DEBATES

OF THE

LEGISLATIVE ASSEMBLY

FOR THE

AUSTRALIAN CAPITAL TERRITORY

FIFTH ASSEMBLY

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8 DECEMBER

2004

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Wednesday, 8 December 2004

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

Gaming Machine Amendment Bill 2004 (No 4)

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

Title read by Clerk.

MR STEFANIAK (Ginninderra) (10.31): I move:

> That this bill be agreed to in principle.

This bill is brought before the Assembly to ensure that what appears to have been an anomaly in the recently passed gaming machine legislation does not have a serious effect on the operation of many of our very successful and community-minded licensed clubs. I understood that there might be some further amendments to other things coming from the government, but I think it is important to put this bill on the table today because of a problem that has arisen.

In the last Assembly we passed some landmark legislation in relation to gaming in the territory. That was done largely on a bipartisan basis and has been proved to be effective. It was a big bill but, in the course of the drafting of the bill—and there were large numbers of attempts to get it right before the final bill was tabled—there were a couple of matters inadvertently left in the bill. One of those relates to section 14 of the bill.

I understand that Clubs ACT has written to both the government and the opposition, and probably to the crossbench too, in relation to this. One of their concerns was the matters referred to in sections 14 (1) (c), (d) and (e) of the current act, relating to the appointment of committee members for clubs. The existing nomination process was recognised under section 30G of the old Gaming Machine Act of 1987, but that effectively was not repeated—it seems by inadvertence—in the 2004 act.

In fact, in the new sections 14 (1) (c), (d) and (e) the commission has been given grounds to refuse a licence, or indeed to cancel a licence—you can also read it in section 55—where the election of the committee can be influenced by someone who is not a voting member, or all the committee members do not have complete control over the election of all of the members of the committee, or each voting member does not have an equal right to nominate or otherwise choose people for the election of the committee.

I think the specific problems there are in the last two dot points. Many of the clubs' current processes for nominations, which are falling due now, do not meet the second and third requirements. The commission has a discretion therefore, on that ground alone, to refuse a gaming machine licence. I understand that this problem has also been raised with the government. The basic problem is that, if this section is just left to stand as it is, it would put bona fide clubs in an intolerable situation, where their compliance is subject to bureaucratic fiat. In essence this means that, for example, the Vikings group would

hold stewardship over its assets by virtue of a policy ruling by the commission that can be changed at any point in future, for whatever reason.

The club industry is concerned that it should not have to rely on the goodwill of an official to maintain control of a club and the dedication of any operating profits to the purpose set out in their articles of association. The circumstances of the club industry are indeed precarious. Uncertainty like this will only serve to add to the concern of the bankers who back these clubs. They might see the prospect of a loss of responsible management in all ACT clubs and therefore call into question the capacity of the industry to, for example, raise loan funds.

It is a highly uncertain requirement; the clubs are very concerned about it. They have asked for the situation to be rectified—basically to amend the legislation as soon as possible to effectively restore the position that applied under the Gaming Machine Act of 1987. They have requested that this amending legislation be introduced, which I am now doing.

Effectively the legislation introduces a new section 14 (2), which ensures that the commission cannot refuse to issue a gaming machine licence under subsection (1) (c), (d) or (e) for reason only that the election of a member of a club's management committee or board has been decided, controlled or influenced by an associated organisation; or that the voting members of the club do not have complete control over the election of all members of the club's committee or board because an associated association has some control; or that each voting member of the club does not have an equal right to elect people, and to nominate or otherwise choose people because an associated association has a right to elect, nominate or otherwise choose people for election.

Most of our clubs in the ACT have been set up for specific purposes. Let us take, for example, the Ainslie Australian Football Club. It has, as do virtually all clubs in the ACT, an associated organisation that has some control. In that case the associated organisation is the Ainslie Football Club, which puts junior and senior teams on the field. I am not sure what their set-up is, but quite often a group might have to elect from within its own body and nominate five out of the eight total directors of the club, or seven out of the 10.

That is fairly common; it is in the constitutions of the clubs. The clubs' articles of association clearly set out the purpose for the clubs, and people go into the clubs on that basis. I am unaware of anyone ever having a problem with the way this situation has operated in the territory for at least three decades. When one looks at the contributions clubs make to the ACT, this is an important matter.

Basically I think the clubs are concerned that some other group, which has no regard for why the club is there in the first place and what the club does for the community, could take it over; be it perhaps that all the drunks in the back bars getting together or, for example, in the case of Ainslie, maybe a soccer club, a basketball club or some other club or organisation stacking the numbers, changing the constitution and basically taking over the club—from what it was there for and what it purports to be there for in the community. The uncertainty causes problems.

In the recent report issued only yesterday and delivered into the Assembly, you can see the significant contributions a lot of the clubs who have these provisions make. I mentioned Ainslie: they made community contributions of $1.594 million in the 2003-04 year. In my own electorate the Belconnen Magpies Sports Club contributed $289,500; and the Belconnen Soccer Club contributed $476,000. The contribution of the Labor Club was $1,109,000. I am not sure what the arrangements of the Southern Cross Club are, but let us go down south to Tuggeranong, where the contribution was $2,633,000. Even the Woden Tradesmen's Club contributed $377,000; and the Yowani Country Club's contribution was $448,345. That is just an example of some of the significant contributions these clubs make to the ACT.

It is a system that has served us well, but it is of concern. What my bill would purport to do, and in fact does, is simply bring back the status quo that has worked. Having said that, there are a number of issues still facing the club industry. There is still the issue of several—and I am pleased to say it is only several—pseudo clubs which were started effectively by individuals, which have absolutely no associated group backing, which is causing concern.

