory statement) (LR, 9 October 2003).

Independent Competition and Regulatory Commission Act—Independent Competition and Regulatory Commission (Reference for Investigation) 2003 (No 3)—Disallowable Instrument DI2003-271 (LR, 13 October 2003).

Land (Planning and Environment) Act—

Land (Planning and Environment) Amendment Regulations 2003 (No 1)—Subordinate Law SL2003-35 (LR, 9 October 2003).

Land (Planning and Environment) Determination of Matters to be Taken into Consideration—Grant of a Further Rural Lease (No 2) 2003 Amendment Determination (No 1)—Disallowable Instrument DI2003-294 (LR, 14 November 2003).

Road Transport (Driver Licensing) Act—Road Transport (Driver Licensing) Amendment Regulations 2003 (No 1)—Subordinate Law SL2003-34 (LR, 7 October 2003).

Road Transport (General) Act—

Road Transport (General) Exemption of Person & Vehicle from Road Transport Legislation (No 2) 2003—Disallowable Instrument DI2003-278 (LR, 10 October 2003).

Road Transport (General) Exemption of Person & Vehicle from Road Transport Legislation 2003 (No 3)— Disallowable Instrument DI2003-280 (LR, 14 October 2003).

Road Transport (General) Declaration that the road transport legislation does not apply to certain roads and road related areas 2003 (No. 8)—Disallowable Instrument DI2003-281 (LR, 16 October 2003).

Road Transport (General) Exemption of Person & Vehicle from Road Transport Legislation 2003 (No 4)—Disallowable Instrument DI2003-282 (LR, 22 October 2003).

Supervised Injecting Place Trial Act—Supervised Injecting Place Trial Advisory Committee Appointments 2003 (No 1)—Disallowable Instrument DI2003-279 (LR, 16 October 2003).

Tree Protection (Interim Scheme) Act—Tree Protection (Interim Scheme) Appointment 2003—Disallowable Instrument DI2003-276 (LR, 7 October 2003).

Public health system
Discussion of matter of public importance

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

The state of the Public Health system in the ACT.

MR SMYTH (Leader of the Opposition) (3.45): The state of the public health system in the ACT is of concern to all Canberrans. It is the sort of thing that we all hope we will never have to access but that, when we do, it is there, it is accessible, it is quick, it is effective and it is efficient. How can we not be concerned about the state of our health system when we wake to the news that the managers of our main emergency department are warning the public to expect long waiting times through to Christmas?

The previous government had a policy that focused very strongly on primary health care. What we wanted to do was look after patients, not bureaucracies. The two long-serving and passionate health ministers worked hard on that issue of primary care. They looked at health prevention. They wanted a health system that focused on outcomes, not on how much was spent and where it was spent. They focused on outcomes: real people getting real service, quickly and effectively.

But we also focused on financial effectiveness. We wanted to make sure that we got the best for every dollar that we spent and did not have to continually spend more dollars as

costs rose. We achieved good results in the hospital system: we reduced the hospital waiting lists, we increased the real levels of in-patient activity, we worked to bring down those terrible levels of overdue surgery patients and we strived to make sure we had real outcomes for the most urgent cases who needed to be seen. At the same time, we maintained a very high standard of attention time in the emergency department.

Under the government, there is a drift away from that to, "If you spend more, it will be better." We are not seeing that outcome. We are seeing a decline in confidence in the system, people waiting longer, longer lists and a more costly service. Under this government, there is no focus on primary care. Instead, there is a hazy, lazy focus on allowing costs to increase at the service provider institutions and waiting to see if anything happens. The claim, before the last election, that a $6 million injection would fix the system is exactly what I am talking about.

The Chief Minister served as health minister for 14 months. He took little interest in it, and we saw little real gain for the people of Canberra. Mr Corbell, who is best described as unenthusiastic about the portfolio, has shown little interest in developing a vision of his own, such as the vision we had of people first and a primary care focus. He has done nothing but attend to administrative demands, react to issues when they are raised and, in the main, simply go through traditional health minister politics, such as waiting lists.

In the last two years there have only been two significant events under the administration of this government. The first was the totally unnecessary and highly costly merging of the public health agencies into the bureaucracy, something that was meant to give "more efficient and accountable" health services in the ACT. That has certainly not occurred. As reported in the annual report, there was a blow-out—$38 million above the initial expenditure—and an operating loss of $19 million. That is hardly a testament to sound financial management.

The other key decision of the government seems to have been to cut funding to Calvary Hospital's surgery services—and not just cut them. The then health minister, now the Chief Minister, admitted in estimates that he knew there would be some pain. So what he did was cut them. "We knew there would be some, and we've come back this year with proud boasts of how we've increased funding to Calvary Hospital."

The truth of the matter is that Calvary funding is still below the level we left it at two years ago. It is hardly something to be proud of. Calvary funding was $25.8 million in the 2001-02 budget, the budget we put in place. It was $22.4 million last year. The budget for the current year has risen back to $25.7 million. It is still $100,000 below the level of two years ago. There is no CPI, there is no accounting for growth in the population of the ACT and the increasing demands on public health. It is absolute abandonment. Yet you dress it up as though you have increased funding. You still have not reached the total that we left.

And what was the outcome? The outcome was the closure at Calvary of surgical theatres for 14 weeks. Surgery was denied ordinary Canberrans for more than a quarter of the year because this government does not have a focus on primary health care, on health prevention or on health enhancement to get the best value that we can from our health dollar. It is incredibly cynical to say that you are increasing your health dollar when you have not even reached the target or the model that we left you.

A consequence of this at the Calvary Hospital is that the real level of in-patient activity has fallen. The speed with which patients receive emergency services has also fallen. As a clear result, the people of Canberra have told this government that their level of satisfaction with the system has fallen sharply. An addendum has just been tabled, and I will go through the figures later—a typographical error has perhaps cleared up the dilemma on one level, but in terms of in-patients it certainly has not.

Across our hospital system, the level of surgical activity is falling and the number of people overdue for surgery is rising dramatically. Yet we have no sense of accountability from our minister about these results. He said recently in the Health Annual Report hearing that he is not responsible for targets; he is just responsible for the budget. The budget blew out by $38 million and had a $19 million operating loss. That is what he is responsible for. That is something to be proud of! Is he proud of not achieving targets?

We are beginning to see the inevitable side effect of this administrative restructure: a lack of attention to the underlying issues from both of the ministers—particularly the current minister—and a lack of effective management demanded by the minister from the bureaucracy to ensure that they deliver good outcomes for the people of Canberra. These results are undeniable, as I will detail throughout this speech.

At the same time, the cost of the health system is going up for the people of Canberra. Our government believed that the test of good management was to bring the most services to the public for every dollar spent. Under this government, health costs more but less is being achieved. The evidence? Let's look at five key areas. The first is total patient throughput.

The annual report for ACT Health clearly shows that the real level of in-patient activity at our major public hospital has fallen. Harking back to Labor's policy document from before the last election, they said that they were going to be more effective and more efficient, that they were going to ensure more people had more access and that there would be more operations. With this in mind, the Chief Minister put $6 million into Health, and what have we got? We have got less.

The level of in-patient activity achieved at the Canberra Hospital in 2002-03 fell from 39,258 to 38,432 cost-weighted separations—a drop of 2 per cent—at a time public demand was rising across Australia. Mr Corbell knows that with Calvary Hospital theatres closed for a quarter of last year, he cannot look to that area for better outcomes. This result can be seen in his own report, but we are yet to see Mr Corbell accept it publicly.

He goes to other activity measures, when he knows that the measure everybody is judged by is cost-weighted seps. I wonder whether Mr Corbell understands the importance of this result. I wonder whether Mr Corbell wants to be accountable for his lacklustre executive performance. I wonder whether he has the courage to stand up in this place and say, "I accept that in-patient activity at the hospital has fallen under Mr Stanhope's and under my administration"? Does he have the courage to say that? We will see.

I move on to surgery throughput, Mr Speaker. Members will recall—and I suggest no-one more vividly than you, as a former Labor health minister from the early 1990s—that

the previous Liberal government ended years of non-accountability for hospital results by putting in place a system that reported monthly to this place what the level of activity was and what the waiting list times were.

The current government attempted to strangle this. Mr Stanhope came to office saying, "We'll be more accountable, we'll be more honest, we'll be more open. But we're not going to table the report; we're going to hide it in the library. If the public want it, they can come to the ACT Assembly library"—which I suspect most people do not know exists.

I thank members who supported the motion that brought this minister to heel, because it was only the intervention of the Assembly that maintained the requirement on this health minister to table monthly reports. And, while we are at it, we might look at the four missing reports where there is no data—four months without real data. Perhaps the minister might table those by the end of this debate.

When we add up these monthly reports, we see that the level of surgery throughput is 8 per cent lower under this government than it was at the end of the previous government. No wonder they wanted to bring to an end monthly accountability and reporting! I, too, would be embarrassed if I were you, Mr Corbell. I seek leave to table a chart that details this. It shows the number of patients treated at the two public hospitals over the last 36 months.

Leave granted.

MR SMYTH: This chart clearly shows that the results are worse under the government. From October 2000 to September 2001 an average of 700 patients a month were treated. Since October 2001 the average has been 643. In other words, 8 per cent fewer patients get surgery under this government. The cause was a string of bad results starting in 2002 with the Calvary debacle.

Is the minister willing to stand up in this place and say, "Yes, surgery throughput has fallen under this government"? Is he willing to take responsibility for what his government has done, or is he only responsible for the budget, not for the targets? Long waits for surgery have got longer under this government. This government has lost control of the number of people who have been allowed to become overdue for elective surgery.

We all know that Australian hospitals are failing to see patients on time, but in Canberra under this government there is quite clearly an enormous blow-out of those waiting times. I seek leave to table a document showing the waiting list data, including the important data on overdue patients.

Leave granted.

MR SMYTH: The table shows a progressive climb in the total number of people waiting for surgery under Minister Corbell. In late 2001, under the previous government, it was as low as 3,488 people. Based on the data released this week, it is now 4,314. Less service, slower service and more expensive service is Labor's idea of a good health system.

More importantly, the number of overdue patients is expanding rapidly. It is not just the list but also the lack of attention to the list. The June 2001 figure, one of the lower figures, is 949 overdue patients. The number in September this year is 1,684 patients, and that is unacceptable. The numbers are just climbing under Simon Corbell, and I want to know if Mr Corbell understands the importance of this blow-out. I want him to recognise, as any health professional would, that overdue treatment is a recipe for worse long-term health for these patients. I want to hear him say, "Yes, I admit that overdue elective surgery treatment has risen sharply under this government."

I now move on to long waits for emergency treatment. Emergency treatment is perhaps the most important. When you want service for your family or yourself, you want to know that it is there. Also, a visit to the emergency department is one of the most unsettling experiences that people go through. Well, it is getting slower.

The recent ACT Health Annual Report, on page 25—the minister has just issued his erratum—shows that the waiting time is getting longer. Even in the absolutely vital category 1, although it says we are achieving 100 per cent against 100 per cent, later in the report it says it is not sure. The auditor had to qualify the result because they do not have a system that actually records it, and there may be a 1 per cent discrepancy. I have asked for information on that, and I am waiting for the response.

This morning we heard the managers of the emergency department warning the people of Canberra to expect slower service in the lead-up to Christmas. Professor Drew Richardson drew attention to the prospect of complications and worse results for patients left overdue for emergency attention. The people of Canberra are concerned about their health system. I wish the minister was.

MR CORBELL (Minister for Health and Minister for Planning) (4.01): I am grateful to Mr Smyth for the opportunity to discuss this matter of public importance. Unlike Mr Smyth, the government does not take the view that public health stops at the hospital front door. If you had listened to Mr Smyth's speech throughout, you would have thought that is all the public health system was: the hospitals—in fact, just elective surgery in the hospitals or emergency departments in the hospitals.

These are important; don't get me wrong. But this MPI today is about the state of the ACT public health system, not just about the hospitals, and Mr Smyth reveals his inadequate understanding of the policy debate on the state of the ACT public health system by focusing on the hospitals. We all know that the public health system is much more than the hospitals. Perhaps Mr Smyth does not know it; but this government certainly does. It is about primary care, community care services and mental health.

We did not hear Mr Smyth mention anything about mental health, and perhaps that has got something to do with their appalling record of funding mental health over the seven years they were in government. We did not hear anything about that. We did not hear about investing in work force training, which is something this government has done through the Canberra medical school. We did not hear anything about drug policy, which this government is moving to implement.

Let's look at the broad spectrum of the capacity and the effectiveness of the ACT's public health system, including, but not exclusive to, our public hospitals. The government has a strong record, and I will start by responding to particular comments that Mr Smyth raised in relation to our public hospitals. Mr Smyth said, "All those urgent people and all those emergency cases showing up in emergency departments will have to wait longer." Emergency department staff were on the radio telling people, "Do not come to the hospital. If you do, expect a long wait."

The misleader of the opposition strikes again. What the Canberra Hospital said was, "If you present at the emergency department for a non-urgent category 4 or category 5 case, unfortunately, you will have to wait." That is a sensible step to take. In fact, it was a step taken by Mr Moore when he was minister for health under the ACT Liberal government, and by his predecessor.

Why do we do that? We do that to relieve some of the pressure on the emergency department. Why are category 4 and category 5 cases showing up in our emergency departments? The decline in bulk-billing and the availability of GPs is why category 4 and category 5 cases are showing up in our public hospitals. Who is driving that change? Mr Smyth's federal colleagues are driving that change—people in the federal government who are dismantling Medicare, dismantling bulk-billing and forcing people to get basic primary care through our public hospitals. That is the reality.

But Mr Smyth goes further. His capacity as the misleader of the opposition knows no bounds.

Mr Smyth: Point of order, Mr Speaker. You ruled earlier today that a mislead by a member was an imputation. I ask that you get the minister to withdraw the comment.

MR SPEAKER: Minister, would you withdraw that?

MR CORBELL: I apologise and withdraw the comment, Mr Speaker. Mr Smyth casts aspersions on the adequacy of the figures when it comes to category 1 in the emergency department, saying, "We can't be sure about the figures, because they're not audited." What Mr Smyth fails to acknowledge when he talks about the auditing process for category 1 is that the measure is exactly the same measure that has been used for as long as we have reported that statistic, including all the time the previous government was in power. Exactly the same measure and exactly the same reporting mechanism were used.

What has happened? The auditor has changed his mind. What he wants is a paper copy of when a person is admitted as a category 1 patient. Well, I am not, and my department is not, going to ask the staff in the emergency department to hold the ship—"This bloke might be having a heart attack, but you've got to record it for the auditor." No, I am not going to do it, and the previous government did not do it either, for exactly the same reason. Before Mr Smyth seeks to cast even more aspersions on our health system, he should check his facts.

I would now like to move to equally important issues that Mr Smyth failed to highlight in his speech. First, I will address the issue of the financial position of ACT Health.

Mr Smyth has asserted that the financial situation of the health system is problematic and that there is a blow-out in the budget position for ACT Health. Mr Smyth should know better, especially as someone who claims he wants to be the Treasurer of this territory.

He shows a complete lack of understanding of the annual reporting framework. The higher expenditure Mr Smyth has alluded to is due to the restructuring of health away from an internal purchaser/provider model—whereby the Canberra Hospital and ACT Community Care were funded for service provision and maintained separate financial accounts recognising the separate legal entity arrangements—to a single entity.

Mr Smyth has been told that the financial transactions for the Canberra Hospital and ACT Community Care for the period 1 January 2003 to 30 June 2003 would be reported under the one ACT Health entity structure. He has also been told that the department's budget could not be amended to reflect the higher levels of transactions—that is, revenue and expenditure transactions, for the benefit of Mr Smyth. Higher expenditure largely relates to depreciation, movements in employee provisions and transactions that are funded from revenue sources separate to those identified in the department's budget. These revenues include patient accommodation, meals and accommodation, high cost drug funding from the Commonwealth and facilities fees.

Mr Smyth has been told, on several occasions, that he cannot simply look at the operating result for the department to come to the financial result for ACT Health in 2002-03, but he continues to assert otherwise—a practice that is misleading for both the Canberra community and those who take an interest in these issues. You have to conclude—

Mr Smyth: Mr Speaker, you have ruled that "misleading" can't be used.

MR SPEAKER: I think misleading this house is different from a claim about misleading the community.

Mr Smyth: Well, we'll apply the same standard, Mr Speaker.

MR SPEAKER: You're welcome to. Misleading this house is a very serious matter. Claims about members misleading the community have been made in the past and are allowed in this place.

MR CORBELL: For Mr Smyth's information, he actually has to include the operating results for the Canberra Hospital and ACT Community Care for the first six months of the last financial year. After you combine those results, which were all audited by the Auditor-General and are in the annual report—if Mr Smyth had bothered to look—you can see that Health had an improvement on the combined budgeted operating result of over $7 million.

That is the bottom line when it comes to the Health budget. Mr Smyth would seek to portray it otherwise but, in reality, the disastrous purchaser/provider model, which did nothing to improve the delivery of service in our hospitals and across the health system, is something that we sought to rectify.

I will now briefly outline a range of measures that the government has taken since coming to office. The government has taken a number of significant steps in improving our public health system. We committed funds for the development of the Canberra medical school, an essential step in ensuring work force capacity for ACT Health.

Mr Smyth: Our initiative! We started it.

MR CORBELL: There's Mr Smyth again, I hear the echo: "We were going to do that too." They signed, Mr Speaker. They said they would do it. But did they ever commit any money to it? No, they did not. Did they ever put their money where their mouth is? No, they did not. This government did. We put money into the hospital for the training facilities that are needed, so that we can keep GPs and other medical practitioners here in Canberra after they graduate from the school, as that is so important for our work force issues.