I understand that those are points the government might well be taking up. That is certainly something the opposition will continue to look at. The particular protection I have in here in no way affects the ability of the commission to deal with those problems. Hopefully that is something the government is considering. I commend the bill to the Assembly.

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

Bushfires—coronial inquest

MR SPEAKER: Before you proceed, Mr Stefaniak, I have given lengthy consideration to this motion. It is a motion that has the potential to raise serious sub judice issues here in the Assembly, because of its potential to create debate that would go to issues that would likely find themselves before the court. There has been a large public debate about this outside of the Assembly and people may argue: "Well, there has been a debate outside of the Assembly; would it hurt to have a continuing debate in this place?" I say to you that the court is able to defend itself outside of the Assembly; it may find people in contempt of the rulings of the courts from time to time, but the court is unable to defend itself here. That role falls to me and my implementation of the standing orders.

What I am saying to you in a roundabout way is that I think there is a likelihood that this debate will be a very thin one because it is very hard to avoid questions of sub judice in dealing with this matter. I will err on the side of safety: if members contributing to the debate touch on issues that I feel may find their way to the court, I will prevent the debate from continuing along those lines.

MR STEFANIAK (Ginninderra) (10.42): I move:

> That this Assembly directs the Attorney-General to:

(1) instruct the lawyers representing the Attorney-General and the ACT Government to discontinue the appeal against Coroner Doogan in the ACT Supreme Court; and

(2) affirm his and his Government's confidence in the coronial process.

I did not think I would see the need for the opposition to move a motion such as this. To come to this step is a result of what appears to be an unprecedented and indeed extraordinary decision by the Attorney-General to join in an appeal against the coroner on the grounds of apprehended bias in relation to a coronial process.

I make no comment in relation to the other nine individuals, who have appealed through their legal counsel. That is entirely separate from the matter in relation to the Attorney-General. The Coroners Court in the ACT is set up by an act of parliament—the Coroners Act of 1997 as amended. The coroner is a magistrate who fundamentally has a jurisdiction relating to inquests into deaths, under section 13 of the act; into fires under section 18; and something that has no relevance here: disasters, which she or he can be requested to do by the Attorney-General. I do not think anyone has any comment in relation to the fact that there needs to be a coronial inquest into the matters pertaining to 18 January 2003.

The coroner, of course, has the power to summon witnesses, to summon evidence and to summon documents. Under section 47, the coroner is not bound to observe the rules and procedures in evidence applicable to proceedings before a court of law. The coroner can take evidence on oath or affirmation. The coroner also can require a witness to answer a question put.

Unlike other types of judicial matters, section 55 ensures that the coroner will not include in any finding or report under the act—and that includes an annual report—a comment adverse to a person identified from the finding or report unless that person has, prior to the making of the finding or report, taken all reasonable steps to give that person a copy of that comment and a written notice advising the person within a specified period that the person can make a submission in relation to the proposed comment or give the coroner a statement in relation to it. The coroner has to include those statements in the final report. That is a natural justice provision.

In relation to the coroner, Dr Freckleton, who is a learned expert in coronial inquiries and a barrister in Victoria, was recently on the ABC and expanded further on the role of the coroner and the problems facing this Attorney-General in relation to this very fundamental principle of the separation of powers and the role of the Attorney.

Dr Freckleton stated that the role of the coroner basically lies between the civil and criminal jurisdictions. The coroner's basic role is to find out what brought about the tragedy and what can be done to fix it. The role of the coroner is an ancient lineage; and what occurred in the ACT, in terms of what the Chief Minister and attorney has done in joining the appeal to the Supreme Court is highly unusual. According to the good doctor, it is highly unusual for an action such as this to take place. He says that parties on occasions in coronial inquests have sought to have an inquest interrupted on an appeal to a superior court to get a ruling—for example, whether certain evidence should be taken. The Chief Minister and the Attorney-General has a role, and this is problematic. It has

political resonances. He was also a witness and a government minister and had a role during the fires and accordingly there were very much—

MR SPEAKER: I am not going to allow discussion of that order, because I have taken the view that it is likely that that is a matter that could come to the courts by way of evidence. I would ask you to discontinue that line.

Mr Seselja: I wish to raise a point of order. The sub judice rule talks about a substantial danger of prejudice to judicial proceedings. We are talking about Supreme Court proceedings here. I refer to page 497 of *House of Representatives Practice*, where it says:

> … there is a long line of authority from the courts which indicates that the courts and judges of the courts do not regard themselves as such delicate flowers that they are likely to be prejudiced in their decisions by a debate that goes on in this House.

I would ask you, Mr Speaker, to have regard for that—that it is very unlikely that the Supreme Court is going to be prejudiced by the statements of Mr Stefaniak.

MR STEFANIAK: Further to that point of order, all I am doing is quoting from an interview on the radio, which does not go into any evidence before the coroner; it is generic only.

MR SPEAKER: Mr Stefaniak, going to your last point, quotes on matters in this place can also offend the sub judice rule. I understand what you are saying, Mr Seselja—that the courts are not delicate flowers when it comes to considering these matters—but I am not going to allow a practice in this place where evidence likely to come before the courts is reviewed in this place before proceedings in the courts. It strikes me that that is a bad practice for us to get into; and I would ask Mr Stefaniak not to pursue that course.

MR STEFANIAK: On the point of order, we did that all last year. All I am saying is that the Attorney-General was a witness before the inquiry and gave evidence before the inquiry in his capacity as a government minister. That is an important point of the issue I am raising. I am not going into what evidence he gave; it is nothing to do with that. In fact, we have probably done that in the previous Assembly. I am not going into that; I am going into the general principle of what he has done—nothing more than that. I certainly cannot see how that is possibly sub judice, because I am not in any way going into the actual evidence.

MR SPEAKER: But you would agree, Mr Stefaniak, that that issue is likely to be raised in the courts?

MR STEFANIAK: I do not think we can get around the fact—

MR SPEAKER: Not that it matters whether you agree or not, because this is my decision.

MR STEFANIAK: The big problem in this case, in this matter, is that the attorney is also a witness; he has given evidence. I am not mentioning what the evidence is, but he has a role as Attorney, and that is a fundamental point. Because he is also a witness,

there is what we would say is a conflict of interest situation. I am not going into the evidence; that is a matter for the public record; that has happened elsewhere; that is not of concern to me.

My concern is the role of this attorney and what he has done in terms of this inquest by joining in an appeal that nine other people have taken. They are quite entitled to do so—and I make no comment on that. What I am saying is that there is no precedent to show that this has ever occurred before. We are saying it contravenes the separation of powers; it is an extraordinary step; and hence this motion. I am not concerned in this debate as to what occurred in terms of evidence before the coronial inquest; that is a matter subject to appeal. I am concerned about the principle, the role of the Attorney, what he should or should not have done here and what he has done, which we say is wrong.

Mr SPEAKER: No. I am not going to permit debate that goes to the issue of conflict of interest, because it is almost certainly going to be raised in court.

MR STEFANIAK: With respect, Mr Speaker, all I am saying with regard to a conflict of interest is that we say there is one. I do not go any further than that, and I am not going to get into the substantive debate.

MR SPEAKER: Discontinue the line, Mr Stefaniak, or I will order you to resume your seat.

MR STEFANIAK: Let me go onto something else, about the role of the Attorney, and maybe we can come back to that. No, let me go a little bit further—putting aside what this attorney has or has not done at this stage—into what a coronial inquest is all about, which I think, quite clearly, he does not properly understand.

A coronial inquest is an inquisitorial process; the coroner is an investigator. He or she is not like a judge or a magistrate in a normal case who just sits there, assesses evidence and makes rulings. Judges and magistrates do not, as a matter of course, go to the scene of a crime, but a coroner does. The role of a coroner is something very similar to an investigative magistrate in the continental system—for example, France. Again, I am quoting largely here from Dr Freckleton, so do not take my word for it. He says that coroners do have to give warnings; they have to keep inquests going and they have to keep parties in line. A coronial inquest is a quest for truth. A coronial inquest also has natural justice considerations.

That is why, as I said earlier, if the coroner is going to give any adverse findings, the coroner invariably has to ask the parties to look at that beforehand—before giving submissions. The coroner has to ensure that what those parties have put in writing, for example, is included. That is a natural justice provision. He says that the coroner has to find out who died, when, where and how. Another essential part of the inquest is the power of the coroner to make comments and recommendations.

They can be ignored by governments. The coroner does not jail anyone, fine anyone or anything like that. Recommendations made by coroners can be ignored by governments, but they tend not to be ignored. The recommendations are often powerful and are often not ignored. Coroners have been involved in fires in Australia, as in most jurisdictions. Dr Freckleton said—and I cannot find it—that he was not aware of any comparable

incidents where an Attorney-General has done anything like this Attorney-General has done—intervened in this process.

We come now to the role of the Attorney-General. A former Attorney-General of South Australia, King—Queen's Counsel—stated at a judicial conference in November 1999:

> It is the essentially political character of the office and portfolio of Attorney-General as it is developed in the country, which, paradoxically, makes it necessary to restate and re-emphasise the characteristics of the office which give rise to a distinction in kind between the role within government of the Attorney-General and the roles of other ministers. The distinction essentially is that the Attorney-General as law minister has, beyond the political responsibilities of a ministerial portfolio of the same nature as the responsibility of other ministers, a special responsibility for the rule of law, and the integrity of the legal system which transcends, and may at times be in conflict with, political exigencies. The Attorney-General has a unique role in Government of being the political guardian of the administration of justice. It is the special role of the Attorney-General to be the voice within government and to the public, which articulates, and insists upon observance of the enduring principles of legal justice, and upon respect for the judicial and other legal institutions through which they are applied.

Mr Stanhope: Precisely; that is exactly what I did, Bill.

MR STEFANIAK: You do not understand it, Attorney-General. Secondly, a member of the Attorney's own party in New South Wales, Mr Bob Debus, said very succinctly at the bar dinner in 2001:

> The Attorney-General is able to play a significant role in maintaining public confidence in the integrity of the justice system and in protecting the rule of law. In defending the judiciary, the Attorney-General is not defending the decisions or the reasoning of the judiciary but the institution, its integrity and hence the rule of law.

Mr Stanhope: Hear, hear! I agree absolutely.

MR STEFANIAK: It is a pity you cannot act it out! Thirdly, Sir Anthony Mason, former Chief Justice, in the *Commonwealth Judicial Journal* of 1997, stated:

> It is nevertheless the responsibility of the First Law Officer, a responsibility of the first importance, to uphold the rule of law. It is a responsibility that should not be subordinated to party political considerations when the integrity of judicial institutions is under challenge.

Mr Stanhope: Hear, hear!