We boosted mental health funding, by an additional $2 million in the 2002-03 budget, to make up for the appalling failure of the previous government to fund any significant mental health initiative in all the seven years that it was in office. We provided $1.8 million for Calvary's emergency department. We made available $1.3 million for respite care. Did Mr Smyth ever mention respite care to better support older people with dementia-related behaviour? He did not come near it

We began the difficult process of dealing with issues of access block at our hospitals, through additional funds for convalescent and transitional care. What did the Liberal Party do to deal with access block, better convalescence care and better rehabilitation and transitional care? Where was their commitment to that? Where is Mr Smyth's commitment to that now? He did not mention it in his speech. He did not say, "This is important, too."

A good health minister, and someone who aspires to be a good health minister, should highlight these issues. Instead, all Mr Smyth thinks Health is about is the hospital. All he thinks it is about is hospital elective surgery. He is transfixed by the issue. Where is his capacity to deal with the broader range of issues in the health system?

We injected a significant amount of money into new community-based services—$600,000 for home and community care. We acted quickly to address the lingering, malignant dispute left by Michael Moore over the last nurses agreement. We have just today resolved the key issues around contract negotiations for VMOs without dispute and without disruption to our public health system.

And Mr Smyth says, "We'll see." He is hoping for disruption to the public health system. He is rubbing his hands with glee. How irresponsible is that of a shadow health minister? He is someone who should be interested in delivering quality care for people in our public hospitals; instead, he is hoping for disruption because that would meet his political games. We have implemented a system to address those issues. We—

Mr Smyth: That's what you hope for, Simon. We're looking for better outcomes.

MR CORBELL: Mr Speaker, I heard Mr Smyth without interrupting.

MR SPEAKER: Order, Mr Smyth!

MR CORBELL: We are delivering on making sure that work force issues and negotiations are dealt with in a timely, effective and reasonable way, and we are working wherever possible to avoid disruption to our public hospital systems. To date, with VMOs, we have achieved it.

The government has also taken significant steps in relation to allied health professionals. These are people who make up about 50 per cent of the ACT health system. Where did Mr Smyth mention them in his speech? Where did he talk about the vital role that allied health professionals play in our health system—physiotherapists, radiation therapists, social workers and all sorts of people working in our public health system delivering essential services every single day? We have recognised allied health professionals. We have put in place a particular position in the ACT health department to develop the professional work force capacity we need in allied health, recognising the role of allied health, promoting its importance and promoting the career and promotion capacity of those allied health professionals.

We have done the same thing with nursing. We have appointed a chief nurse—a first for the ACT—to recognise work force issues, to improve professional development in the nursing work force and to increase the capacity of the ACT health system to recruit and retain nursing professionals. These are important steps in improving the overall health of the system.

When it comes to mental health, we have funded significant services to improve capacity in the ACT: $400,000 to the Gungahlin outreach program, $400,000 for the residents of South Canberra, over $5 million for new sub and non-acute in-patient services and $4 million for the refurbishment of the paediatric unit at the Canberra Hospital.

The government's commitment is a strong one, and not just in relation to public hospitals. It is in community health, it is in work force training and development, it is in mental health services and it is in all of the key areas that make the health system work and work efficiently. There is no doubt that our hospital systems are under strain. It is a phenomenon right around the country and right around the Western world. But only this government has the comprehensive agenda to address it.

MS TUCKER (4.16): I will contribute briefly to this discussion because other members want to make their points. I would like to support the comments made by Mr Corbell about the need, in a discussion like this, to talk about the holistic health question. In a matter of public importance about public health, it is certainly important to take that approach. We know that, in every sense, taking a holistic, interventionist and early prevention approach to health will have good outcomes in terms of not only health but also the economy and the costs incurred on the public system within the health system.

This is in some ways stating the obvious, but I think it has to be said again that if you look at the work that has occurred in this Assembly and previous Assemblies and committees, you will find many recommendations that are focused on basic public health questions that still, disappointingly, have not been properly implemented.

I believe that is partly to do with priority decisions that various governments have taken over the years. It is also to do with budget constraints. The question of priorities is relevant; you cannot actually say that the territory has never had the money to do more. I think it has, and I think that some decisions have been made for electoral reasons rather than long-term social benefits in all areas. But right now I am talking about health.

Interestingly, I was just looking through some of the reports we have got. In 1991 there was an inquiry into behavioural disturbance among young people that had recommendations not dissimilar to recommendations made 10 or 13 years later by committees I chaired. I remind members in particular of the work that was done in the last Assembly on the inquiry by the committee on health into Aboriginal and Torres Strait Islander health in the ACT. That was a result of a motion that I put in the Legislative Assembly, and there were a number of very important recommendations in that report.

Now we have seen some increased expenditure, or support, go to Winnunga Nimmityjah and generally to questions of Aboriginal health, but far from what is needed. This week the Productivity Commission produced a report on indigenous health in Australia. There is a good editorial on that in today's *Canberra Times*, pointing out the need to have real performance measures, indicators, timelines and targets. I have said that many times in this place, and I am sure people find it very boring. But this government and previous governments have produced many strategies to deal with this broad, holistic health issue, and those strategies on the whole are very vague documents that do not have timelines, targets or meaningful measures and indicators to which governments can be held accountable.

The recent *Looking at the Health of School-Age Children in the ACT* has been well received by the minister, but I am looking forward to seeing a real implementation strategy in the recommendations within that report. Annual reports now have a requirement to report on how the recommendations agreed to by government have been implemented.

We may be crossing over the business of the Assembly here by having this discussion. We are reporting on the annual report soon, so I will not go into too much detail. But I will say that I was disappointed in how the health department's annual report responded to the requirement to report back on how government is implementing the agreed recommendations of committees.

The notion of public health has to be seen in the context of issues such as housing and culture, and I still see a failure by government, and in many ways all of the Assembly, to acknowledge the holistic nature of health and have a fully integrated understanding of health across all government departments. I also reflect on how Winnunga Nimmityjah does its work when I am thinking about holistic health models because I think they do it more successfully than anyone else does in the ACT. They have a very clear understanding of the relationship between education, housing, culture, and so on, and health.

I agree with Mr Corbell that drugs, drug abuse and substance abuse are also obviously related to public health in the ACT. They are a major cause of illness, morbidity and

mortality and, in a debate like this about public health in the ACT, we should focus very strongly on that aspect as well. If we see health in a holistic way, I would also talk about policy related to work. To a degree that is out of the hands of government, but to a degree it is not.

If we are interested in public health and the health of the ACT community in the public service, let's have a look at how we are supporting workers. What time do we allow in people's lives to be with their families or to have recreational time? How many people in our community, public servants in particular, are overworked? How many people do not have enough work and are actually in poverty? You always have to bring poverty into any discussion about health in our community. Poverty is clearly linked to health.

I have heard the minister talk today about his desire to increase the number of allied health workers, as well as nurses and doctors. Let's look at allied health workers. Let's look at the therapists that work in schools, and let's look at the question of people with a disability if we are having a discussion about public health. I have had the conversation with previous governments over the years—it is not just with this government—about the deficit in the provision of therapy services for children and young people with a disability, and the call from government has often been, "We try, but we can't employ those people in those services."

It takes a deeper look at the problem to work out what the work force issues are. Is there a high turnover of staff in various areas of stress within the public service where people work in a preventative way. Family Services is another area. It is quite an inadequate response to be told by a minister, "Well, we tried, but we can't get the staff," because you do not have to look that far. If I can find out—which I can easily, by just talking to people in the community—that there are work force issues around conditions and, if I can find out what is happening in workplaces that is very relevant to the question of turnover, then government should be able to.

Mental health is also extremely important, and I am glad Minister Corbell raised it. It is under a lot of scrutiny at the moment. The Mann-La Roche and Patterson reports have recently come out, and the Health Committee is taking an active interest in how the government responds to those reports in December. Once again, they're pretty focused—in the case of Mr Patterson's report, not entirely—on the acute end. That is important, but just as important are the support services that are available in the ACT to assist people before they end up in the psych unit or in need of acute care.

I will conclude by saying that public health in the ACT is an extremely important issue, and it is a good thing that Mr Smyth raised it. I would stress, though, that we need to focus on much more than the acute end of care in the hospital crisis, which I agree with Mr Corbell is to a large degree caused by federal government policy. Inadequate access to bulk-billing is clearly a social crisis in the ACT in terms of health, GP care, part of preventative health care and primary health care, and it has to be seen as very important in ensuring the health of people in Canberra.

MS MacDONALD (4.25): I rise today in support of the clear and rich picture of government achievement in health outlined today by Minister Simon Corbell. In the key areas—industrial relations, work force development, Commonwealth-state relations and improved health services—this government's record is strong and proud. The new

Australian Health Care Agreement delivers real improvements to the ACT. In signing the agreement the ACT won concessions from the Commonwealth in the areas of general practice and aged care.

Mr Smyth: Assisting programs!

MS MacDONALD: Mr Speaker, I ask that I be heard in silence.

MR SPEAKER: Order, Mr Smyth!

MS MacDONALD: The Commonwealth agreed to extend its outer metropolitan GP incentive scheme to areas of GP shortage in Canberra. GPs moving from inner areas of the six state capitals are eligible for up to $30,000 to help them establish a practice here as long as they agree to stay here for at least three years. This should deliver an increased opportunity for the key suburban areas of Canberra to increase their GP presence. The more GPs we can encourage here and the more primary health care services we can provide, the less pressure there will be on our hospitals.

I note with interest the recent advertisement placed for GPs and would like to personally congratulate and support the minister on this initiative. The Commonwealth has also agreed to fund, jointly with the ACT government, after-hours GP clinics at ACT hospitals. The ACT government has provided $700,000 over two years to support the Canberra after-hours locum medical service, CALMS. Commonwealth support will build on this initiative, with a revised model of after-hours GP services being developed in consultation with the ACT Division of General Practice and CALMS.

One-off funding of over $6 million has been made available to the ACT over the next five years for the Pathways Home program. This program is designed to support service improvements associated with the transition of people from hospital to home. Through the development of the Pathways Home program, the Commonwealth and the ACT will aim to maximise quality of life and independence, particularly for the older person, following hospital treatment; strengthen capacity for service provision; foster a culture of responding to the needs of patients, particularly older Australians; and improve the measurement of performance in this area.

The Commonwealth has also agreed to support the ACT's objective of providing improved transitional care for people who are waiting in hospital for nursing home places to become available. In summary, the new Australian Health Care Agreement negotiated by the Stanhope Labor government, which will provide for more resources and better services, has delivered real and tangible benefits for the ACT community.

Mr Smyth wants us to believe that the financial situation affecting ACT Health is dire. The reality is quite different. There is no blow-out of the hospital budget, although this is very much typical of the inflammatory rhetoric preferred by the Leader of the Opposition. You cannot simply look at the operating results of the department to come to the financial result for ACT Health in 2002-03. You have to include the operating results for the Canberra Hospital and ACT Community Care for the first six months of the financial year.

After you combine those results, which were all audited by the ACT Auditor-General and are incorporated in the annual report, you can see that Health has had an improvement in the combined budgeted operating result. This is vital to the community, for, while we are charged with delivering the best health service we can, we are also responsible to the ACT community for sound financial management. We are delivering. This Stanhope Labor government is delivering on that and much more.

The key appointments of advisers in the areas of nursing and allied health are most welcome. I would like to briefly outline why. Breast cancer is the most common cancer among Australian women. In the ACT it represented 32 per cent of new cancer diagnoses and 20 per cent of cancer-related deaths in women between 1995 and 2000. Breast cancer is relatively uncommon in women under 30 years of age. The incidence increases with age and peaks in the 65 to 69 year age group. The age-standardised incidence of breast cancer within the ACT is slightly higher than the Australian rate; approximately 150 women are diagnosed with breast cancer each year.

There is a strong correlation between higher socioeconomic status and the incidence of breast cancer. A greater prevalence of risk factors for breast cancer in the population may contribute to the higher incidence experienced in the ACT. This link reflects fertility and reproductive status. Women in the ACT are older than the national average at the birth of their first child. There is a greater likelihood not to have children and to use oral contraceptives. Women in the ACT demonstrate an earlier onset of menstruation and a later onset of menopause. Each of these factors is associated with increased risk of developing the condition.

Access to timely and high quality treatment is an important element of prognosis. There is a strong concordance of practice in the ACT with the nationally established guidelines for breast cancer treatment. The national survey of breast cancer treatment in 1995 demonstrated a substantially higher proportion of ACT women treated by experienced surgeons than was reported nationally.

The ACT has two specialist breast care nurses providing care to women who have undergone surgical treatment. Participation in the breast screen program is significantly higher among ACT women, at 51.3 per cent, than in the national population, at 48.7 per cent. This participation level may have contributed to the increased rate of detection and diagnosis.

An analysis of relative survival five years after diagnosis of breast cancer for the period 1989 to 1992 demonstrates that women in the ACT—85.3 per cent—had a better rate of survival than the national average, of 78.9 percent. This may be related to the higher participation in screening and early treatment. While the ACT rate of screening is higher than the national average, the ACT program has experienced difficulties providing screening services for an ever-increasing population of eligible women, due mainly to the limited availability of radiographers and radiologists.

The new allied health adviser has commenced working with the community of radiographers and radiologists to develop strategies designed to ensure the sustainability and development of this vital part of the ACT's health work force. I welcome this

initiative, as we all should. It will make a real contribution to ACT Health's capacity to address problems like breast cancer.

This government has committed itself to being open and accountable, and this minister is delivering. Through a variety of mechanisms, consumers and community groups are able to participate in and shape public debate and policy development. The ACT Health Council was constructed as a multidisciplinary body, and these can be tricky to manage. My feedback is that this council is now beginning to deal with some major issues affecting health in the territory and to provide government with the kind of advice it was hoped it might provide. One of the central tasks facing the council at its next meeting is to review the government's progress in achieving the strategic goals outlined in the health action plan. I look forward to seeing the results.

Mr Deputy Speaker, Minister Corbell is not so naive as to suggest that things are finished. There is, as he stated, always more that can be done in health and there are always areas of shortfall. That is a given with any area of health in this country. However, this government can review its first two years in charge of the ACT health system with pride.

In my capacity as a member of the Health Committee, I organised on its behalf last year some visits to ACT Mental Health Services, and I would like to state that, in comparison with services that I have seen through personal family experience in Sydney, ACT Mental Health Services provide a fairly high level of care. There is always more that can be done and always more that needs to be done, but I believe they provide a very high level of care.

I heard Mrs Burke say earlier, "What's the ACT Labor government doing about mental health?" On that tour last year, Mrs Burke, I continuously asked in all areas that we visited—and we visited approximately half a dozen areas to do with mental health—how long the service had been in operation. Virtually every time I asked that question the answer was that it was a new service that had been started under the ACT Labor government. Mr Deputy Speaker, I commend the ACT health service.

MR DEPUTY SPEAKER: The member's time has expired.

MRS BURKE (4.36): I rise to speak in support of this matter of public importance today. Sadly, the government's absence during this debate shows where this matter ranks in their minds. It is deeply concerning that we seem to be spending many more dollars on health in the ACT, but ordinary Canberrans who access the health system are not getting anything extra in return for the additional dollars spent.

I am pleased that Mr Corbell has said that there is more to Health than hospitals—so have the Liberal opposition. In recent weeks various problems have been highlighted by the Liberal leader, Brendan Smyth, in the Health portfolio area. Let's run through that list. The list of concerning and bad news includes four beds closed at the Canberra Hospital's oncology unit at the weekend, due to insufficient staff to maintain adequate service, and the Canberra Hospital being forced to issue a media statement advising the community that there are delays for people waiting for non-urgent treatment in the Emergency Department, partly due to a shortage of nursing staff.

Mr Deputy Speaker, this clearly shows that the government is still not doing enough to attract and retain nurses in the ACT. Yes, Mr Corbell is right: there is a nation-wide shortage of nurses. But what makes them want to work in New South Wales or Victoria as opposed to the ACT? Why isn't the territory a suitable option for them, Mr Corbell?

MR DEPUTY SPEAKER: Order, please! There is an audible conversation.

MRS BURKE: We see a $38 million blow-out in the Health budget—on page 207 of the Health Annual Report. The statement of financial performance shows that $38 million more than was budgeted was expended. The operating result for ACT Health for the year is a deficit of $19.8 million. Lo and behold, the minister has been caught out again. In trying to defend this blow-out, he says that the figure is really a $340,000 deficit. But this figure is nowhere to be found on the statement of financial performance.

I would suggest the Auditor-General signs off on the statement of financial performance, not the weasel words of the minister. The minister needs to come clean on the true state of the territory's Health finances, as at June 30 of 2003, and not keep quoting to this Assembly figures from 31 December 2002, which paint this unaudited, out-of-date and rosy picture.

There was a failure to spend funds on two capital works projects: a radiation oncology examination room and orthopaedic theatre refurbishment. Instead, we find out that some of those funds were spent on a $150,000 lounge. The minister has tried to pass this off as a "meeting room", but the annual report calls it a "lounge". The minister has a couple of excuses for this one. He says, "Read your annual report, Mr Smyth." We did read the annual report, Mr Corbell, and nowhere does it explain why these projects "did not proceed," which was all that was written beside these programs in your annual report.

That is why we asked you. That is why the Liberals asked why the projects were downgraded in this year's budget to feasibility studies. Quite frankly, Minister, that excuse is appalling. If the funding for the radiation oncology examination room, some $80,000, and orthopaedic theatre refurbishment, some $250,000, was not necessary, why was it in the budget for capital works in the first place?