MR STEFANIAK: It is good to say, "Hear, hear," Attorney, because it is quite clearly something you do not do yourself. Here we have this attorney making not too bad a comment—it is a pity he cannot follow it—in relation to a debate here, funnily enough in relation to incidents around a coroner's inquiry, in a no confidence motion on the then Attorney-General, Mr Humphries. He stated:

> We come to the nub of the matter here, Mr Speaker … the Attorney must be seen to be acting at arm's length and in a completely and totally disinterested manner. We

> admit that that will be difficult where some of the issues reported to him could well relate to adverse findings against some arm of government, for instance, or perhaps against some government employees — who knows? The point of it is that there must be a well-founded and grounded perception in the community that the Attorney is acting in such a manner; that he is acting at complete arm's length; that he is acting in a totally disinterested way.

I hardly think that is occurring here. Finally, in relation to coronial inquests, Professor Carney, on the role of the Attorney, states—

MR SPEAKER: You will not say that again. You express opinion again in relation to this matter. When you say, "I hardly say that has happened in this case", I think you are referring to the actions of the attorney in respect of the matter. I warn you that I will not tolerate too much more of this.

MR STEFANIAK: All right, Mr Speaker. If I can continue, I will quote Professor Carney on the role of the Attorney. He states:

> There is no precedent of which I am aware where the Attorney-General has been regarded as under a legal duty to intervene in the conduct of a commission of inquiry in circumstances where the commission may be exceeding its terms of reference. Any intervention, certainly of a covert nature, would be viewed as a threat to the independence and integrity of the commission.

He goes on to say:

> In any event, the appropriate parties to challenge any alleged excess of power by a commission of inquiry are those who are directly affected by the inquiry.

In this instance, those are the nine other people who did the appeal.

Mr Stanhope: And the territory.

MR STEFANIAK: Not the territory, Chief Minister.

Mr Stanhope: Yes, the territory.

MR SPEAKER: Order! Mr Stefaniak has the floor.

MR STEFANIAK: I seek an extension of time.

(Extension of time not granted).

Suspension of standing and temporary orders

MR STEFANIAK: I move:

> That so much of the standing and temporary orders be suspended as would prevent Mr Stefaniak having an extension of time.

This is a very important matter. It is a matter that relates to the position of the Attorney-General and whether he has gone beyond or against his role in relation to that; it relates to what appears to be an unprecedented act in Australia in respect of the Attorney-General intervening in these particular proceedings. In so doing, it raises issues in relation to the separation of powers, the proper role of the Attorney-General, the independence of the judiciary and the integrity of the judiciary. It thinks that it is crucially important that this debate continues.

It is of great concern also in the public interest, in that we are not talking about some minor matter; we are talking about a matter that has already cost the ACT government a lot of money, where there are obviously delays as a result; so there are fiscal issues in relation to this as well. By the attorney intervening, there would be further costs incurred. These are fundamental points in respect of our democracy: the separation of powers and the role of the attorney are crucially important. His role should not be just that of a government minister and a minister to look after the government's interests in accordance with the law. That is why this debate is most important.

Mr Stanhope: On a point of order, Mr Speaker: the shadow Attorney-General is debating the substance of the motion; he is not actually debating a suspension of standing orders.

MR SPEAKER: You had better connect this to the need for a suspension of standing orders.

MR STEFANIAK: I think those points, Mr Speaker, relate very much to the need to suspend standing orders. I appreciate your position, your concern to ensure that matters that are sub judice are left out of the debate. We have already had, as a result of that, probably half of the debate interrupted by argument in relation to that. For that reason, I think it is important that I be allowed to finish my speech because we have only got about half of it done simply because half the time has been taken up. That is because it is so important. This is an important issue, it is something that cannot be done in five minutes, and I would request that you allow this matter to continue.

MR SPEAKER: It is not my jurisdiction; it is a matter for the Assembly.

MR SMYTH (Brindabella—Leader of the Opposition) (11.00): Mr Speaker, it is impossible on some occasions to put a full case in 10, 15 or 20 minutes, depending on the time allowed to a speaker to make the points that are involved, and in particularly complex issues, and complex issues of law, it is nigh on impossible.

Ms MacDonald: It is because you lack discipline.

MR SMYTH: Ms MacDonald interjects, "You've got to be more disciplined." Well, sometimes somebody has got to follow through on a case that sets the basis for where the argument is going.

We were told in the lead-up to the election—and I think there was a *Canberra Times* editorial about it on Saturday, 16 October—that people should not be afraid of a majority government, that nothing would change. It has been the tradition of this place for 15

years that, given the small number of members and the inability often to make the case using your full complement of members, members have been extended the courtesy of being allowed to speak somewhat longer to cover the ground that is encompassed in a debate. I guess that would apply particularly to the Greens, who now have only one member on the crossbench, who has to answer all the allegations, all the points, all the interest in a debate. It is impossible for them in a single speech to make all those points. That tradition is about to go out the window, with the government using its majority to put the gag in place.

Mr Stanhope: On a point of order, Mr Speaker: Mr Smyth is not speaking to the suspension of standing orders; he is actually speaking to issues outside here. This has nothing to do with the motion for the suspension of standing orders. This is just a whinge because of the opposition's inadequacy, its lack of impact in the election and the fact that it handed the government a majority.

Mrs Dunne: On the point of order, Mr Speaker: if the Chief Minister wants to debate, he can take his turn in the debate.

MR SPEAKER: That is not a point of order either, Mrs Dunne. Are you finished, Mr Smyth?

MR SMYTH: No, not at all, Mr Speaker. What I was saying is accurate and is relevant.