Is Mr Corbell seriously suggesting that it took a whole year to discover that these projects needed feasibility studies rather than immediate action? How long will Canberra patients now have to wait for these projects to be completed—one year, two years, five years? Why weren't the funds allocated to these two projects used to complete the feasibility studies in 2002-03, instead of being used to fund a $150,000 lounge? How long is it now going to take for more worthy projects than a lounge room, like a radiation oncology examination room and an orthopaedic theatre, to be completed?

Then there is the 1,389 reduction—and let's not forget this is against the budget target—in cost-weighted occasions of outpatient services. Also, only 59 per cent of women aged 50 to 69 were screened for breast cancer in 2002-03 against a budget target of 70 per cent. Ms MacDonald also alluded to breast screening in the ACT—that oncologists were not there. What is happening with the system? What is going on? If you are not meeting the targets—you set them—what is happening?

Mr Corbell exclaims, "But this is still a very high figure." It might be, Minister, but your government failed to meet the target and the ACT has the highest incidence of breast cancer in the nation. I would suggest that is not good enough. We should aim to screen around 90 per cent of women aged 50 to 69 for breast cancer if we are to have a hope of reducing the number of people who live with and die from breast cancer.

But wait, there's more. There is a shortfall of 1,573 general breast-screening occurrences in the ACT in 2002-03. The budget target was 12,900, but only 11,327 screenings occurred. Then there is the 10 per cent reduction in patient satisfaction at the Canberra Hospital. The minister seems to have now gone to sleep. Are you losing interest, Minister? These are figures the minister did not even know about, as he admitted in the annual report hearings.

In-patients registered a 10 per cent reduction in satisfaction since the Stanhope government took over the system in late 2001. The most dissatisfied patients over the two-year period were those visiting the emergency department. They will be even more dissatisfied now, with delays due to nursing shortages. The patients are not satisfied, and neither should they be.

While the government has introduced some new initiatives in health and spent more money, what do the people of the ACT have to show for it? The elective surgery hospital waiting list figures are back up and well over the 4,000 mark, and the government claims that more procedures are taking place. Yet the waiting list is still static at over 4,300. Surely the figures speak for themselves.

In one sense, the minister has been cheating a bit. His monthly press statement applauds how well the government is doing and how its $2 million injection to address waiting lists is working. Quite frankly, it is the opposite. What we are seeing is the completion of minor surgeries; the more complex surgeries are taking longer, and the waiting list continues to build.

When the Stanhope Labor government took office in 2001, the waiting list figure for the month ending October was 3,728. First, that figure skyrocketed under the control of Jon Stanhope. Then the potato got a little too hot, so he threw it to Mr Corbell. That potato just burned a big hole in Mr Corbell's hand in April 2003. We saw the waiting list total for elective surgery in the ACT hit a three-year high, at 4,330.

Mr Corbell can crow all he likes about how he is ensuring that more procedures are taking place but, at the same time, he is letting the waiting list spiral out of control. Tell the 4,314 people who are still waiting for surgery at the end of October that they should be happy that more procedures are taking place. They don't care when it is not their procedure.

Let's watch the pendulum swing in a different direction now: drugs. What has the government done to address the drug problem in the ACT? It is a problem that is at the very core of property theft in the ACT. It is a problem that leads to physical and verbal abuse, placing families' lives at risk. It is a problem in our public housing complexes in Canberra that is making of the already vulnerable literal prisoners in their own homes—

not good enough. It is a problem that feeds on and sees someone with a mental illness deteriorate even further.

Prior to the 2001 election, the ACT ALP promised to spend $1.5 million over three years to develop a drug strategy. What have we seen? After two years of government we are still waiting. Nothing. Those opposite are the very same people who told us they had all the answers to the drug problems in Canberra.

MR DEPUTY SPEAKER: Order, please! The time for discussion has now expired.

Administration and Procedure—Standing Committee
Report No 3

MR DEPUTY SPEAKER: On behalf of Mr Speaker, I present

> Report No 3 of the Standing Committee on Administration and Procedure entitled *Inquiry into standing order 118—Proposed time limit for answers to questions without notice*, together with a copy of the relevant extracts of the minutes of proceedings.

MR HARGREAVES (4.45): I seek leave to move a motion to authorise publication of the report.

Leave granted.

MR HARGREAVES: I move:

> That the report be authorised for publication.

Question resolved in the affirmative.

MR HARGREAVES: I move:

> That the report be adopted.

I would like to give members some background; it is contained within the report—but often with these reports members do not actually read them. In the Fourth Assembly, and indeed in March 2001, the Assembly directed that the Standing Committee on Administration and Procedure inquire into and report on an amendment to standing orders to set time limits for the asking and answering of questions without notice. But the committee recommended to the Assembly that the proposal not be supported. It drew on the controls and protections that exist within standing orders and recommended that members be made more aware of their obligations in the asking and answering of questions during question time. Support for the Speaker in his or her control of question time was also encouraged.

The present practice, as members will know, is that no time limits apply to the answering of questions during question time. However, standing order 118—we regularly hear about standing order 118—requires that answers be concise, confined to the subject

matter of the question and not be debated. The Speaker may also direct a member to terminate an answer if in his or her opinion a member is contravening the provisions stated above or the member has had sufficient opportunity to answer the question.

In the course of this inquiry, a survey was done of other parliaments. For the record, I would like to run through some of the jurisdictions. Obviously, in the ACT Legislative Assembly, under standing order 113A, the rules are that questions without notice shall not be concluded until all non-executive members rising have asked at least one question. In the House of Representatives there is no time limit but there is a convention that no more than 20 questions per sitting be asked. In the Senate the limits are four minutes for an answer to a question and one minute for an answer to a supplementary question.

In New South Wales there is no time limit but no questions shall be asked after 45 minutes from the Speaker calling on questions or the answering of 10 questions, whichever is the later. In the Legislative Council of New South Wales, the time limit is four minutes for an answer and two minutes for a supplementary. In the Northern Territory there is no time limit—but you would expect that in the Northern Territory. In the Queensland Legislative Assembly the time limit is three minutes and the total period allowed each day for the asking of questions without notice shall not exceed one hour.

In South Australia no time limit is specified but, again, unless otherwise ordered, the period for asking questions may not exceed an hour. In the Legislative Council there is no time limit but, again, unless otherwise ordered, the period for asking questions without notice may not exceed an hour.

I will not go into all of the rest of them but I draw members' attention to page 6, which details the comparisons. I will, however, say that our electoral system in terms of size has commonality with Tasmania and the Northern Territory. In the Tasmanian House of Assembly no time limit is specified but no questions shall be asked after the lapse of an hour; in other words, it is an hour long. Members can have a look at those at their leisure.

On page 10 of the report there is a summary of the Fifth Assembly so far. We've had 785 questions without notice and 636 supplementaries. The average number of questions without notice per sitting day is 10.9. The average number of supplementary questions is 8.8—and I thank the 0.9 of a member and the 0.8 of a member who have been so good as to make it an odd number! The total time for question time in 2003 is 26 hours and 32 minutes. So the average length of question time has been 53 minutes. Interestingly, that is not far under the hour that a lot of jurisdictions allow for questions to be asked. The average length of a question and answer is two minutes and 44 seconds. I think a lot of that can be attributed to Mr Wood, who is quite brief in his responses.

I will just go through a few of the committee's considerations. The committee considered the limitations in the other houses and agreed that a time limit on individual questions could be warranted but they would not support a time limit on the question time session. In other words, we do not support a limit of, say, one hour. We also felt that imposing an upper limit of five minutes for the giving of an answer to a question without notice reconfirms the intention of the standing orders that things be concise and brief. The recommendation, as members will see on page 14, is:

> That this Assembly amends Standing Order 118, by adding a new sub-section '(c) shall not be longer than five minutes in length' and amends existing sub-section (b) by adding 'and' after 'refers'.

I have moved that the recommendations of the report be adopted. I should reiterate that, if this motion is accepted by the Assembly, the standing orders will automatically change and will apply from the next question time, that is, tomorrow.

In conclusion, I have two quick points to make. This side of the house will, of course, support the report because it is consistent with something that I believe the Chief Minister said—I believe it was the Chief Minister; I stand corrected if it was not—as an election promise. I will just quote the Chief Minister for the edification and entertainment of the stump:

> We will limit Ministers' answers to Questions to five minutes. We will ensure Question Time is treated with respect. While it is undoubtedly a time for point scoring, under Labor there will be no avoidance of questions, and no diatribes in response to questions.

I express, on behalf of the committee, our appreciation to the support staff who stitched all this together and did a sterling job researching it all. I commend the motion to the Assembly.

MS DUNDAS (4.53): Just briefly, I want to add some comments to the motion before us. Mr Hargreaves in his speech noted the research that was done into what happens in other parliaments. Whilst not all parliaments have a time limit specified on specific answers, they usually put limits on the length of time allocated to questions without notice. So the committee kind of had two paths before us: to limit individual questions or to limit the whole of question time. It needs to be made quite clear that the committee did not support the idea of a time limit on question time as a whole. Paragraph 3.6 makes that quite clear.

It is always a very hazy area when we start looking at time limits for questions, how debate flows and the opportunities members have to contribute and to get their issues on the record. To put a time limit on an answer still gives members time to put their question in a way that can be understood by the minister being asked the question. Supplementary questions will also still be allowed, as will the ability of all members who wish to to ask a question, which I think is a very important point.

I would also like to pick up on something else that Mr Hargreaves mentioned—that this amendment to standing orders will not work without the commitment from ministers answering questions to make it work. Mr Hargreaves referred to the Labor Party's election platform which says, "We will ensure question time is treated with respect. Under Labor there will be no avoidance of questions and no diatribes in response to questions." Of course, we cannot stick that in the standing orders. We cannot force somebody to respect question time, and we cannot force somebody through standing orders to not avoid questions. In my view, it has, unfortunately, been the case that members of the ministry, though speaking on the topic of the question, have quite happily avoided answering the direct question that has been asked. So I hope that maybe,

by limiting their time, ministers will be more focused in the way that they deliver answers, more aware of the direct question asked and will look to provide the information being sought.

As I said, it was an interesting debate. The information about the practice in other jurisdictions lends itself to our limiting of answers, but I reiterate the point that we are not looking to limit the length of time allocated to questions without notice or in any way to limit the amount of time for questions to be asked. They are two important things that we must retain in our standing orders.

MR CORNWELL (4.56): As the person who originally moved this motion in the Assembly, which was subsequently sent to the Standing Committee on Administration and Procedure, I am very pleased with the committee's report. It has fulfilled everything that I wanted it to fulfil. As Ms Dundas has said, there was never any intention, as far as I was concerned, to curtail the period of question time; but it did seem to me that the government of the day should be implementing its policies, one of which, as was pointed out by Mr Hargreaves in the debate earlier, was that ministers' answers in question time should be restricted to five minutes.

It is an interesting fact that it has taken this Labor government two years to implement this. With a bit of prodding from the Assembly and the Administration and Procedure Committee, it has taken this Labor government two years to implement this small part of its policy. Nevertheless, I think it is important. Paragraph 3.5 of the committee's report states that, on 10 occasions in the October 2003 sitting week, the time for a question and answer exceeded five minutes. I could comment that today there were at least two questions the replies to which appeared to be very lengthy; I do not know whether they exceeded five minutes or not. But I think the amount of time that we have allowed of no longer than five minutes is adequate and welcome. It will be welcomed, I am sure, by the Speaker, as an amendment to standing orders will therefore allow for an answer of up to five minutes to be enforced. I would hope that as often as possible it will not have to be enforced. Nevertheless, I am pleased with the result and was pleased with the report—and I am delighted to have assisted the Labor Party to implement a section of its platform, even if it did take two years. Thank you.

MRS DUNNE (4.59): I, too, am delighted that the Labor Party is now in a position to implement some of its election commitments. As Mr Cornwell has said, this was an election commitment. It is interesting that it has taken the motion of a member of the opposition and the consideration of the Administration and Procedure Committee to actually get this to implementation stage. So in a sense it is not Labor implementing its policy; it is the Assembly implementing Labor's policy.

I refer members to pages 11, 12 and 13 of the report, which show quite clearly the need for this. We see that in the sitting week of 21, 22 and 23 October there were 30 questions asked and fully one-third of those took more than five minutes to ask and answer. I think the standout one was question 5 on 23 October. In addition to it taking eight minutes to ask the question and answer it, it took a startling 11 minutes to deal with the supplementary question. This showed that we as an Assembly need to get our house in order.

This is a simple and straightforward amendment to the standing orders, and I commend the motion to the house.

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

MRS DUNNE: While commending to the house this motion, I would also draw to members' attention the need for a more general overhaul of the standing orders. There are many things, including the little ritual we have just been through, that need to be overhauled. I know that you, Mr Deputy Speaker, proposed a review of standing orders early in the life of this Assembly but members saw fit not to do it. I think that probably after a little bit of experience they might see fit to have a proper review of the standing orders.

MS TUCKER (5.01): Can I seek clarification? As it has now been moved that the report be adopted, does that mean that we are supporting the recommendations?

Mrs Dunne: Yes.

MS TUCKER: But we have not had time to read the report. Why is that the will of the Assembly?

Mrs Dunne: It is not rocket science, Kerrie.

MS TUCKER: It is not rocket science, but half the people are not here. So that doesn't matter? Okay. So we have decided, having looked at it quickly—

Mrs Dunne: Well, vote it down. We'll bring it back on Thursday.

MS TUCKER: Well, I do not know why you would do that. I think it is concerning that a report is tabled for the first time, suddenly you move that it be adopted and people think that that is okay. Mrs Dunne says it is not rocket science, but that is hardly the point. As I can see it, the main conclusion from the committee work is that on occasions the whole question and answer went over three minutes—it was eight minutes on one occasion and 11 minutes on another occasion—and all the rest of the times were under three minutes, and the committee has decided to limit questions to five minutes.

Mrs Dunne: Answers to five minutes.

MS TUCKER: I do not see any arguments, but I am trying to read quickly as I speak. The report states:

> In light of the findings of the most recent sitting, the Committee felt that imposing an upper limit of five minutes to the giving of any answer to a question without notice reconfirms the intention of the Standing Orders.

Is it clear somewhere in this report—it is not rocket science; Mrs Dunne can probably help me if it is so clear to her—that part of that 11 minutes was not taken up with a big

tussle about standing orders? I am just interested to know what it actually means for the capacity of people to ask questions and get answers if there is a tussle on standing orders, which quite often happens. It can be an important question that I would have thought the Assembly would want to hear the answer to.

Mrs Dunne: I think question 3 on 21 October did in fact involve a long tussle on standing orders.

MS TUCKER: Mrs Dunne is interjecting. Maybe we could give her leave to speak again, because I am seriously interested, if she understands this.

Mr Hargreaves: No, I will do it in my close.

MS TUCKER: I will listen, but I am inclined to not support it, because I just think the process is bad. Also, I do not understand what this actually means—what that 11 minutes meant and what that eight minutes meant, when all the other answers were in fact under three minutes. It seems a rather unnecessary overreaction, but I will listen to Mr Hargreaves.

MR HARGREAVES (5.04), in reply: The reason I have moved that the report be adopted is that it is a very straightforward piece of machinery, and it goes like this. Standing order 118, on page 25 of this beautiful booklet with the lilac cover that we have been given so generously by the chamber support, says:

> The answer to a question without notice:
> (a) shall be concise …
> (b) shall not debate the subject to which the question refers,

To that we are adding a new subsection (c) which says:

> (c) shall not be longer than five minutes in length.

Ms Tucker: Does that include interjections and standing orders?

MR HARGREAVES: This is how it will happen in practice. People can in their preamble talk for a cubic fortnight and then eventually get to the actual question. Under this change, the minister will rise to answer the question and—click!—the clock up the back here will start. And that will just run, interjections or none. It then will be up to the minister whether they want to use up their time addressing interjections or they want to totally ignore the interjections.

Ms Tucker: The Speaker has to deal with interjections and points of order.

MR HARGREAVES: Nonetheless, it ticks down—and after two minutes the gong will go, and people will understand that the minister has to stop. This has been in response to people saying that what we have had has been a rabbiting-on preamble and then people have just run the clock down and gone for it. That is what happens, and it has happened in the past. There is nothing in my view to misunderstand about this: you either like it or you do not. If you do not like it, do not vote for it. If you do like it, vote for it. If you do not care, vote for it.

So, Mr Deputy Speaker, I would like again to thank you personally for your support for the introduction of Labor Party policy; it is a brilliant thing that you have done. You will indeed go down in history for being a mascot of the Australian Labor Party and we are really pleased to have you on board.

I would also like again to say that I do not believe this side of the house will support an adjournment so that people can think about it, and I would urge those opposite to follow our lead. This is a piece of housekeeping and we should either do it or not do it. It does not take a lot of thinking to work it out.

Question put:

> That the report be adopted.

The Assembly voted–

Ayes 14		Noes 3
Mr Berry	Ms MacDonald	Mrs Cross
Mrs Burke	Mr Pratt	Ms Dundas
Mr Corbell	Mr Quinlan	Ms Tucker
Mr Cornwell	Mr Smyth	
Mrs Dunne	Mr Stanhope	
Ms Gallagher	Mr Stefaniak	
Mr Hargreaves	Mr Wood	

Question so resolved in the affirmative.

Legal Affairs—Standing Committee
Scrutiny Report No 39

MR STEFANIAK: I present the following report:

> Legal Affairs—Standing Committee (performing the duties of a Scrutiny of Bills and Subordinate Legislation Committee)—Scrutiny Report No 39, dated 13 November 2003, together with a copy of the relevant minutes of proceedings.

I seek leave to make a brief statement.

Leave granted.

MR STEFANIAK: Scrutiny report No 39 contains the committee's comments on four bills, 14 pieces of subordinate legislation and six government responses. The report was circulated to members when the Assembly was not sitting and I commend the report to the Assembly.

Suspension of standing and temporary orders

MR WOOD (Minister for Disability, Housing and Community Services, Minister for Urban Services, Minister for the Arts and Heritage and Minister for Police and Emergency Services) (5.12): I move

> That so much of the standing and temporary orders be suspended as would prevent Assembly business, Order of the Day No 15, relating to the amendment of Disallowable Instrument DI2003-254, being called on forthwith.

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

Grant of a further rural lease
Disallowable instrument DI2003-254

Debate resumed from 23 October 2003, on motion by **Mrs Dunne**:

> That Disallowable Instrument DI2003-254, Land (Planning and Environment) Determination of Matters to be taken into Consideration—Grant of a Further Rural Lease—2003, be amended as follows:
>
> (1) Schedule 1 Maximum Rural Lease Term Plan be amended: Blocks 181, 1125, 1171, 1187 Weston Creek and Blocks 181, 1491, 1492, 1493, 1495, 1587 and part 179 Belconnen be amended to 99 year leases.
>
> (2) Schedule 2, page 1 be amended:
>
> (a) After the words 'Belconnen—All excluding Blocks 50', add 181, 1491, 1492, 1493, 1495, 1587 and part 179.
> (b) After the words 'Weston Creek—All', add the words 'excluding Blocks 181, 1125, 1171, 1187'.

MR CORBELL (Minister for Health and Minister for Planning) (5.13): I seek leave to speak again briefly on this matter.

Leave granted.

MR CORBELL: I just want to briefly outline a range of issues that I know members have sought some clarification on subsequent to the debate in the last sitting of the Assembly. I would like to indicate that, if this instrument is allowed today—that is, if the disallowance is defeated—I will ensure that those rural lessees in Belconnen and Weston Creek who formerly have had access to 99-year leases and now only have access to 20-year leases will have adequate compensation, as provided for under the statutory framework, when the lease expires or the land is withdrawn.

Yesterday a meeting was held with the affected lessees and I have agreed to conditions which allow the surrender of their leases with full compensation rights as determined in the lease and provisions for payout as provided under section 174(3) of the Land (Planning and Environment) Act.

I have also confirmed that the ACT Planning and Land Authority will give top priority to undertake the associated work with surrender of the leases as quickly as possible. I will ensure that the lessees are provided with regular updates on the progress of these matters. At this stage there has been no decision on the part of the lessees to surrender the leases.

I have also agreed that, if the lessees wish to remain for a longer period on the land after the termination or expiration of the lease, the government will be more than happy to look at accommodating those wishes. I trust that satisfies the concerns of a number of members following the debate in the last sitting.

MS TUCKER (5.15): This has proved to be a complex issue to deal with. Earlier this year, just after the fires, the government changed the lease entitlements concerning the leases of some families. I do think the approach of the government in the first instance was quite unfair and unjust. I understand why the families concerned believe they have been hard done by. I believe that Mrs Dunne in particular was very eloquent in her speech in this place on those matters and I must acknowledge that it was Mrs Dunne's passion and commitment that ensured we adjourned the debate last month and explored further options.

I have sought to understand the views of both parties to this dispute and to encourage some better understanding, particularly by government, of the leases in dispute and the situation of the farmers who hold them. I do, however, accept the view that government has a right—and indeed a responsibility—to manage the lease system for the wider benefit of the territory, in addition to treating leaseholders and all constituents with justice and equity, and it does have a responsibility to ensure appropriate sustainable land management practices.

In that context, the rural lessees in question made it very clear that they believe their entitlements under their existing leases ought to be protected; that to simply change the entitlement to purchase a 99-year lease to an entitlement to purchase a 20-year lease when their present lease expires in two years would be unfair; that the onus was on government to make an offer on the existing lease, with compensation established on the basis of the existing lease, with the lease to be valued as it would be under section 174(3) of the Land (Planning and Environment) Act in a timely manner; and that at that stage, with an agreed offer on the table, it would be open to government and the leaseholders to settle on ongoing use and management of the land.

I understand that the leaseholders would rather have their existing 50-year lease rolled over. I also understand and accept that government is not prepared, and has never been prepared, to retain a form of lease that we have decidedly moved away from. That change in leases was a product of an extensive process in the 1990s, trying to shift land management principles away from land banking and towards a more sustainable approach. One aspect of that shift was to give, where possible, more certainty to lessees. The other was to introduce land management agreements that were intended to ensure that the agricultural setting of Canberra was viable as a rural enterprise and that it ensured increased ecological diversity and health.

I understand that several land-holders have had some trouble with this approach—or, more to the point, the details of it—and would argue that government land management has not resulted in sustainable management, weed control or fire mitigation. That is an ongoing dispute. That is why these leaseholders found themselves in this situation of an expiring lease and why they have failed to take up the opportunity, prior to the fires, of purchasing a new 99-year lease under these conditions. I believe the lessees are still of

the view that they would be disadvantaged by the 99-year leases. They have advised me that they are not interested in purchasing such a lease, although they see the entitlement to apply for such a lease as an asset.

It would seem that the buyout conditions of a 99-year lease, where they have been granted, are onerous for the territory. So, in the interests of the territory, through my office I sought to find a solution that would be acceptable to both sides. With that in mind, I initiated a meeting between the lessees in question and officers from the appropriate government agencies. Interestingly, some of the key sticking points were overcome very quickly. That was a surprise to me and my office, as the government had seemed fairly certain of its view until that time. It supports the view of members of the community that the corporate knowledge and expertise that used to reside in the public service has sadly fallen away and that the officers now, despite their skill and capacity, are really having to make up lost ground.

It is no wonder that there is a lack of trust between community and government. The lessees have always held the view that their 50-year leases, which expire at the end of 2005, would be more generous or fairer in establishing compensation and that one of the values of the lease itself is that it includes an entitlement to another lease. I think it is important to note that these key principles were agreed to by both parties quite quickly. It was agreed at that meeting that, if the lessees were to make an agreement with government, the valuation would have to proceed promptly, that the resolution of disputes would be pursued as articulated in their existing leases, that there would be a reasonable and flexible approach taken to leaving the properties if that is to be the outcome, and that the government would look to accommodate any wishes to remain on the land after settlement if that suited the lessees and if the land itself was not needed for development.

I should add that the lessees do not trust the government to deliver on any commitment that has been made, letters and speeches notwithstanding. However, I am prepared to accept the assurances given to me that the government will deliver on the promises listed above, that a prompt valuation and offer on the property will be made and, all things notwithstanding, if no other need for the properties is established the government recognises the benefit of having the lessees still manage the properties before and after just settlement.

I will hold the government to these undertakings. This is not a simple question. There is the broad interest of the territory to be considered as well as the just treatment of the individual families concerned. I believe we have agreed on an outcome which reasonably meets both these imperatives. I recognise that the families concerned have been under a lot of stress resulting from their experience from the fires, as well as the uncertainty and frustration they have had to manage as they have dealt with government officers. I have come to the view that the ongoing concern of the lessees to have the issue resolved promptly as well as fairly is paramount.

One of the key concerns that I share with the lessees and with the opposition is that matters of great import to vulnerable individuals can be strung out for too long because such a glacial process can sometimes suit government. In this case, if the amendment were to be supported, there would be no greater pressure on government to reach the

agreement promptly. It is in return for my commitment to support this instrument that the government has committed itself to extradite the process.

MRS DUNNE (5.22), in reply: As they say, a week is a long time in politics. Well, a month is a very long time indeed when it comes to rural leasing in the ACT. I commend Ms Tucker for her ability and her willingness to be flexible on this issue. When we came into the debate on this in the last sitting period, we had a lot of ground to make up between the Greens and the Liberal Party. But in the course of that debate and since then there has been a lot of ground made up and there has also been some ground made up with the government. There has been some recognition by the government—or at least by officials within the government—that they have had a less than perfect understanding of the nature of the rural leasehold system, and in particular how it relates to leases offered that have been in existence since 1956.

But before I get on to those issues, there are things that need to be rebutted in what the minister, in particular, said in this place when we last discussed this on the last sitting Thursday, and some of those things are very important. One of the most important things that he said was that the period of offer to take up a 99-year lease for rural lessees in the ACT had lapsed and that by doing anything to extend that was in fact providing a windfall profit to members of the rural community.

This is not true. Mr Corbell suggested that an offer of a 99-year lease had expired. A market value 99-year lease was still available to any member of the rural community and was still available to the lessees of these two properties until 12 March this year. What had expired was an offer to take a 99-year lease at a concessional value. Many of the people who have been characterised as holdouts in this debate had declined to take up a 99-year lease at a concessional value because of the payback arrangements. How it worked was that, if you bought a 99-year lease at a concessional value based on your dry sheep equivalent and you sold it within 10 or 15 years—I cannot remember whether it is 10 or 15 years; I stand to be corrected on that—any undue profit that you made had to be shared with the territory.

That was a perfectly sensible arrangement. But some of the people who hold these leases are in their late 70s and their 80s and did not want to have that sort of onerous 10 or 15-year buyback arrangement hanging over them. They wanted free and clear title so that, if someone got ill, they could dispense with the property and not lose money by handing some of it back to the territory. That was an understandable point of view.

What Ms Tucker said in her speech is, I think, a misunderstanding of the situation. She said something along the lines of, "I believe the lessees are still of the view that they would be disadvantaged by a 99-year lease." Yes, they are. They do believe that, because they think that the 1956 lease is more advantageous, and from my reports of the meetings that were held yesterday the officials now recognise that the 1956 lease is more advantageous. But it is not the case that they are not interested in purchasing the lease. They do see that their entitlement to apply for a 99-year lease is an asset, and many of those people would apply for a 99-year lease if that was the only option available to them. But, in the case of these two lessees, that is not an option available to them, and many of the other lessees, although they would prefer to roll over their 1956 lease, have recognised that that is not to be the case and have made approaches to the government to buy a 99-year lease at full market value, not at any concessional rate.

There were other things said by Mr Corbell. He talked about what was actually being offered to these people in a 20-year lease was exactly the same as what they had. He said, "We are offering them a 20-year lease on the same basis that currently exists for their existing 50-year leases." This is not the case. A 20-year lease does not contain the same compensation rights as the current 50-year lease, as was claimed by Mr Corbell. Any lease of less than 21 years under the Lands Acquisition Act does not have the same rights of compensation. These people's leases were for terms of 50 years and the limitations for leases of less than 21 years do not apply to them. A lease of less than 21 years has considerable limitations, which a 50-year lease does not have. Similarly, the leases provided for all improvements, except for very few boundary fences, owned by the lessees, and all of these improvements would have to be compensated for, whereas under a 20-year lease there is only compensation for limited approved structures and reasonable rural improvements.

Mr Corbell said one of the purposes of the leasehold system was essentially to create a land bank. But the notion of a land bank died a long time ago. When the rural task force met during 1997-98, this was one of the things that was comprehensively debunked. This is not about providing a land bank. The area in the Molonglo Valley was fairly much ruled out by the National Capital Authority for more urban development, and there are a whole lot of reasons for that. It has to do with the urban landscape, the rural backdrop of the ACT and also the fact that the topography and the constraints on the land, as the spatial plan will show, very much constrain development in this area and it is probably not worth the effort. But that is probably a debate for another day.

What was also said was that, if we gave these people a 99-year lease and they did not use it all, we would have to pay people for the unused potential, the unused property right. This is not the case. It does not matter how long the lease is; so long as it is more than 21 years, you have to pay them for the whole of the lease and also for the prospect, according to the Lands Acquisition Act, that it would be renewed. So, by taking away the sort of lease that they have and replacing it with a 21-year lease, this government chose to circumvent the property rights of these people.

In the discussion last sitting Thursday, Ms Dundas made some very salient points about how this was planning in a piecemeal fashion. She really got to the nub of the arguments by saying, "Well, we're taking away a couple of leases here and a couple of leases here on the offchance that one day we might build houses on it." The spatial plan still has a long way to go to be approved—there are a lot of hurdles to jump—but at this stage we are going to take away these people's rights on the offchance that we might need them somewhere in the future. This is not prudence, as the government has said; this is piecemeal. There are other leases in the area that could be constrained by development in the Molonglo rural zone and they are still out there as 99-year rural leases. Some of them are occupied, and some of them are not. But what we have seen in the approach of the government until yesterday was a piecemeal approach, which—I did not ever say this, although the minister said that I did—was victimisation of these families. I never used the word "victimisation". But there is a case for at least a suspicion that this is an opportunity for people in the bureaucracy to get even with a couple of people who are considered to be difficult and recalcitrant. I have dealt with the bureaucracy. I have been in meetings where I have been told, "Some of these people are difficult and we do not

want to deal with them." This is not how you deal with people that you find difficult to get on with. What has happened here is that essentially two blocks of land have been excised and treated differently, and their owners have been treated differently.

I would like to go on to the developments that have happened in the past day or so. While I say that there has been some progress—and I commend Ms Tucker and her staff for facilitating much of that progress—I think it is far from a satisfactory outcome. We have an undertaking from the minister: he said that he would ensure that the rural lessees in Belconnen and the Coppins Crossing area would now have adequate compensation. But at this stage there is no recognition of what adequate compensation would be. *(Extension of time granted)*. During Ms Tucker's speech, I was watching the body language of the minister and his advisers. I heard Ms Tucker's speech and I have heard reports of the meeting from some of the people present other than Ms Tucker's staff. From the body language of the minister and his advisers, what Ms Tucker was saying and what I was told obviously was not what was being heard by the government. When the minister and the minister's advisers get quite so agitated, I wonder how strong and how firm is that commitment that the minister has made today.

In question time today I asked the question: "Do you undertake that any compensation paid to these lessees will be made on just terms in accordance with the conditions set out in their leases?" The minister could not make a simple yes/no commitment. He would not make a commitment to deal with these people on just terms. Today he has said that they will receive adequate compensation. I am not satisfied with what is being proposed. Ms Tucker is satisfied, and Ms Tucker is the person who holds the balance in this debate. But I am putting on the record that I am not satisfied. Ms Tucker said that she will hold this government accountable to this understanding. I am putting on the record that I will hold this government accountable to this understanding.

My preference would be that this disallowable instrument be amended today and, after the government has dealt adequately and fairly with these people and come up with a package that has been signed, sealed, and delivered, I will consider an amendment to the rural leases to allow these leases to become 20 years or any other term that the government would like. But, until we are satisfied as an Assembly, until we are sure as an Assembly that these people will be dealt with in just terms, that their interests are paramount in this, we should vote for the opposition's amendment to this disallowable instrument. When we no longer need the disallowable instrument in the form that it would become, then we will be quite happy to entertain the minister changing it.

We have seen a lot of things in the past month since we debated this. One of the really interesting things was the comments made by the head of the Bushfire Recovery Taskforce in his non-urban study. Sandy Hollway, both in the study and in his public comments, made it very clear that he was concerned about the way that rural lessees in general were being treated and made particular comments about not solving the problems of rural lessees and not dealing in a way that would adequately compensate people for their needs. He said, at one stage, that with the government earning a million dollars an acre, if they actually manage to sell this land, they can afford to properly compensate these people. Sandy Hollway has made it clear—and this is the government's own commissioned report—that these people are being very badly done by. And until this government ceases to treat these people badly, we should not allow this disallowable

instrument to pass in its present form. We should amend it. Then, when everything is sorted out, I will come back here and I will gladly change this disallowable instrument to what the minister currently wants.

But, in the meantime, we must as an Assembly safeguard the lives of the people that we are dealing with. In the past several weeks while discussing this, I have had people on the verge of asthma attacks. I have had grown men in tears in my office and on the phone because they see no way through and they are not satisfied with the commitments made over the last couple of days by the government. These commitments have been made in black and white before, and they have been essentially not worth the paper they were written on. I have copies of documents that say, "You are entitled to renew your lease on these terms" and it does not happen. I am not satisfied with the commitments made by this minister, I am not satisfied with the commitments acquiesced to by Ms Tucker, and I put it on the record that, if within a very short period of time—by the end of this year—these people have not been dealt with and there is not a compensation package, I will be bringing this matter here and I will be holding the minister responsible.

Question put:

> That **Mrs Dunne's** motion be agreed to.

The Assembly voted—

Ayes 8		Noes 9	
Mrs Burke	Mr Pratt	Mr Berry	Mr Quinlan
Mr Cornwell	Mr Smyth	Mr Corbell	Mr Stanhope
Mrs Cross	Mr Stefaniak	Ms Gallagher	Ms Tucker
Ms Dundas		Mr Hargreaves	Mr Wood
Mrs Dunne		Ms MacDonald	

Question so resolved in the negative.

Human Rights Bill 2003

Mr Stanhope, by leave, presented the bill and its explanatory statement.

Title read by clerk.

MR STANHOPE (Chief Minister, Attorney-General, Minister for Environment and Minister for Community Affairs) (5.42): I move:

> That this bill be agreed to in principle.

Mr Speaker, today is an historic day for the chamber, because today I fulfil my commitment to present to this Assembly a bill for a Human Rights Act that gives recognition to the fundamental rights and freedoms of the people of the ACT. There should be no mistake: this is a significant step forward for the whole community, whether you are a person living with a disability, a man or a woman, straight or gay, rich

or poor, whatever your ethnic or national origin, political opinion or religious beliefs. I should also start by saying that this bill gives right and proper recognition to the special significance of human rights to the indigenous people of the territory, who were the first owners of this land.