MR SPEAKER: Please confine your remarks to the need for the suspension of standing orders.

MR SMYTH: It is about the right of a member to get an extension. It is about the tradition of this place. The Chief Minister himself speaks about Westminster and its traditions. We have established traditions. The tradition over the 15 years has been—and you have probably used it as many times as I have, Mr Speaker—that members be extended a courtesy. Firstly, it is a courtesy to all our members to have their say. We are elected to speak on behalf of the people of the ACT. What is now being said is that we can speak for only a limited time. That has never, or very rarely, happened in this place. I think it would be a very, very bad move to establish it as a precedent, but obviously that is the intention of the government.

Secondly, it stifles the debate. The issues that we want to canvass are very, very broad and, collectively, we probably get about an hour and 20 minutes in which to put our case. Sometimes you cannot put a case in an hour and 20 minutes. I think it is an acknowledgment of the size of this place that we have always allowed members to seek an extension to speak longer if necessary to put the full case. Thirdly, we were told that nothing would change under a majority government, yet what we are seeing today is a dramatic change. I would suggest to the Assembly that they do not want to travel this path.

MRS DUNNE (Ginninderra) (11.04): I notice that the government are not going to defend their indefensible position, Mr Speaker. As Mr Seselja said, this essentially is the gag. The government are applying a gag because what they are hearing is inconvenient for them; it is not within the realm of things that they want to discuss and they want to close it down. They are now flexing their muscles, their unionised muscles, to close

down anyone who says anything against their agenda or against any of their members. The Chief Minister might run spurious points of order but he does not have the guts to stand up and defend his attempt to close down Mr Stefaniak's speech, because what he is doing is indefensible.

What this house proposes to do now is to set a new course for itself, as it did yesterday in a number of its debates. It is setting a new course for itself away from the consultative democracy that we have had in this Assembly over the past 15 years and is moving towards: "We are from the Labor Party, we know what is good for you and we will impose it upon you—the Assembly, and you—the community."

The closing down of this debate is another opportunity for the Attorney-General and Chief Minister not to be criticised—to blunt the criticism, to stifle the criticism, to gag the criticism—because it is not convenient. It goes against his image of himself as a man of integrity—and what this man of integrity is proposing to do with his colleagues today is to stifle debate, to close down a legitimate area of inquiry, a legitimate area of debate in this place, because it is inconvenient. It is inconvenient for the Attorney-General to have his actions held up to scrutiny. It is inconvenient for the Attorney-General to be questioned. This man hates to be gainsaid, and he is using the opportunities of the forms of the house to close down debate on anyone who dares to question him, his views or his integrity.

This is what this is all about today. This man with the glass jaw wants to close down debate. This Assembly must oppose this attempt at gagging. I say to those opposite: one day you will need to suffer this, and one day you will find out that what goes around might come around. You can sit there feeling smug, thinking that for four years you can do what you like. But in four years the people of the ACT might have grown very tired of every debate being closed down by a Chief Minister with a glass jaw who cannot bear to be gainsaid on any occasion.

MR QUINLAN (Molonglo—Treasurer and Minister for Economic Development) (11.07): I just want to say a couple of words, Mr Speaker. It is the intention of this government to normalise and to make practice in this place consistent with practice elsewhere. And I have to say that it is not within my concept of democracy that Mrs Dunne has to have the last say on everything that is discussed in this house! What we had in the last Assembly, the Fifth Assembly, was a total abuse of time limits, a total abuse of the need to be economical. We had: "I seek permission to speak again because I now want to argue and debate another point, and then another point—something I didn't think of." We have a conga line of untidy minds across there and the only way to turn this place into a decent Assembly is to apply some discipline, which is overdue. It may be that at a future time there could be some relaxation, but we have already had one question time with a parade of spurious, argumentative points of order. It looks like we have an opposition that intend to walk the same path as they struggled down during the last three years, so there is a need for that discipline, and it shall apply.

DR FOSKEY (Molonglo) (11.08): I wish to speak quite briefly to this, without foreshadowing the way that I am going to vote on the motion. With such a substantive matter before us, and given that some of Mr Stefaniak's time was taken up with judgments by the Speaker about whether or not some of the substance was sub judice, I would support standing orders being dropped this time. I suspect there is not a great deal

of the speech left. It is an important matter and it should be given the attention that it deserves.

Question put:

That **Mr Stefaniak's** motion be agreed to.

The Assembly voted—

Ayes 7		Noes 8	
Mrs Burke	Mr Pratt	Mr Berry	Ms MacDonald
Mrs Dunne	Mr Smyth	Ms Gallagher	Mrs Porter
Dr Foskey	Mr Stefaniak	Mr Gentleman	Mr Quinlan
Mr Mulcahy		Mr Hargreaves	Mr Stanhope

Question so resolved in the negative.

MR SMYTH (Brindabella—Leader of the Opposition) (11.13): Mr Speaker, this action of the government is an unprecedented attack on the coronial process and the courts, and the government should be ashamed of itself. You can already see the misgivings starting to appear in the community, with comments being made by the public both on talkback radio and in the newspapers. One of the letters in the *Canberra Times* says, "Well, it is official. The current fire inquest does have the potential to embarrass the ACT government. Why else would they be toying with the idea of abolishing inquests into fires?"

The Attorney-General's job is to protect and advocate for the courts, not to attack them. What we have is a Chief Minister who, when he was in opposition, used to make it very clear what the role of the Attorney-General was and how it had this higher calling. What we have now is an Attorney-General who has abandoned all the lofty rhetoric of five years ago. Isn't it amazing what a difference five years makes? Or perhaps it is just with the transition from opposition to government that the Attorney-General has abandoned that. But worse than his abandoning that, we have this central problem that the Attorney-General is also a witness and a witness who actually corrected his statement—was it once, twice?—to the coroner. And he appears as a representative for the government.

MR SPEAKER: Order! I order you to discontinue that line, Mr Smyth, because that is a matter that was before the coroner and is likely to be part of the evidence put before the courts.

MR SMYTH: Mr Speaker, I thought the matter before the coroner was the apprehension of bias in her actions, not whether or not the Chief Minister had appeared.

MR SPEAKER: Mr Smyth, as I said at the outset, I am going to err on the side of safety here. If I think that anything raised in this place is likely to form part of evidence that goes before court proceedings, I am going to order members not to continue. Bear in mind that the courts, I expect, will observe similar caution when it comes to using proceedings in this place in evidence that comes before them. So it could be that members' comments in this place could prejudice evidence that might go before the courts as well. I order you to discontinue that line.

MR SMYTH: Mr Speaker, we have not spoken about any of the evidence that may or may not appear before the courts. What we are saying is that the Chief Minister and Attorney-General is also in the position of somebody who has appeared before the coronial inquiry and this obviously has to have an impact on how we behave. If that is sub judice, I think you are wrong, Mr Speaker, and we will move dissent from your ruling.

MR SPEAKER: That is an issue that may well come before the courts.

Dissent from ruling

MR STEFANIAK: With respect, Mr Speaker, I seek leave to dissent from your ruling.

Leave granted.

MR STEFANIAK: I move:

> That the Speaker's ruling be dissented from.

Mr Speaker, one of the fundamental issues in relation to the role of the Attorney-General in this matter is that we say, and other experts say, he has exceeded his role by intervening here, by joining in this appeal. It goes contrary to the role of the Attorney-General as it is generally understood in the Westminster system, and there is no precedent for it. One of the fundamental aspects is that this attorney has, in these proceedings, also been a witness. We are saying that, because he has been a witness and because he is the Attorney-General for the ACT, he has put himself in an untenable situation. He should not have joined the appeal. It is wrong for him to join the appeal.

We are not going into the evidence in terms of what was said at the coronial inquest or what the allegations of bias, which are currently subject to an appeal, are about. I doubt very much if many people here would have any idea what those allegations are. I have had the opportunity of reading a couple of briefs and I make no comment on that. Neither Mr Smyth nor any of the opposition members intend to make comment in relation to that. That is a matter that is rightly before the court. It is a matter that is rightly sub judice.

What we are talking about here, though, is a fundamental principle in relation to the separation of powers. It is a fundamental principle in relation to the role of the attorney that he may not, and cannot be expected to, agree with every decision of a court. Indeed, it is appropriate—and I have got further authorities I can quote on this one—and even quite proper for him to say he does not agree. I was even going to quote something he said a few months ago. However, he is a witness, and we come back to the very point that Mr Smyth was starting to get into in his speech. He is not only the attorney, a government minister; he is actually a witness in these proceedings, and that makes his role doubly difficult. That is a fundamental reason why he should not have joined in this action.

There is a very real conflict of interest. We do not need to go into any of the evidence in relation to that. But it is an absolutely pertinent, relevant fact that in these proceedings

that he and the government have joined, he was a witness. The matter has not been finalised; findings have not been made. They were coronial proceedings, which are a bit different from other proceedings. All of those matters are crucially important to the very question before the Assembly. But in no way are we impinging on the sub judice rule. Mr Seselja has quite eloquently quoted from *House of Representatives Practice* in relation to the sub judice rule and I would refer you to a couple of points there too, Mr Speaker. Page 494 of the fourth edition of *House of Representatives Practice* states:

> The application of the sub judice convention is subject to the discretion of the Chair at all times. The Chair should always have regard to the basic rights and interests of Members in being able to raise and discuss matters of concern in the House. Regard needs to be had to the interests of persons who may be involved in court proceedings and to the separation of responsibilities between the Parliament and the judiciary.

It goes on to talk about what applies as a general rule for a criminal court and a civil court. We are neither here. In fact a coronial court is more akin to a commission. Indeed, page 497 has a number of precedents, including:

> Debate relating to the subject matter of a royal commission has been permitted on the grounds that the commissioner would not be in the least influenced by such remarks ...

This is getting into the subject matter, what was actually said. We are not getting into that. Neither Mr Smyth nor I am getting into that and will not get into that. We are talking about the principles, and the principle that this man, the Attorney-General, was a witness and has now joined this appeal; how that is unprecedented and how it raises, as Dr Freckleton and other commentators have said, a conflict of interest situation incompatible with the role of the attorney.

The Attorney-General has said, publicly, "I didn't need to get involved; other people have," but he joined in anyway. He should not have, and one of the fundamental points here is this conflict of interest caused by the fact that he is a witness. We do not dispute that he should have been a witness; Kate Carnell was a witness in the Bender inquiry. But in no way did the then Attorney-General attempt to do anything in relation to appealing that inquiry or in fact going to court.

At another inquiry, the Quamby inquest, there were allegations of apprehended bias against Magistrate Somes. The government then, and counsel for the government, strenuously argued that that inquest should go ahead. Indeed, in those various inquests detrimental comments were made about the government and government agencies and how they had handled things. That happens in court matters. That happens in coronial inquests. But it is crucially important here, when you look at the peculiar and particular facts of the situation, that this attorney was a witness. Other experts have said that that raises political issues that have to be debated and it raises a conflict of interest. You just cannot avoid it. You cannot pretend it did not happen.