Over 50 years ago, when the world was shocked by the horror of the holocaust and the devastation of the Second World War, the United Nations adopted the Universal Declaration of Human Rights. The declaration is a statement of a common commitment to the fundamental values shared by all the peoples of the world. Australia played a significant role in the creation of the United Nations and the drafting of the declaration. That is a history that we can be proud of. We acceded to the declaration and played a significant role in the development of human rights treaties that followed.

In the post-war period, migration and the policy of multiculturalism brought diversity and greater tolerance. In the 1970s and 1980s equal pay for women, anti-discrimination laws and better income support reflected our egalitarian spirit and desire for a more inclusive society. It was not until the 1960s that indigenous people were given the vote in federal elections and not until the 1990s that native title was recognised, and inquiries into Aboriginal deaths in custody and the removal of indigenous children made us aware of the devastating impact of racism and ignorance on indigenous families.

Our ratification of the International Covenant on Civil and Political Rights in 1980 was one of the numerous examples of Australia's commitment to the principles that underpin the United Nations Charter. The UN was built on the understanding that respect for human rights is necessary for peace and stability. That principle applies just as much at home as it does in the larger world.

Members, this isn't a party political issue. Australia's signature of the International Covenant on Civil and Political Rights was one of the first acts of the Whitlam government in 1972. But it was the Liberal government of Malcolm Fraser in 1980 that ratified the treaty and made it binding on Australia.

Over 10 years ago the Federal Labor government recognised the competence of the United Nations Human Rights Committee to receive communications from Australians who believed their rights, under the International Covenant on Civil and Political Rights, had been breached. During the past 10 years there have been over 80 communications through the various United Nations procedures. The sky hasn't fallen in on us and Australia has remained a party to those procedures despite some criticism from the current federal government.

But our participation goes beyond signing human rights treaties. Eminent Australian and Challis Professor of International Law at Sydney University, Ivan Shearer, was elected to the UN Human Rights Committee in January 2001. This highly coveted position was previously held by another eminent Australian and former justice of the Family Court, the Hon. Elizabeth Evatt AO. Professor Philip Alston, formerly of the Australian National University, was chair of the United Nations Economic, Social and Cultural Rights Committee for many years.

Members, it is time to recognise that we are part of a system that promotes respect for and protection of fundamental human rights. We contributed to the development of these

principles. They are a part of our history and our culture and we have chosen to adopt them freely as a free exercise of Australian sovereignty. No country can claim the perfect human rights record and Australia does do better than most, but we can't afford to be complacent. We can't take our fundamental rights and freedom for granted in the 21st century any more than our forebears and ancestors could in the centuries that went before.

In recent years, the basic values of tolerance and respect we took for granted have been put in doubt, and the assumption that our fundamental rights are protected have been shown to be false. It is true that we enjoy high standards of representative government, an independent judiciary and respect for the rule of law. But, in truth, Australia is a human rights backwater. In the common law world, Australia is the only country that has neither a constitutional nor statutory bill of rights. The piecemeal and partial recognition of rights in the common law and in various statutes is no longer a satisfactory basis on which to address rights issues. Without a yardstick against which to measure rights, we risk the whittling away of rights protection.

In 1973 when Senator Lionel Murphy introduced the first Human Rights Bill into the federal parliament he observed:

> Although we believe these rights to be basic to our democratic society, they now receive remarkably little legal protection in Australia. What protection is given by the Australian Constitution is minimal and does not touch the most significant of these rights. The common law is powerless to protect them against the written laws and regulations made by Parliament, by Executive Government under delegated legislative authority, and by local government and other local authorities. The common law exists only in the interstices of statutory legislation.

Members, the issue of human rights protection affects us all in our every day lives—at home, at work, at school and in our neighbourhood. In 1948 Eleanor Roosevelt, speaking about the Universal Declaration of Human Rights, said:

> Where, after all, do universal human rights begin? In small places, close to home—so close and small that they cannot be seen on any map of the world. Yet they are the world of the individual person; the neighbourhood he lives in; the school or college he attends; the factory, farm or office where he works. Such are the places where every man, woman and child seeks equal justice, equal opportunity, equal dignity without discrimination. Unless these rights have meaning there, they have little meaning anywhere. Without concerted citizen action to uphold them close to home, we shall look in vain for progress in the larger world.

As elected representatives, Mr Speaker, we have a responsibility to serve and protect the interests of the whole community, recognising that while we have the diverse origins and different views we share one destiny. The mark of our progress and our humanity is the extent to which we respect and protect fundamental human rights. This is not simply the concern of the few or the vulnerable. Human rights belong to everyone, and we are all diminished by breaches of human rights.

The object of this bill is to give recognition in legislation to basic rights and freedoms. It is a clear and unequivocal commitment by this government and by this community about

those values that bind us together as a democratic, multicultural and rights-respecting people. By passing this bill we commit ourselves to minimum standards in our law making. It is a bottom line, a floor below which we should not fall.

Some are nervous about the impact of this law. Let me say this: rights exist in a social context that is well recognised in international human rights law, but it is too frequently lost in debate which exaggerates the scope and impact of rights. Some human rights are absolute. The right not to be tortured is one such right. I am sure no-one in this Assembly would disagree with that proposition. But the covenant does not permit the use of human rights as a pretext to violate the rights of others. We have taken care to reflect this principle in our bill and to ensure that restrictions on rights do not go further than is necessary.

I am aware that some will say that this bill does not go far enough. There are many who want to see economic, social and cultural rights enshrined in law, but I have to say to you, "Let us at least begin." Let us begin with what is well accepted in the rest of the common law world. The world has moved on from the Magna Carta. Let us begin by incorporating the work done 60 years ago at the formation of the United Nations. This bill may not be exhaustive of all rights, but it is a beginning. I have already announced that economic, social and cultural rights will form part of the social plan. This issue can be looked at as part of a review of the Human Rights Act in the future.

Mr Speaker, I now turn to some of the major features of the bill. The first is individual civil and political rights. First, this bill will recognise in legislation fundamental rights and freedoms drawn from the International Covenant on Civil and Political Rights. Consequently, rights such as equality before the law, the protection of family life and children, personal freedoms such as freedom of religion, thought conscience and expression, the right not to be arbitrarily detained, the right to a fair trial and so forth, will be interpreted and applied in the ACT context.

To achieve that goal the bill requires that all ACT statutes and statutory instruments must be interpreted and applied so far as possible in a way that is consistent with the human rights protected in the act. Unless the law is intended to operate in a way that is inconsistent with the right in question, the interpretation that is most consistent with human rights must prevail. Decision makers in all government areas will have to incorporate consideration of human rights into their decision-making process, and a statutory discretion must be exercised consistently with human rights unless legislation clearly authorises an administrative action regardless of the human right.

As I have already said, some rights, such as the right not to be tortured, are absolute. Other rights must be balanced against the rights of others. Limitations on a fundamental right must be read as narrowly as possible. By drawing on the International Covenant on Civil and Political Rights, we are able to ensure that the principles in the bill are interpreted in a way that is coherent with established human rights law.

In practice, decision makers and others authorised to act by a territory statue in the courts and tribunals must take account of human rights when interpreting the law. If an issue concerning the interpretation of human rights arises, that issue can be raised in the context of criminal or civil proceedings. In practice, the opportunity to raise the issue will only arise where there is already provision for a proceedings in a court or tribunal.

The covenant and related instruments, case law and materials which form part of the jurisprudence of civil and political rights, would inform the interpretation of the rights protected by the bill. And I reiterate, lest there is any confusion on the point, the bill does not invalidate other territory law, nor does it create a new cause of action.

If, in the ordinary course of litigation, the question is raised in the Supreme Court about whether a territory law is consistent with human rights and the Supreme Court is unable to conclude that the law is consistent, the court will have the power to issue a declaration of incompatibility. The bill is abundantly clear that a declaration does not invalidate either primary or subordinate legislation. Nor would it make the operation or enforcement of the law invalid or in any way affect the rights or obligations of anyone.

The purpose of the declaration is to alert the government and the Assembly and indeed the community to an issue of incompatibility. It is appropriate that this power be vested only in the higher court which has a supervisory function over lower courts and tribunals, although all courts and tribunals are engaged in the process of interpretation of our laws.

If the government is not a party to the proceedings, the court must notify me, as Attorney-General, if it is considering making a declaration. This is to guarantee that the government has the opportunity to put argument if the attorney considered it necessary to do so in the same way that currently exists when constitutional law questions are raised. If a declaration is issued it will be presented to the Assembly, and within six months the attorney will provide a written response also for presentation to the Assembly. A declaration does not bind the government or the Assembly to change primary or subordinate legislation. Nor would we expect that a declaration would be issued except in relatively rare cases.

The facility for a declaration of incompatibility is a vital component of the dialogue model this bill seeks to establish. While preserving parliamentary sovereignty, the declaration will function as a signal to the government and the Assembly. It will make an important contribution to rational and coherent debate about human rights issues.

As Attorney-General, I will also have the discretion to intervene in any proceedings before any ACT court and certain ACT tribunals where a question concerning the application of the Human Rights Act arises. In practice, the discretion to intervene will only be exercised where there is a public interest in doing so.

The bill does not take away the power of the Assembly to pass laws that are inconsistent with human rights as set out in the Human Rights Act. However, as Attorney-General, I would be required to scrutinise all government bills to ensure they are consistent with fundamental human rights. A statement of compatibility for publication in the Assembly will be issued. If it is necessary to limit or depart from human rights standards we will explain why it is necessary to do so.

The scrutiny of bills committee or another committee nominated by the Speaker is obliged to report to the Assembly about human rights issues raised by bills presented to the Assembly. This will apply to both government and non-government bills. To ensure the business of the Assembly is not disrupted or subjected to unnecessary delays if for

practical reasons either the government or the scrutiny of bills committee fails to report before legislation is considered, this will not effect the validity of laws passed by the Assembly. I want to assure you that this is not a backdoor way out of our obligations. I have no doubt that, if such a situation did arise, members would make their feelings known about it.

The bill also establishes the office of Human Rights Commissioner. By making the Discrimination Commissioner the Human Rights Commissioner, we avoid an unnecessary proliferation of institutions. The Human Rights Commissioner will have several functions, namely, to review territory law, conduct education programs and report to the Attorney-General on any matter relating to the Human Rights Act.

The commissioner will also have a right of intervention in proceedings that concern the interpretation and application of the act. However, this right may only be exercised with the leave of the court or tribunal. Again it is expected the commissioner's intervention powers will be exercised sparingly and only in cases where there is a significant public interest at stake.

There will be a consequential amendment to the Annual Reports (Government Agencies) Act 1995 requiring government departments and authorities to include a statement describing measures taken to respect, protect and promote human rights. This will promote a more conscious consideration of human rights issues by territory authorities.

I have outlined the key components of this bill. It is also incumbent on me to clarify what this bill will not do so as to avoid any confusion in the media, among members of this chamber or in the wider community.

The bill I introduced today does not create a new right of action against a public authority on the ground that conduct is inconsistent with human rights as recommended by the consultative committee. My government considers that at this time creating a new right of action would not be appropriate. However, an action that is allegedly based on an incorrect interpretation of the law will be open to judicial review and administrative law remedies. These remedies are already available.

Nor will the Human Rights Act allow complaints to the Human Rights Commissioner. The government agrees with the consultative committee that involving the Human Rights Commissioner in complaints handling would conflict with the primary responsibility of the courts and tribunals to interpret ACT law.

As part of our ongoing commitment to exploring how human rights protection can be strengthened, we have included an obligation to review and report to the Assembly within five years of the commencement of the bill. This doesn't preclude us from looking at matters early in the life of the act and, as a statute of the parliament, if it is necessary to make amendments we have the ability to do so, subject of course to the agreement of the Assembly.

The bill that I present today is the very first human rights legislation in this jurisdiction or anywhere in Australia. We have had the benefit of being able to draw on the experience of comparable jurisdictions such as New Zealand, the UK and Canada to

create a model that is uniquely our own, one that is appropriately adapted to the special circumstances of the ACT but which is consistent with fundamental human rights principles.

The government's model will not encourage unnecessary litigation, but it will ensure that human rights are taken into account when developing and interpreting all ACT laws. It will promote a dialogue about human rights within the parliament, between the parliament and the judiciary, and, most importantly, within the Canberra community. It will also serve to educate us and foster respect for the rights of others and greater understanding of our responsibilities towards each other. By enshrining the values of inclusiveness and decency in our law, we are laying a solid foundation for human rights protection in the ACT—at home, at work, at school and in our neighbourhoods.

This is a carefully crafted bill that has been the subject of extensive consultation in the community and within government. I commend this bill to the Assembly, and I look forward to a fruitful debate in the Assembly during the first session of 2004.

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

Suspension of standing and temporary orders

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) (6.00): I move:

> That so much of the standing and temporary orders be suspended as would prevent Members making a statement on the motion in relation to the proposed amendment of Disallowable Instrument DI2003-153 that was moved and withdrawn by Ms Tucker.

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

Housing—rental bonds
Withdrawal of motion

MS TUCKER (6.00): Thank you, members and Mr Wood. I would like to make a brief statement to put on the record my understanding of where negotiations have got to on the rental bonds loan scheme established by disallowable instrument DI2003-153 and to explain my reasons for withdrawing my amending motion.

As members will know, I have moved a set of amendments which would, in my view, improve the scheme. Essentially the amendments together extend the catchment of the scheme, which is important because, as people joke to me at the moment, it doesn't need a big budget because many of the people who are eligible in other ways don't have enough income to afford the rent.

Rental bond loans are a means of helping people over one of the initial humps of getting into private rental, which as we all know has become less and less affordable in a context of very low vacancy rates. Assistance with bonds is important but cannot, because of the

high rents, actually help a large number of people living on a very low income into rental accommodation.

More public housing and innovative additions to community housing and other affordable housing stock are still absolutely urgent and essential. The target population for this scheme is slightly better off than others.

I am pleased to be able to say that the minister and the department have responded by engaging with the issues I raised in the amendment and that the minister has committed to introducing a replacement instrument which picks up on some of what I have proposed. This is a more straightforward procedure than trying in a short space of time to sensibly amend our amendments.

My understanding is that the revised instrument will include the following changes: firstly, extend the time limit from seven to 28 days for applicants to respond to requests for more information, to request a review and to appeal decisions; secondly, to slightly increase the income eligibility thresholds above those for access to public housing, but less than what I originally proposed, in recognition of the difficulty for people in the middle-income ranges in accessing private rental accommodation in the current conditions; thirdly, to clarify the residency requirement by adding studying as one of the residency eligibility criteria, which would be interpreted to include someone who has been accepted at an educational institution in the ACT; and finally, some form of words to allow temporary protection visa holders access to the program, perhaps, as I suggested in discussions, by using the word "refugee".

I am very pleased that TPV holders will hopefully be included as it is a serious equity concern that these people who have been accepted to be refugees have to meet a higher test—severe hardship that cannot be alleviated by any other means—than either other people who have been accepted to be refugees or other members of the community otherwise meeting the eligibility criteria.

Temporary protection visas are reviewable at any time and certainly every three years, and if the federal government—not the person who has had to flee their home in fear of their lives or their family's wellbeing but our government—decides that the risk is no longer there, then they will be forced to return. In the meantime, they are not eligible for the kind of support that we have recognised people in trauma and in a new country need. This treatment is inhumane, and this change to the rental bonds program is only one step that we could and should be taking here in the ACT to ensure that these refugees are at least treated well within our powers.

Other states such as Queensland and Victoria have been able to provide public housing assistance to TPV holders, so they must have found some way around the federal government's eligibility restrictions. I am very pleased that work is under way on this issue here as well.

I had also proposed changes so that the instrument limits the repayment structure of the loan to keep it affordable, possibly over a longer time frame, while retaining the restriction that aims to ensure people are not being assisted to get into a rental arrangement that they won't be able to afford—specifically, that the sum of the rental

bond loan repayments plus the applicant's rental payments under the Residential Tenancy Agreement does not exceed 40 per cent of the household income.

The government has said in response that, while the standard repayment time will be around 20 fortnights, they will be flexible in negotiating affordable repayments for people with a good payment record, possibly over a longer time frame. I note that a similar issue may arise if a tenancy breaks down and there may need to be flexibility and compassion in renegotiating repayment if the bond is needed in a hurry for another tenancy or some similar circumstance.

I would also like to make a brief comment on my proposal to allow applicants to be treated as borrowers in common rather than strictly joint borrowers. This is not one that the government was prepared to pick up at this stage. I am disappointed as I believe this would at least set an equitable starting point for pursuits of moneys owed.

The prevention and early support programs and some mechanism for helping people to work through their debts will certainly improve the outcomes when debts arise or when a household breaks up and/or when domestic violence leads to damage to the house and family breakdown. However, I believe that structuring in this recognition of division of responsibility will make the starting point in negotiations and in pursuit of debts much more equitable.

And finally, on the topic of debt: I had proposed that eligibility for this program be open to people who have a debt to ACT Housing. I expect that people who will be needing this assistance will include those who have got into arrears on their rent or are on the waiting list and are not able to access public housing because of an old debt or possibly waiting on an appeal process. All still obviously need somewhere to live.

The government is not prepared to take up this proposal as there are concerns that the program not get into financial difficulties. I note that there were suggestions in the development process that the program be run as a grant, possibly at least to those at the lower end of eligibility. This would provide a kind of nest egg and would avoid the problem of repayments. I would like to suggest as a compromise that useful consideration be given to allowing access to the bond loan program when a functioning debt repayment arrangement is in place and set at a manageable level.

I want to thank members for giving me time to make these comments for the record. Thanks to the government for the work on these issues, I believe we will see an improved program in the revised instrument and look forward also to other improvements in the housing system.