With the greatest respect to you, Mr Speaker, that is not breaching or coming remotely close to the sub judice rule, and the sub judice rule is something that needs to be applied fairly sparingly. There is significant precedent on it, but where we are in this debate today is nowhere near getting into the evidence. If we were trawling through the

evidence that is currently subject to appeal, fine; that would be wrong. But we are not doing that; we are talking about matters of principle in relation to the crucial role of the Attorney-General. He has a role as a politician, but he has another role. Sometimes he needs to go against his own colleagues, because of the nature of his role. It is not a purely political role: he is also the first law officer. The fact that in this instance the attorney is also a witness is crucially important.

This motion is in relation to what he has done as Attorney-General, not as Chief Minister. That might well be very relevant in terms of facts before the coronial inquest—I do not know—or in terms of, say, the appeal to the Supreme Court. What this motion deals with is his role as attorney, and absolutely pertinent to that is the fact that there is no precedent, even if he is a witness, for this happening at all. We say that is even more relevant—and Dr Freckleton and, I think, other people, agree—that there is as much as anything here a conflict of interest. So, Mr Speaker, with respect, we dissent from your ruling and we would ask you to reconsider that; otherwise, it really does completely stymie an important debate in this place.

MR STANHOPE (Ginninderra—Chief Minister, Attorney-General, Minister for Environment and Minister for Arts, Heritage and Indigenous Affairs) (11.24): Mr Speaker, the opposition, in its determination to pursue a perceived short-term political gain—in other words, to get into the gutter—really is distorting quite completely and in a most disingenuous way the sub judice rule and your role.

Page 495 of *House of Representatives Practice*, which I think Mr Seselja relied on in his intervention earlier, contains, of course, more than just the paragraph that Mr Seselja referred to. Why would we be surprised at that? Mr Speaker, *House of Representatives Practice*, on which you relied, and relied quite rightly in the direction you gave, indicates that the basic features of the sub judice rule are that:

> The application of the sub judice convention is subject to the discretion of the Chair at all times.

That is the basis on which it has been applied ever since it was established 160 or 170 years ago in the House of Commons: the chair has the discretion in relation to its application. You have applied your discretion in this case, as you are entitled to do, Mr Speaker. It goes on:

> The Chair—

In applying that discretion—

> should always have regard to the basic rights and interests of Members in being able to raise and discuss matters of concern in the House. Regard needs to be had to the interests of persons who may be involved in court proceedings and to the separation of responsibilities between the Parliament and the judiciary.

House of Representatives Practice goes on:

> As a general rule, matters before the criminal courts should not be referred to from the time a person is charged until a sentence, if any, has been announced; and the

> restrictions should again apply if an appeal is lodged and remain until the appeal is decided.

In relation to civil matters, it states:

> As a general rule, matters before civil courts should not be referred to from the time they are set down for trial or otherwise brought before the court and, similarly, the restriction should again be applied from the time an appeal is lodged and remain until the appeal is decided.

That is the essential thrust or basis of the sub judice rule, as explained and set out in *House of Representatives Practice* and on which you, Mr Speaker, relied in the direction that you gave just recently. That is the situation we have before us. We have a matter before the Coroners Court, a civil matter. That matter, the inquest, is a judicial process. It is before a court and the sub judice rule does apply. An appeal in relation to a certain matter has been launched by nine individuals and by the territory. There is an appeal on foot. It is an appeal to the Supreme Court. All this talk about separation of powers and the extent to which this impinges on that is absolute nonsense. The matter is before the Supreme Court of the Australian Capital Territory. The law is being utilised, as the law is from time to time, to settle issues in dispute. Nine individuals, nine very fine Canberrans, have taken a decision to test a matter of very real concern to them individually. The territory has done the same. The matter has been referred to the Supreme Court.

Mr Stefaniak: And we are saying it is wrong for you to do so. That is getting to sub judice.

Mrs Dunne: On a point of order, Mr Speaker: I seek your ruling because what the Chief Minister is doing is straying into the matter before the court, in a way that relates to nine individuals who are not represented here today. The point has been made time and again, and will be made time and again, that the motion brought by the opposition is about the actions of the Attorney-General. We do not comment or reflect in any way on the actions of the nine individual citizens of the ACT. We comment and reflect only on the actions of the first law officer. The Chief Minister should not be doing that.

MR SPEAKER: Chief Minister, please avoid commenting on the individual cases before the court.

MR STANHOPE: Sure, and the application of the sub judice rule and your right and correct decision in relation to its application are pursuant to the discretion which you have in relation to it. It is relevant, though, in a discussion around this to talk about why we have the sub judice convention. The sub judice convention is parallelled in the courts by laws in relation to contempt. They are essentially a twin set of processes or procedures and contempt laws relate to the need to avoid the public expression of opinions, particularly by persons of influence such as politicians, on matters respectively before courts or perhaps a parliament.

In relation to the sub judice rule or rules in relation to parliamentary privilege, there are certain rules by which parliaments and politicians apply to themselves a discipline in relation to a greater interest: the right, of course, to an expression of an opinion and the need for matters of public importance to be debated are fundamental to the strength of our democracy. But politicians, through the sub judice rule, have imposed on themselves

a discipline, an acknowledgment that there are circumstances, particularly in relation to the rights of people, in matters presented before courts for there not to be an appearance of outward pressure or outside pressure from persons of influence in relation to the conduct of matters before courts.