MR WOOD (Minister for Disability, Housing and Community Services, Minister for Urban Services, Minister for Police and Emergency Services and Minister for Art and Heritage) (6.06): Mr Speaker, I tabled the rental bonds housing assistance program on 19 August. That fulfilled an election promise of this government. Subsequently Ms Tucker entered a disallowance motion indicating a range of issues that she wanted dealt with. We have had, as Ms Tucker says, discussions about those and what we believe is achievable under the program and what isn't. As a result of the agreement we have come to, Ms Tucker has withdrawn that disallowance motion. I believe that the

commitments I give in this speech will satisfy your requirements and the same requirements as you have expressed in a letter to me. We will see how we go.

The new program reintroduced rental bonds. It fills a gap left by the withdrawal by the former government of the previous bond loans scheme that had operated for many years. Members will recall that the withdrawal of the previous bonds scheme was always opposed by members of this now government while in opposition as well by the previous select committee on public housing and Ms Tucker.

More recently the Affordable Housing Taskforce recommended that a rental loans scheme be re-established for low and medium-income private renters. Under the new scheme people on moderate incomes who are able to sustain a private tenancy can once again obtain government assistance to help them access rental housing in the private market.

Ms Tucker, as I said, proposed to amend the rental bonds program. That comes at a time we have been developing a range of proposals to increase housing affordability. It is this period which is marked by high rentals and relatively low vacancy rates.

One of the options we were considering was a modest increase in the qualifying income criteria under the rental bonds program. One aspect of Ms Tucker's proposed amendment addressed this issue but on a fairly substantial basis, we thought. As I say, I have had fruitful discussions with Ms Tucker about this aspect of her proposed amendment, and I am pleased to say that we have been able to reach an accommodation that would go a significant way towards meeting her objective of broadening the scope of the bonds program through an increase in the qualifying income criteria. We saw a table. I will use that and put that into words.

In the broad context of the housing affordability debate we have agreed that there would be value in increasing the income barrier for a household of two people to 110 per cent of ACT average weekly earnings, an increase of 10 per cent on the current barrier which reflects public housing income criteria. This would raise this barrier to around $930 a week. On top of this, 10 per cent would be added for each additional person in the household—for example, a household comprising a couple and two children would be subject to a new income barrier of about $1,116 a week. This would enable the household to rent a three-bedroom house on the private market, paying less than 30 per cent of their income on rent, assuming a rent level of about $300 per week. And that is the bad news; that is about what you would pay these days.

It is acknowledged that, under the current income criteria based on 60 per cent of ACT average weekly earnings, single people could be disadvantaged in attempting to access private rental housing unless they do so as part of a group. I might mention that groups are already well catered for under the program and guidelines.

In the spirit of Ms Tucker's proposed amendment, we have decided to raise the singles income barrier to 80 per cent of ACT average weekly earnings. This will see the income barrier rise from $507 to $676 a week. Again, this should enable a single person to rent a one-bedroom dwelling by paying 30 per cent or less of their income on rent.

I have also agreed with Ms Tucker to an explicit broadening of the ACT residents criteria to include students who are studying in the ACT but who live elsewhere, such as in Queanbeyan. Students who can demonstrate a firm intention to study in the ACT will also be included, provided they can produce satisfactory evidence such as enrolment details. I have already discussed with Ms Tucker the proposal to remove the requirement for an applicant to have permanent residence. This could open up the scheme to a broader range, as was intended by the agreement. As I understand it, Ms Tucker's intention was to provide for people in difficult but irregular situations, specifically refugees on temporary protection visas.

Although we believe the current program is flexible enough to address these special needs without opening up the program to others with lesser claims, we also believe there is value in making explicit provision in the program for people who are in Australia on TPVs. My department is discussing with the Government Solicitor's Office how this might best be done. That will become part of it; it might take a little time to get the right words, the way these things operate.

I have also agreed with Ms Tucker, in line with clauses 4, 5 and 6 of her proposed amendment, to change the program by increasing from seven to 28 days the time limits for applicants to provide additional information and to make appeals against decisions on their application. That covers that one.

I wish to make it clear that the government had no problem with Ms Tucker's obvious desire to broaden and improve the rental bonds housing program. Indeed, it was always our intention to review the program after it operated for a period of about 12 months, to identify any gaps or inequities, with the objective of proposing any necessary improvement. We have probably moved a bit faster, haven't we?

Although the government was unable to support all of the proposals reflected in the amendment, I believe that Ms Tucker's proposals have facilitated significant progress being made in broadening and improving the program. I believe that, in those comments I have made, I have covered the points we discussed and the four points in your letter.

I will be bringing shortly an amendment to the rental bonds program to give effect to the changes that I have agreed with Ms Tucker and which I have foreshadowed today. We had hoped to do that next week, but it goes to the GSO. There may be debate over the words. It will certainly be this year.

Finally, I would remind members that this very new program only commenced operating on 1 July 2003 and is still being established in the marketplace. I believe it has had a promising start. However, it needs to be emphasised that it has been introduced at a time of relatively low vacancy rates and substantial competition for the available dwellings. As expected, the initial take-up rate for assistance under the program has been fairly modest, but we anticipate a substantially increased take-up in coming months as, hopefully, the private rental market eases and the community and the industry become more familiar with the program.

The introduction of the rental bonds program and the changes I have outlined today are designed to address a range of identified needs within the ACT community. Today I have

also announced a series of reforms aimed at removing barriers to accessing public housing in the ACT and to maintain sustainable tenancies. And one of my commitments to Ms Tucker was to indicate that there are other proposals coming. As I heard her today, I think she has got a few more down the track.

These measures that I have announced today will practically address a number of identified causes of homelessness in the territory. Historically, a number of Canberra's homeless have been evicted from public housing properties. Unfortunately for some people, even public housing can become unaffordable, and homelessness results.

People who find themselves in this situation include ACT Housing tenants, usually women escaping from domestic or family violence, where the public housing lease is in both names. I will be amending the policy guidelines in this area to ensure that the special circumstances of domestic violence victims are adequately recognised and that people in this circumstance are no longer excluded from public housing because of a debt from a previous tenancy.

Another area of concern involves people who enter into residential psychiatric rehabilitation or residential rehabilitation for gambling or substance addiction. Currently people in residential rehabilitation have to pay public housing rent, which is 25 per cent of their income, as well as 75 per cent of the value of their Centrelink benefit as a residential fee. They are paying two rents, as it were.

Most people in public or community housing find it far too difficult to pay 100 per cent of their income in this way, leaving little or nothing for food and other essentials. Service and support providers inform the government that often people simply do not enter rehabilitation in order to avoid becoming homeless at the end of that rehabilitation. We propose to remove the burden of public rental payments during residential rehabilitation. There will be a drop in the rent to a minimum payment of $5 a week, effectively removing the double payment to governments.

There is also a small category of tenants who may be ineligible, at least temporarily, for a pension or benefit and for whom the $20 minimum public housing rental can represent a significant burden. I am announcing that the minimum rental for these people in these circumstances will also be reduced to $5 a week.

The next announcement is a pretty significant one, changing history. I also intend to waive the normal and longstanding requirement that tenants pay an amount equal to two weeks rent in advance at the time of entering a new tenancy. And that's a very, very significant change. They do not have to put two weeks up in advance. This is a reform that would make housing more affordable at the beginning of a tenancy, when the costs of setting up a household are considerable.

The government is also moving further to assist public housing tenants experiencing debt in general. I will be establishing a debt review committee that will review individual cases and advise on the waiving of debt, the allocation of debt between co-tenants and the provision of enhanced support services. This is a further step. We already have preventing-eviction arrangements, but this then is another step beyond that.

Once operational, the debt review committee will allow ACT Housing to respond responsively and sensitively to victims of domestic violence, tenants and families with high and complex needs, and vulnerable tenants who have incurred debt through the misbehaviour of others.

I will also be moving to provide housing assistance to temporary protection visa holders who are homeless or at risk of homelessness or who are for other reasons in extreme hardship. Currently TPV holders are generally not eligible for public housing assistance in the ACT.

Ms Tucker: Hear, hear! Well done!

MR WOOD: You have had a deal to say about that over a period, Ms Tucker.

I propose to amend the public rental housing assistance program to remove the barrier that makes TPV holders technically ineligible for assistance and avoid going around by other means to assist them. They must of course meet other normal eligibility conditions.

I think those last comments I have made about the changes that I have announced today are very significant, considerably assisting people who find themselves in difficult circumstances. I think we are moving further in the direction that we all want, especially Ms Tucker who has been an advocate for public housing and for people in difficult housing circumstances for a long time.

I believe we have accommodated the agreement we made, and we will bring back the amendments later in this year. I am sure this year and next year we will continue the debate with Ms Tucker, whether she is Ms Tucker or Senator Tucker, about the need of housing for people who are in difficulty in this community.

Workers Compensation Amendment Bill 2003 (No 2)

Debate resumed from 25 September 2003, on motion by **Ms Gallagher**:

> That this bill be agreed to in principle.

MR PRATT (6.22): Mr Speaker, we will be supporting the government's position on this. The Workers Compensation Amendment Bill 2003 (No 2) has had a lot of attention from both Canberra business and members of this Assembly. This bill has been scrutinised by all, and amendments such as Ms Dundas's and the government's have resulted from feedback from Canberra business and the wider community.

As such, Mr Speaker, I would like to take this opportunity to thank those from both Canberra business and the wider community who provided feedback to not only my office and the Liberal opposition but to all members and the government. This, Mr Speaker, is an example of consultative legislation that results in positive legislation for all involved.

I have been carefully through this bill, Mr Speaker, and attended several briefings from the Office of Industrial Relations of the Chief Minister's Department, and numerous

business groups, on the impact that this bill may have on both Canberra employers and employees.

There has been undeniable concern about the use of strict liability offences, Mr Speaker, and my office has spoken several times to the minister's office about those concerns and the possible paths forward. Pleasingly, the government have taken note of the Assembly committee's concerns expressed on the same issue and have taken the initiative to amend their legislation accordingly.

Mr Speaker, the minister's office has acknowledged these concerns, and it has turned out well that we have been able to work with the minister on what appears to be a pretty clear and straightforward case. Thus, we have come to an agreement about the use of strict liability offences that seems to be satisfactory.

Therefore, Mr Speaker, we don't support the amendment distributed out of session by Ms Dundas regarding the defence of due diligence. We think it is fundamentally important that companies and individuals be held accountable for failure to comply with legislation relative to strict liability.

The Liberal opposition believes, Mr Speaker, that the discussions we have had with the minister's office and the agreement that has been settled upon, as seen with the government's late amendment to the bill, are an adequate and rational compromise between strict liability and due diligence, while still complying with the Criminal Code 2002.

That issue aside, Mr Speaker, the Workers Compensation Amendment Bill 2003 (No 2) primarily deals with cross-border arrangements that will bring us in line with New South Wales when their legislation will commence. In addition to bringing us in line with our neighbours, Mr Speaker, it also gives improved flexibility for employers who employ people from other states or territories. The bill give clarity to how employees may be covered by their employers when working in another state or territory, seconded around Australia or contracted to travel around Australia.

The bill, Mr Speaker, gives clarity to both employees and employers in the area of workers compensation and adds value to the previous act. This bill, with the government's late amendments, is supported by numerous business groups around the ACT, including the ACT and Region Chamber of Commerce and Industry. We believe that this bill is of value to both Canberra business and the wider community. Therefore, we do support it, and we also support the government's late amendments.

Sitting suspended from 6.26 to 8.00 pm.

MS DUNDAS (8.00): Mr Speaker, many of the changes included in this bill are taken straight from the recent changes to the New South Wales workers compensation act. In particular, schedule 1 of this bill relates to cross-border arrangements for workers compensation, which have been the subject of a national agreement to clarify laws relating to workers compensation.

This will ensure that there is a greater certainty about which state or territory scheme applies to each worker and will prevent workers from missing out on cover or claiming

for the same injury in two different jurisdictions. This bill will allow the minister to determine that the changes occur at the same time as in New South Wales, which I understand will be 1 January 2004.

I also note that the bill clarifies arrangements for volunteer workers who work for non-profit or charitable organisations. The certainty provided means that these groups will not have the additional burden of having to cover their volunteer workers for both workers compensation and public liability insurance.

I have spoken on a number of occasions before about the financial strain placed on community groups by skyrocketing public liability insurance premiums. This bill does nothing to rectify that situation but it will ensure that these organisation will not have to cover their volunteer workers twice and hence pay two sets of premiums.

The bill also provides certainty about the treatment of trainees and work experience placements for workers compensation. This can only assist in job placement and training, particularly for young people and workers with disabilities. The bill provide a clearer framework for the relationship between employers and insurers and sets out the responsibilities of each in terms of the duty to report and manage wages and injuries in the workplace. I believe that this is a welcome addition to the act, but I do have a number of concerns with the use of strict liability offences in the bill.

Members will note that I have prepared an amendment to this bill that deals with some of the issues around strict liability, and I will address those issues more comprehensively in the detail stage. However, I would like to raise some general issues now.

I have decided to bring into this debate the question of strict liability as this is the first bill to go through the Criminal Code harmonisation process in its entirety. I also note that the effect of these offences is potentially far greater than other uses of strict liability we have seen so far.

This bill affects every employer in the territory, and even very small businesses that employ only one or two staff will have to comply with its obligations. I note the minister will be moving amendments to remove the worst of these cases where strict liability applies to a custodial sentence. I am supportive of those amendments.

But since the passing of the Criminal Code, the Assembly has been presented with numerous bills that classify offences as strict liability under that Criminal Code. The scrutiny of bills committee has repeatedly alerted the Assembly to the fact that strict liability offences have been put forward in various acts and that these alter the way that a court could deal with the offence and often reduce the ability of a person charged with an offence to defend against prosecution.

The concept of strict liability has been discussed at length in a number of scrutiny reports since the passing of the Criminal Code. I will not repeat that detail now, but I will simply say that labelling an offence as a strict liability makes it considerably easier to achieve a successful prosecution and far more difficult for someone charged with the case to mount a defence. Under the Criminal Code, our courts are given far less leeway in determining what level of proof is required for either the prosecution or the defence to establish.

It has become increasingly clear that the government has been using the new classification of strict liability extremely liberally and the vast majority of offences that have been legislated since the inception of the code have been classed as strict liability. I think we as an Assembly need to critically examine the government's implementation of the Criminal Code, particularly with reference to the use of strict liability.

I want to make it clear that I am not proposing that the requirements for employers or other entities in this bill should be watered down in any way. I am simply trying to ensure that the offences are only as strong as is necessary to ensure effective compliance. I remain concerned that use of strict liability as currently framed in the Criminal Code is stronger than is necessary to ensure an effective compliance regime.

I note, to begin with, that prosecution has not been an extensive feature of enforcement of compliance with the Workers Compensation Act, with only a handful of attempted prosecutions under the act in the last few years, according to the annual reports of the Director of Public Prosecutions. I would think that prosecution for municipal offences such as those in the Workers Compensation Act would be a last resort and that compliance would be achieved, for the most part, by government education and collaboration with the business community. So in particular, I believe that this Assembly needs to be very careful about introducing administrative penalties that allow prosecution, despite the fact that the defendant made a reasonable attempt to comply with the law.

Given that the whole purpose of creating an offence is to ensure that people act with due diligence to comply with the law, it seems inconsistent that this should not be a defence for these offences. And that is what I will address in more detail at the detail stage in my amendment.

Besides the concerns about strict liability, I do welcome this piece of legislation. It clarifies a number of issues and will bring us into line with New South Wales, which will be of great benefit to a number of industries in the ACT. So I am happy to support this bill in principle.

MS TUCKER (8.07): Given the proportion of Canberra employees who are government employees, the ACT is a small jurisdiction for the private workers compensation scheme. It nonetheless provides a substantial support for families in the event of catastrophic accident and, in addition to a table of maims which offers prompt settlement for permanent injuries and impairment, preserves the common law rights of employees to pursue damages where they feel it appropriate.

This level of support and entitlements ought not be exceptional in Australia. Unfortunately, there are no other jurisdictions where such a necessary level of support is delivered for those who need it most and where the legal rights of employees are preserved.

At a time when our rights at law are being diminished in order to satisfy the actuarial requirements of the insurance industry—the nationwide program of tort law reform being championed once again by Tony Abbott for the Commonwealth government is an example—the features of the ACT workers compensation scheme are important to retain.

The act which established this scheme was passed in 2001, after some years of analysis and development by stakeholders which included employee, employer, insurance companies, medical and social service representatives. It is built upon the principle of prompt disclosure, injury management and rehabilitation, accurate record keeping, wage declaration and thus premium-based, good OH&S practices.

Without compliance with these principles, the costs of the scheme, which are always under pressure and part of public debate, would grow, adding to the pressure on entitlements. The scheme itself is still bedding down. It takes some years for factors influencing claim numbers, the size of claims, premiums and costs to insurance companies and outcomes for injured people and their families to be understood.

It is interesting to note that in the ACT employee participation in injury rehabilitation programs is now the highest in the nation. There are, however, some mixed reports on the cost containment of the scheme, with underdisclosure of employee numbers being cited as a key issue that needs to be addressed.

The scrutiny of bills committee issued an extensive report discussing the application of strict liability offences in ACT legislation when it looked at this bill. In the context of the operation of this scheme, however, some strict liability offences in regard to compliance are not just about administrative efficiency but also serve the interests of justice and welfare. For example, if the minister directs an insurance company to continue payments to an injured worker that it had unreasonably stopped paying, there is no need to give that company an excuse to contravene that direction. The issue of substance in regard to the claim under question would still need to be resolved. It is not a matter of accepting forever the minister's judgment. It is simply an issue of ensuring the wellbeing of the worker in the meantime while the dispute is sorted out.

In the case where employers would be strictly liable if they failed to respond to key requests for documents or if they failed to pass on compensation to the worker, these amendments get to the nub of the scheme. The prompt provision of information, the prompt reporting of injuries, and the consequent prompt return to work where possible is in essence what we hope to achieve. However, strict liability removes from consideration the state of mind of the person doing or not doing whatever is at issue. We need to be careful and not use this as a blanket provision.

I think it is important that timely compliance with the scheme requirements underpins its operation. The government has argued that, because this is so important to the scheme, strict liability is more appropriate than the reasonable excuse defence which applies under the current scheme.

I share Ms Dundas's concern that, since the introduction of a criminal code, the government has been overenthusiastic about creating strict liability offences. The scrutiny of bills committee reports have raised problems with this approach repeatedly. The Attorney-General's responses have not really adequately addressed the issue.

On this bill, the scrutiny committee raised concerns about strict liability being applied to offences attracting at times prison sentences and about the broad extent of coverage. The

committee also reported on the Senate committee inquiry into strict liability offences, and I hope members have found that useful in considering this matter.

I believe that there are some places in this bill where we will be going too far if we apply unmediated strict liability, and I will be supporting all but one of Ms Dundas's amendments in the detail stage. It is not a good argument to claim that we must do strict liability because it exists in the Criminal Code.

When we introduced the Criminal Code, there was no agreement to being absolutely bound by its provisions. Further, in this different act, there is absolutely no need to use unaltered, unconsidered provisions from the Criminal Code. The code project aimed to codify what had become common law principles used to interpret the statutory law and so effectively tidy up and make more transparent the law books. It also aimed to have some consistency in interpretation of terms across the country, and that is fine. All jurisdictions will share a definition of strict liability offences.

That does not prevent, and it should not prevent, us applying strict liability in a careful and qualified way. It is disturbing to hear that argument coming from this government. Indeed, that contradicts the explanatory statement's note on page 27 that the Criminal Code provides that all strict liability offences have a specific defence of mistake of fact in addition to any specific defences set out in other legislation. In harmonising the offence provisions in the bill with the Criminal Code, there is absolutely nothing to stop us specifying an appropriate type of defence in the interests of justice and procedural fairness.

The key provisions of this bill are that it clarifies the arrangements concerning volunteers and trainees and makes it easier for employers to offer on-the-job training to disadvantaged job seekers when those trainings are covered through the organisations or schools to which they belong. There are also simplifications and adjustments that are clearly informed by the ongoing work of the Workers Compensation Advisory Committee. I think we can see here the advantages of a consultative model which does include the relevant parties. Finally, the most important inclusion in the bill is the incorporation of the agreed national approach to cross-border workers compensation coverage.

Given the range of workers compensation schemes around the country, and the variety and complexity of employment situations, it is important that there are clear agreements as to which scheme would apply to an injured worker in any situation. I commend the government for this work.

MS GALLAGHER (Minister for Education, Youth and Family Services, Minister for Women and Minister for Industrial Relations) (8.14), in reply: I begin by thanking members for their contribution and for their in-principle support of this bill. This bill builds on the reforms of the ACT private sector workers compensation scheme that commenced operation in 2002. The ACT Occupational Health and Safety Council Workers Compensation Advisory Committee, including representatives of employers, unions, approved workers compensation insurers and the medical, rehabilitation and legal professions, support these amendments.

The committee has worked diligently in the first year of the new scheme to assist the government and the scheme participants in managing the substantial changes to the scheme that commenced on 1 July 2002. The bill continues to ensure the new ACT workers compensation scheme is responsive to the shifting demands and priorities identified by the scheme's participants.

This bill makes important amendments associated with new national agreements on workers compensation cross-border coverage. It also makes minor policy changes to clarify the approach of the scheme in relation to volunteers, trainees, the limitation period, insurers' obligation on notification of injury, medical certificates, the reporting of wages to insurers and repayments of statutory lump sum.

The bill also includes amendments to implement the criminal law reforms contained in the Criminal Code 2002. All amending legislation introduced after 1 January 2003 must be compliant with the new Criminal Code provisions. As some of the policy amendments proposed by this bill affected offence provisions, it was necessary to restructure those provisions to make them compliant with the Criminal Code.

I would like to reassure members that the proposed amendments in many cases simply clarify strict liability offences that already existed in the act. The bill will create two new provisions with offences that are designated as strict liability, and the existing strict liability offences would be more visible than before.

Each section in the act which has a penalty attached would now clearly identify what element constitutes a breach of the section and whether or not a specific mental fault element is necessary. If there is a mental fault element necessary, the bill specifies what type of fault element it is—knowingly, recklessly or negligently at fault. Where there is no mental element required, then the offence is an offence of strict liability.

This is the first act that has been so amended. The Criminal Code amendments are contained in clause 2 of the bill. The amendments serve to clearly identify which of the existing offences are strict liability in nature and clearly identify mental fault elements for those offences that are not strict liability in nature.

These changes are consistent with the decision that this Assembly made when it passed the Criminal Code in 2002. Every amendment in this schedule simply implements the Criminal Code as enacted by the Assembly for the purposes of the Workers Compensation Act.

The scrutiny of bills committee in their report and Ms Dundas have expressed concerns about the strict liability offences contained in the bill and the potential for strict liability offences to remove the rights and freedoms of individuals. If members do not believe that particular offences should be strict liability offences, then members should argue which of the mental fault elements found in the Criminal Code should apply to that section. The scrutiny committee held concerns in relation to the penalty provisions in subsections 191 (5) and 210 (1) which included a term of imprisonment for a strict liability offence.

This inclusion was an oversight that occurred during the drafting process and the government has moved quickly to draft amendments to the bill to remove the penalty of imprisonment attached to those offences. As I informed members when I wrote to them with a copy of my response to the scrutiny of bills committee, I will be introducing amendments to that effect this evening.

The committee was also concerned that the removal of the reasonable excuse defence will diminish the rights of defendants. Under the Criminal Code, the reasonable excuse defence will be removed from all ACT offence provisions because there is a high degree of uncertainty as to the exact nature of what constitutes a reasonable excuse. In fact, previously there have been calls from the committee to avoid vagueness in offences and defences and the negative impact that this can have on the personal rights and liberties of victims of the offence to which a reasonable excuse defence is available.

The government strongly believes that the removal of the reasonable excuse defence provision in the four offences does not substantially reduce the rights of defendants. I will speak more about that in the detail stage. But these changes in the bill today are designed to refine the operation of the scheme to ensure that it is operating fairly and consistently.

Finally, in summing up, I would like to thank the OH&S Council Workers Compensation Advisory Committee, the staff from the Office of Industrial Relations and staff from my office for the work that has been involved in drafting the legislation and for briefing members on it leading up to the debate this evening.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail stage

Clauses 1 to 34, by leave, taken together and agreed to.

Schedule 1 agreed to.

Schedule 2.

Amendments 2.1 to 2.37, by leave, taken together and agreed to.

Amendment 2.38.

MS GALLAGHER (Minister for Education, Youth and Family Services, Minister for Women and Minister for Industrial Relations) (8.21): I move amendment No 1 circulated in my name *[see schedule 1 at page 4276]*.

Mr Speaker, the scrutiny committee quite correctly held concerns in relation to the penalty provisions in subsections 191 (5) and 210 (1) which included term of imprisonment for a strict liability offence. This inclusion was an oversight that occurred

during the drafting process. Government has moved quickly to draft amendments to the bill to remove the penalty of imprisonment attached to these offences.

MS TUCKER (8.21): The Greens will be supporting Ms Gallagher's amendment. It is basically addressing the problems identified by the scrutiny of bills committee. Imprisonment is an option for some strict liability offences and that should not be the case. We should not deny someone's liberty without being required to establish fault elements of the offence.

MR PRATT (8.22): Mr Speaker, as stated earlier, we will be supporting Ms Gallagher's amendment, for the reasons that I outlined: there needs to be a mechanism in place that does hold people accountable.

Amendment agreed to.

Amendment 2.38, as amended, agreed to.

Amendments 2.39 to 2.40, by leave, taken together and agreed to.

Amendment 2.41.

MS GALLAGHER (Minister for Education, Youth and Family Services, Minister for Women and Minister for Industrial Relations) (8.23): I move amendment No 2 circulated in my name *[see schedule 1 at page 4276]*.

This is dealing with the same matter that my first amendment was, and that is to remove the term of imprisonment within the strict liability offence in this clause.

MR PRATT (8.23): Mr Speaker, we do support the government's amendment.

Amendment agreed to.

Amendment 2.41, as amended, agreed to.

Amendment 2.42.

MS GALLAGHER (Minister for Education, Youth and Family Services, Minister for Women and Minister for Industrial Relations) (8.24): I move amendment No 3 circulated in my name *[see schedule 1 at page 4276]*.

This is just a technical adjustment to the bill, renumbering sections.

MR PRATT (8.24): Mr Speaker the opposition supports the amendment.

Amendment agreed to.

MS DUNDAS (8.24): I move amendment No 1 circulated in my name *[see schedule 2 at page 4276]*.

I understand that it is quite likely this amendment will not be agreed to. However, I think this will be a missed opportunity for the Assembly to re-examine how the Criminal Code is being implemented. When this Assembly passed the Criminal Code a number of members referred to the fact that its implementation should not reduce the rights of ACT citizens before the law. However, the sweeping introduction of strict liability offences has gone far beyond what many members expected when the Criminal Code was introduced, and this is clearly eroding the rights of the people in the ACT.

The fundamental principle we have to consider is that strict liability offences still allow people to be convicted of an offence despite the fact that they have made every effort to comply with the law. Members should think carefully about the ethics of convicting people who have done their best to follow the rules. I am happy to concede that there are cases where this may be necessary but it should not be par for the course on almost every offence, as we see in this bill.

The questions that members need to ask is: what is the appropriate form for an offence that meets the requirement for government to ensure effective compliance with a regulatory regime but goes no further? I believe that the current use of strict liability offences goes far beyond what is necessary to ensure compliance, and I believe that my amendment addresses this question while still allowing effective operation of the Workers Compensation Act.

This amendment introduces a defence of due diligence into the act for some strict liability offences in this bill. The amendment does not offer a defence of due diligence to all strict liability offences in the act. There is a clear argument that some offences should not be excused, for example, the requirement that an employer have a workers compensation policy or that employers must allow injured workers to continue their employment with duties suitable to their abilities. I have not suggested that due diligence should be implemented for these offences. I am suggesting that it only be applied to a minority of offences which are relatively minor and generally only directed at administrative compliance.

The due diligence defence is far more restrictive than the current defence of reasonable excuse that is available for some existing offences in the act. It places the legal burden of proof on the defendant to prove on the balance of probabilities, that they acted with due diligence. This means that it does not require the prosecution to prove that the defendant did not act with due diligence. It does not make the offence any harder to prosecute. It only allows, in a very small number of cases, some defendants who can show that they had effectively attempted to comply with the law to use the defence.

I believe the inclusion of this defence is only a very minor addition to the defences in the Criminal Code. It will have little effect on prosecutions under the code and will not mean that the ACT is widely out of step with the provisions of the code, and I believe that we would be remiss in our duty to the people of the ACT to blindly implement the Criminal Code without careful consideration of the effects on the rights of the people of the ACT. It is wrong that the government would take the path of straight-jacketing the rights of the ACT citizens for mere administrative convenience.

I know that members remain concerned at the current overuse of strict liability offences, and I believe the government should exercise greater care in using this classification. I am pleased to see the minister has made changes so that strict liability will not apply to custodial sentences. But in any case I hope the Assembly can have some debate today about what it is we expect from strict liability offences, and that is why I move this amendment.

I don't believe that the debate is over. This issue will return to the Assembly in the future. So I ask the government to take more care in the future in how it applies the Criminal Code and strict liability offences in new legislation.

MS GALLAGHER (Minister for Education, Youth and Family Services, Minister for Women and Minister for Industrial Relations) (8.28): The government will be opposing Ms Dundas's amendment. The amendment seeks to insert a new mental fault element into the act—one of due diligence, a term which is not defined and to which the application would need to be tested before the courts before its meaning could be established. In effect, this would replicate problems identified by the scrutiny of bills committee with the existing reasonable excuse defence. This would also undermine the application of the Criminal Code to which the Assembly has previously agreed.

Ms Dundas does not want the offences she has identified in her amendment to be characterised as strict liability, and the real question is: which of the code's existing mental fault elements of intention, recklessness or negligence would she prefer to apply to the sections? We do need to maintain consistency with the code. We are not in a position to create a new fault element every time a bill comes before the Assembly.

The explanatory memorandum that accompanies Ms Dundas's amendment states, among other things, that the sections of the act against which the defence of due diligence should be generally available are:

> … only in those offences that are enforcing administrative arrangements.

The memorandum then goes on to state that sections 156 to 162 are sections of that type.

I will briefly go through the issues in sections 156 to 162 to explain in more detail why they have been identified as strict liability offences. Sections 156 to 162 are administrative in nature, but they are far from simply being about requiring information from employers. They are in fact the sections of the act that deal with the underreporting of wages. The underreporting of wages is one of a handful of issues that have the potential to undermine the operation and the viability of any workers compensation scheme.

When unscrupulous employers underreport wages they make the scheme more costly for the employers who do the right thing by properly declaring wages. Such employers deprive the scheme of much-needed premium income, and by depriving the scheme of premium income they drive up the cost of premiums for those employers who are doing the right thing. The lack of information on correct premium income then places pressure on the scheme cost. In workers compensation matters pressure on scheme cost is usually only relieved in one of two ways, either by increasing premiums or by reducing benefits.

Increasing premiums puts pressure on the whole system; it pressures employers' ability to continue to employ workers; it pressures insurers' ability to remain in the ACT scheme; and it places pressure on workers and employers to not properly report injuries for fear of the impact of claims on premiums.

Reducing benefits also impacts on scheme behaviours. A low level of statutory benefits encourages actions to be taken to the common law court. It drives adversarial behaviour and does much to line the pockets of the legal establishment, to the detriment of injured workers. It works against effective injury management and return to work as injured workers become more concerned with being able to pay their bills and living expenses rather than returning to work.

So when Ms Dundas sees sections 156 to 162 as being of administrative convenience and only requiring a slap on the wrist for non-compliance within the workers compensation scheme, the government sees those sections and the penalties as important and effective enforcement tools central to the ACT workers compensation scheme.

The offences in these sections do not require a mental fault element; they either happen or they do not. The employer provides the information to their insurer or they do not. They provide a statutory declaration or they do not. They have a certificate from a registered auditor or they do not. Employers are not punished if they make a mistake of fact, but they must provide the information required. As I have stated previously, if these sections are not strict liability then they must be considered as mental fault elements and, in that case, what is the mental fault element required?

A further example is section 191 regarding the right of entry of an inspector. Either the occupier of the premises lets the inspector in the door to carry out an inspection or they don't. What could possibly be regarded as requiring due diligence in that?

As I said, the government will be opposing this amendment. We see no reason to introduce a new mental fault element offence, nor do we see any rationale in changing the offences identified as strict liability to at-fault offences.

MR PRATT (8.33): Mr Speaker, we will not be supporting the Democrats' amendment as we do not think it would hold people sufficiently accountable in respect of those particular provisions. We don't think, where people do have responsibility to comply with strict liability provisions, this amendment will serve any useful purpose.

MS TUCKER (8.33): The Greens will be supporting Ms Dundas's amendment. We think she needs to be congratulated for coming forward with it. Informed by the scrutiny report, she has come up with a solution to the ongoing stand-off on the application of strict liability. This amendment introduces a defence of due diligence in order to refine the application of strict liability.

The clauses affected by this amendment, the defined provisions, are a subset of the strict liability clauses in the bill. They are provisions for which it is not appropriate to waive all the defences which relate to the employer having made a reasonable and good-faith effort to comply but having failed through no fault of their own. Mistake in fact does not

cover all reasonable circumstances, but due diligence, as Ms Dundas has explained, is still a narrow defence and reasonable excuse.

I can't remember exactly in detail Ms Gallagher's comments on that, but I thought in the scrutiny committee we did refer to Canadian examples of the use of the due diligence clause. I don't have that with me now. I haven't actually had time to do as much work on this amendment as I would have liked as I have not had it for very long.

However, I am supportive of the work, at least on the basis that the government's amendments are arguably removing a capacity to make a defence to these offences. Ms Dundas's amendment takes a smaller step towards defining the defence more closely and still, I believe, in a way that will allow the act to function to protect workers while also not breaching basic justice.

Ms Gallagher also said, I think, that it wasn't appropriate to be making up this law or different aspects of law. But it is not correct to suggest that there was some agreement and that we are bound by the provisions of the Criminal Code. As I said in my presentation speech before, I think it would be very unwise to use the unaltered and unconsidered provisions from the Criminal Code just in a blanket way.

With regard to Ms Dundas's amendment, three of the four sections that previously had the reasonable excuse provisions, sections 114, 126, and 190, are again all administrative-type provisions of information. The minister has argued in her response to the scrutiny committee that the mistake of fact would include not receiving the letter requesting information. Due diligence seems more appropriate, however, in ensuring that we take account of a serious effort to provide the information or attempt to provide the information in good faith.

I agree with the minister that in the provision in section 191, which is about asking to see the inspector's identity and allowing them in, it is reasonable to allow only the defence of mistake of fact. It is difficult to see, on a yes or no question, what form of due diligence would make a difference.

Clause 210, protecting confidentiality, is another on which I have some uncertainty. Again, it is difficult to see how due diligence could come into the fairly explicit acts prohibited by this section. Mistake of fact seems an appropriate defence.

MS DUNDAS (8.37): Just briefly, I will again quickly put the case. The minister raised some interesting points when she raised the question of you do a thing or you do not, or you do another administrative thing or you do not. But for a small or micro business owner, sometimes attempting to do that thing is hampered by pressures beyond their control such as a bung phone line, problems with Australia Post or sick children. When you are looking at very small and micro businesses, which will be covered by this legislation, and rightly so, you need to recognise that they are more influenced by external factors such as those. They can try to do a thing but it might not happen, for reasons beyond their control.

I was requesting the due diligence defence be put in so that they can say, "Well, I attempted. I thought it happened, but for reasons beyond my control it did not." I do

think that applies specifically in the cases of small and micro businesses who could be impacted by this legislation in a way that larger corporations might not be impacted. They would be readily able to absorb those kinds of things.

Amendment negatived.

Amendment 2.42, as amended, agreed to.

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

Bill, as amended, agreed to.

Independent Competition and Regulatory Commission Amendment Bill 2003

Debate resumed from 23 October 2003, on motion by **Mr Quinlan**:

> That this bill be agreed to in principle.

MR SMYTH (Leader of the Opposition) (8.39): Mr Speaker, the opposition will be supporting this bill. This bill will remove what the Treasurer aptly described as an unintended consequence of the current commission act, that is, it should ensure that, where a government makes a policy decision to implement a particular charge for the provision of a service, that charge will be passed on to the consumer without the charge being subject to an inquiry by the commission.

The key distinction, Mr Speaker, that is involved with this amendment bill is between a government decision to impose on consumers a charge for the provision of a service and a decision of the commission that a utility that provides a good or a service can recover the cost of the provision of that good or service. Clearly therefore, Mr Speaker, a decision by the government to impose a charge is an explicit policy decision and, as such, this should not be subject to review in the context of the commission's act by the commission before the charge is implemented.

Mr Speaker, at the same time there is an important safeguard with this proposal. Any decision by the government to seek to implement a charge for the supply of a good or a service will be by way of a disallowable instrument. Thus the basis for the government's policy decision can be debated in the Legislative Assembly, and if the Assembly, the community, so determines, the charge can then be disallowed. Mr Speaker, the role of the commission, on the other hand, is to consider the circumstances of a utility that is operating in a regulated environment—in terms of changes in its costs, among a range of factors—and, following a public inquiry, to determine what cost incurred by that utility should be borne by the community.

Mr Speaker, the fact that a policy decision taken by a government to impose a particular charge would, under the current act, be subject to consideration by the commission has the potential to thwart the implementation of government policy. The opposition believes, therefore, that this is a reasonable approach to be adopted.

Moreover, Mr Speaker, the amendment bill simply defines a declared fee as being the fee or charge that is determined by government policy. The bill does not speak in terms of an increase or decrease in such a fee or charge. Hence, it is quite possible for a fee or charge to be introduced, to be increased or to be decreased, depending on the policy imperatives underlying the decision.

Mr Speaker, it may, for example, be that the government determines that additional funds are required for a particular purpose related to the provision of a good or a service. A fee may be introduced to provide the necessary funds. Once sufficient funds have been obtained, the fee can then be removed.

Mr Speaker, there is one other aspect to this bill that I would like to emphasise. In his tabling speech, the Treasurer noted that the proposals contained in this amendment bill had not been developed in response to any action or decision taken by the ICRC. I believe it is important— Mr Speaker, to support that statement in the strongest possible terms. The role of the commission is that of an independent, expert agency that seeks to bring its expertise to bear on what, in many instances, are quite complex economic and regulatory matters. The commission is to be commended for the way in which it reports to the Assembly and the community on these complex matters.

In saying this, Mr Speaker, I wish to acknowledge the professionalism of the commission as it undertakes the range of matters that come before it. The amendments proposed in this bill do not represent any reflection on the nature and quality of reports made by and decisions taken by the commission.

Mr Speaker, as I have said earlier, the opposition will be supporting this bill.

MS DUNDAS (8.43): We understand this is a relatively simple change to the Independent Competition and Regulatory Commission Act to clarify the operation of the commission in regard to the determination of prices in regulated industries that are affected by government fees. The changes foreshadowed in this bill make clear that a statutory fee identified by the Treasurer that affects a regulated industry is passed onto the consumers of that service. The bill makes the role of the ICRC, in relation to price determinations, clear and ensures compatibility with government policy.

On first read of this legislation, I did have some concerns about how it would actually operate and what it was the government was trying to do. But on closer examination, and through further discussion with the relevant officials, those issues have been cleared up.

I think one of the particularly important issues in the bill is that it will increase the speed at which changes to government fees are transmitted through to the markets. An example is the water abstraction charge which has taken several months under the current regime to be translated into a new price path for ActewAGL. This process has been time consuming and generally unnecessary, to enable the increased costs of water to be transmitted to consumers. The flexibility of prices to adjust in regulated industries is essential for prior signals to be transmitted to the market, especially in areas of environmental management, such as the water abstraction charge.

The ICRC has recently provided a comprehensive report on the water abstraction charge, detailing options for determining the level of the charge. These take into account the scarcity value of water and generally favour an increase in the charge. While I think the assumptions behind determining the value are restrictive, this is certainly a step in the right direction.

The bill before us makes the determination of prices by the ICRC slightly more transparent, with the government fees being clearer and open. I note that the determination of a fee to be passed on in full to consumers is a disallowable instrument, meaning the Assembly has the authority to scrutinise and overturn a decision if it is inappropriate. I think that is an important part of the bill before us today.

MS TUCKER (8.45): I understand that this amendment bill is a response to difficulties in the current legislation that make it complicated for the government to pass on the water abstraction charge as part of the provision of water services directly to consumers. I understand that the Independent Competition and Regulatory Commission has recommended that the water abstraction charge be increased to recover direct and indirect costs associated with water management, to send a price signal to consumers about efficiency and scarcity of water, and that the commission is supportive of this legislative change to enable the government to pass on to consumers directly charges such as the water abstraction charge.

On the issue of water pricing, I would like to echo some of the concerns of the conservation council and ACTCOSS in their joint position paper on saving our water resources. I quote from the paper:

> Only in conjunction with a substantial and significant demand management program should we as a community look at increasing the price of water as a means to reduce demand. ACTCOSS and CCSERAC accept that some price increase at the high usage end may be justified on demand management grounds. However, increased water charges alone are unlikely to be effective and run the risk if they are across the board of causing hardship to low income earners or others affected by poverty. Initiatives to reduce water use, including via appropriate price structures for water are essential to achieve reductions in the ACT's water consumption. The key is determining the right mix so that environmental outcomes are achieved in a socially equitable manner.

I would like to see that, instead of revenue from the water abstraction charge going into general revenue, it is used to encourage, at the household level, uptake of water efficiency devices. An example of such a program is the water wise program in Queanbeyan, which covered the cost of water and energy audits and paid for new toilets and showerheads in households. This sort of program could be used to encourage water saving in low-income or large-family households.

I understand that this bill is a procedural move to ensure the government can easily change the water abstraction charge, with less red tape. However, I do have some concerns that the bill also takes a step to remove the scrutiny of the ICRC in passing on prices directly to consumers. I am concerned that this opens up the scope for a government to introduce charges without any influence from the commission. I am slightly reassured that the minister's declaration is a disallowable instrument, not

a notifiable instrument, so that we are able to know when the minister may introduce a fee.

MR QUINLAN (Treasurer, Minister for Economic Development, Business and Tourism and Minister for Sport, Racing and Gaming) (8.48): I do thank members for their support. It is really an amendment that will correct an anomaly within the current act and unintentional consequences that might flow from that.

Let me repeat what Mr Smyth said earlier: this has not been in response to any action taken by the commissioner. I want to reassure members that the water abstraction charge has been evaluated by the commissioner at my request because there is, within the scope of the act, capacity for him to evaluate the social, community consequences of the price structures as well as just the raw price structure. So it has got nothing to do with water abstraction charges in itself.

What this bill does is put the process back on the right footing whereby levies or charges made or decided by government within government policy are then subject to a disallowable instrument and effectively are decided by this place and not by the commission, because they can be and are more likely to be matters of policy as opposed to matters of economics or matters of the mathematics of distributing the cost of delivery of services, which is the primary task of the commission.

I will continue to work with the commission in relation to matters that do generally fit under their purview or competence—and there are a number of matters that I have referred to the commission from time to time, and I will continue to do so. I am very, very happy with the relationship that the commission has with government—on the one hand, their strict independence in what they do; but their openness and their willingness to accept commissions from us, even though they have a fairly heavy workload. I thank members for their support.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

Adjournment

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

> That the Assembly do now adjourn.

Under-13 girls hockey team

MR SMYTH (Leader of the Opposition) (8.51): Mr Speaker, Canberra is a city of champions. We have a number of champion teams at the national level that are well known to the people of the ACT: the Raiders, the Brumbies, the former Cannons, certainly the Capitals, the Lakers and the Knights. We actually have a new team to now

add to that list. But the strength of these national senior teams is in their junior competitions. The competition is conducted every weekend on the ovals of the ACT. The champion sportsmen and women of the future are growing up in our suburbs today. The new team that I talk about is the ACT under-13 girls hockey team, who won the inaugural Australian under-13 invitation carnival in Adelaide in October.

Mr Speaker, I want to bring to the attention of the Assembly the efforts of these young ladies and what they did. This team went to Adelaide in the hope that they could win—they thought they could win—and they did win. They won four games, they drew one and they lost one. They beat Victoria once and drew once, they beat South Australia blue twice, they beat South Australia red once and lost once.

I think it is quite important that people understand that at the end of the competition the opposing players voted ACT team captain, Juanita McDonald, player of the tournament. These votes were cast after each of the games.

The other thing I think that was notable is that not all the girls played in the same position all the time. The team manager and the coach actually rotated the girls through different positions to get the experience that they needed, and I think it was a credit to them that they were able to do this. As they did this, they gained lots of valuable experience for themselves.

Kayla Potter was voted the ACT team's most valuable player over the entire week, but the other daily most valuable players were Jessica Parr, Kelsey Davis, Jessica Reid, Catriona Bailey-Price, Maddison Arton and Grace Hunter.

Some feedback came from the other coaches. The coaches and the girls of the other teams constantly commented on the outstanding sportsmanship and the good spirit on the park and off the park, and the ACT team was commended for their behaviour and indeed their improvement during the tournament.

The full list of the team, Mr Speaker, is: Maddison Arton, Catriona Bailey-Price, Kelsey Davis, Emily Hedditch, Chloe Hosking, Grace Hunter, Juanita McDonald, Jessica Parr, who was the goalie—a very important position—Kayla Potter, Jessica Reid, Jen Rowe, Peta Sutherland, Sam Turner and Hannah Wallet. The coach was Natalie Krikowa, and the manager was Terri Sutherland.

It is also important, Mr Speaker, that we thank the sponsors. This team plays under the auspices of ACT Hockey. The major sponsors were the Canberra Labor Club, Sport and Recreation ACT, the Sportsmans Warehouse, Diabetes Australia and Healthpact. I think it is important that people support the groups that support the community. So thanks to those supporters.

Particular thanks to the parents who helped the girls get to and from the games and to and from training, the schools that foster sport and the teachers involved there, the various clubs that provide the coaches and the infrastructure, Hockey ACT, and, I think most of all, the team themselves. Well done, girls, for such a sterling effort. It is great to be the inaugural winners of such a wonderful competition, and we look forward to you doing it in the under-14s, 15s and 16s and whatever other competitions come up in the coming years. Best of luck in their future in hockey.

Death of Mr Kevin Dobson

MR STEFANIAK (8.55): Mr Speaker, between the time of the sitting in October and this sitting a well-known Canberra identity and Canberra magistrate, Kevin Townley Dobson, passed away, aged 82. Dobo was an absolute legend and I certainly want to pay tribute to him tonight. I spent a number of years appearing in front of him. It is probably true to say his bark was worse than his bite. He certainly terrified a lot of people, including junior practitioners, but you did get used to him. He was an excellent magistrate, a credit to the profession and a great Canberran and Australian.

He came to Canberra from Broken Hill where he was a stipendiary magistrate, having gone up through the courts of petty sessions after he finished his war service with the Royal Australian Air Force in World War II. He was a keen golfer. I think I probably first met him well before I started practising law because he and my father used to play golf, and certainly after golf go to the 19th hole at the Federal. I probably met him there. On occasions I might go to pick my father up.

I came across him as a magistrate pretty soon after I joined the DPP, or the DCS as it then was, back in 1979. I think Jack Waterford, who not only reported Kevin Dobson's decisions but probably appeared on the wrong side of the fence as a defendant on occasions in his student days, wrote a very good article in relation to Dobo, and that certainly rings a bell with me. Jack actually said that he certainly was a very predictable, fair magistrate.

It was a very efficient court that Kevin Dobson ran. It was very much a people's court. He would often be finished fairly early, by about 1 o'clock or so, and I can remember one defendant once saying to him something to the effect: "Look, you should go get a part-time job". He said, "Why? I've got the best part-time job in the world." That was largely because he was so efficient. He did the A list, which was where people who first got into court would go. They would either plead guilty or have their matters adjourned and perhaps have hearing dates set.

I regularly appeared there myself, and I remember one occasion back in 1981 where Dobo's sense of humour came to the fore, through his efficiency. Dobo liked to smoke and, unlike some magistrates, he would leave at 11.15 for morning tea, go out the back and have a few Rothmans, and be back in at 11.30 on the dot. You could set your clock by it.

On this day I was doing the A list as the prosecutor, and a young bloke, whom we'll call Johnny Smith, was up for offensive language. In those days if they pleaded guilty you merely handed up an A5 piece of paper which had the offensive words on it. Johnny Smith was there. He apparently had uttered these words at 1.30 am in Weed Close, Belconnen. We started at 11.13. He said he wanted to plead guilty, did that, apologised for causing everyone trouble. Dobo asked him if he could pay a fine if given time to pay; fined him the statutory $10 or one day in default; asked him if 28 days to pay was long enough and he said it was; and then Dobo looked at his watch, a 90-second court case, this one; it was 11.14 and 30 seconds. He got up from the bench, and walked partly away. Little Johnny Smith was still there at the microphone, bewildered by it all. Dobo

turned and said to him, "Righto, Mr Smith, you can now go and do what you told the police to do." Everyone killed themselves laughing on that because it was obvious what Johnny Smith had told the police to do.

Dobo was predictable. It didn't matter who you were or whom you had acting for you, he was fair. I remember another occasion around about that time when Gough Whitlam gave character evidence for his research assistant. Gough was coming into court 4, Dobo's court, and I was coming out.

He wanted to find the prosecutor, one of our police sergeants, Pat Leonard, at the time, to indicate character evidence. I directed him to Pat. I went back in to see what the show would be like with Dobo and Gough Whitlam. Dobo listened. There was a bit of verbal repartee between the two of them. Obviously Gough had been in his court before. Then Dobo proceeded to fine the research assistant $75 or three days in default, 28 days to pay; just like he would anyone else for that particular type of offence. He certainly was very, very predictable, very fair, very efficient, an excellent magistrate, a credit to the bench, a bloke who was a bit of a larrikin and a ratbag.

I had the pleasure to go with him down to Jervis Bay for his last time at the Jervis Bay court. Dobo normally would just like to have a few drinks and play the pokies but we actually got him out on the police boat. We still played the pokies. He probably had about 22 middies of Reschs. It was when Haley's Comet was going around. I don't think we saw that. We probably saw Reschs comet.

He was a remarkable bloke, an excellent lawyer, a great Canberran and a very, very fair magistrate. He made a wonderful contribution to the law in the Australian Capital Territory. He will be sadly missed.

Question resolved in the affirmative.

The Assembly adjourned at 9.00 pm.

Schedules of amendments

Schedule 1

Workers Compensation Amendment Bill 2003 (No 2)

Amendments moved by the Minister for Industrial Relations

1
Schedule 2, amendment 2.38
Proposed new section 181 (5), penalty
Page 53, line 13—

omit
, imprisonment for 6 months or both

2
Schedule 2, amendment 2.41
Proposed new section 210 (1), penalty
Page 54, line 10—

omit
, imprisonment for 6 months or both

3
Schedule 2, amendment 2.42, heading
Page 54, line 15—

substitute

[2.42] Sections 213, 214 and 215

Schedule 2

Workers Compensation Amendment Bill 2003 (No 2)

Amendment moved by Ms Dundas

1
Schedule 2, amendment 2.42
Proposed new section 215
Page 58, line 17—

insert

215 Defence of due diligence

(1) It is a defence to a prosecution for an offence against a defined provision of this Act

if the defendant proves that the defendant exercised due diligence to prevent the act or omission alleged to make up the offence or an element of the offence.

(2) In this section:

defined provision, of this Act, means any of the following provisions of this Act:

(a) section 91 (Employer's obligations for injury management programs);

(b) section 92 (Register of injuries);

(c) section 126 (1) or (2) (Action by employer in relation to claims);

(d) section 156 (3) (Information for insurers on application for issue or renewal of policies);

(e) section 157 (3) (Information for insurers after renewal of policies);

(f) section 158 (Information for insurers after end or cancellation of policies);

(g) section 159 (3) (Information for new insurers after change of insurers);

(h) section 160 (Six-monthly information for insurers);

(i) section 169 (Power of Supreme Court to set aside certain agreements);

(j) section 170 (Intervention by nominal insurer);

(k) section 174 (Information and assistance by employer to nominal insurer);

(l) section 190 (Provision of information to inspectors);

(m) section 191 (Entry and inspection of premises);

(n) section 210 (Confidentiality).