We saw a very real expression of this just recently in the ICAC in Sydney, where the Premier of New South Wales was called to account by ICAC about a comment that he made on a matter before the ICAC. It is a very real expression of the issue at the nub of this debate, and the direction which the Speaker has given—that a discipline must be imposed both in relation to the conduct of matters within parliament where it goes to a matter before a court and, similarly, in relation to the conduct of legal proceedings where it goes to matters that are covered by the Parliamentary Privileges Act.

That is why the sub judice rule was developed. It is a very real and live rule. It should be respected by people in this place. It needs to be respected in this place. It certainly has not been respected outside this place. We can go to comments made by the Leader of the Opposition just today in which the sub judice rule was completely abandoned. The Leader of the Opposition—

Mr Smyth: What did I say wrong?

MR STANHOPE: You went to matters before the court. You blatantly breached the sub judice rule, blatantly breached the—

Mr Stefaniak: You are the one who is blatantly breaching precedent.

Mrs Dunne: This is a convention of the parliament; it is not a convention for ABC Radio.

MR STANHOPE: You basically breached the rules of contempt and to that extent as a politician—

Mrs Dunne: You cannot breach the sub judice rule on 2CN.

MR SPEAKER: Order!

MR STANHOPE: It was contemptuous. The rule was breached. And members should, out of respect for their position and respect for this place, understand the inappropriateness of commenting on matters before courts. Outside this place it is contemptuous; inside this place it is certainly in breach of the sub judice rule. It has been developed for a good reason. It does impinge on the proper administration of justice for members in this place—and indeed outside this place—to take positions on matters that have not been resolved or concluded in a court.

Just as we expect people outside this place to abide by rules in relation to contempt—as the Premier of New South Wales was required to in relation to the comments he made in relation to the ICAC—we should restrain ourselves in the comments we make outside this place on matters before the court. Inside this place, as the Speaker has indicated, we have a very real responsibility to ensure that we do not transgress, that we do not

trammel, those very same principles by commenting on matters before, at this stage, the Supreme Court.

This is essentially no different from any other appeal or any other matter that the territory in one guise or another engages in from time to time. It is exactly the same, and Mr Stefaniak was getting to this. The Attorney-General, as first law officer, has a range of responsibilities. The position of attorney is interesting. It is slightly different from the role of any other minister. There is, to some extent, a role for an Attorney-General, as first law officer, over and above his role as a politician. I exercise decisions, as does every other attorney. It has always been the case here and it has always been accepted here. When Mr Smyth went to Mr Humphries and asked Mr Humphries to ensure that he was represented in relation to the Defamation Act, it was exactly the same. The position is the same. Was there a conflict of interest there?

Mrs Dunne: On a point of order, Mr Speaker—

Mr Smyth: It was debated in this place. Bill Wood came in and talked about it in this place.

MR SPEAKER: Order! Mrs Dunne has a point of order.

Mrs Dunne: The question before the chair is dissent from your ruling about conflict of interest in a matter before the coroner and before the Supreme Court. Mr Stanhope, in a sort of base, political attempt to smear people, is bringing in extraneous matters that do not relate directly to the questions.

MR SPEAKER: Do not enter into a debate about the issue. I understand the point of order. Resume your seat. Stick to the subject matter of the motion, please, Chief Minister.

MR STANHOPE: Thank you, Mr Speaker, I will. It is the subject matter and it is very pertinent. It is around the various roles that an Attorney-General is required to perform as attorney, where at times the attorney is presented with issues that might, in a political context, be seen as nothing but a political decision. There is a perfect illustration of a situation in which attorneys find themselves repeatedly: the need to make decisions where they must separate their role as attorney or first law officer from their role as a politician or as a member of a particular political party. There is no more stark illustration of the dual role of an attorney as a first law officer than when a member of his own party, of his own government or his own cabinet comes to him and says, "I am embroiled in a legal action."

MR SPEAKER: How is that connected with the dissent motion?

MR STANHOPE: Because we are talking about the issue of the so-called conflict of interest, the dual roles of an attorney.

Mrs Dunne: Save that for the other debate.

MR STANHOPE: I certainly will save it, and I think we will revisit it.

MR SPEAKER: Come back to the dissent motion.

MR STANHOPE: The crux of the matter is that the sub judice rule has a long history. It is well articulated; it is well developed. It requires that, in this place, there be no debate that touches on, goes to or may in any way influence or be seen to influence a matter currently before a court. In the debate today we have seen instances where the rule has been transgressed. You have quite rightly ruled in those instances, where debate was leading to or had led to an offence against the sub judice rule. You ruled quite appropriately on that. The suggestion that your ruling should be dissented from is simply wrong.

MR SESELJA (Molonglo) (11.37): I will not speak for long as I do not want to bore Mr Quinlan, but I just want to speak on a couple of issues.

Mr Quinlan: You'd have to be very, very brief.

MR SESELJA: Okay. The Chief Minister did rightly point out that the sub judice rule is modelled on contempt. I know there has been a lot of public discussion on this matter in probably a lot more detail than has been the case in the chamber today, yet I have heard no moves for anyone to be brought into contempt of the Supreme Court. I think that might give us a bit of a guide as to how the Supreme Court sees this matter—whether they see it as contempt and therefore it might be sub judice.

Most of what has been said here today is on the public record and I fail to see how that could be sub judice. I wanted to restate some of the aspects of the sub judice rule that I have touched on before. The first is that there must be a substantial danger of prejudice to judicial proceedings and the second is that there is no overriding public interest in the matter. On both counts I think the debate should be allowed to continue.

I refer to *House of Representatives Practice*. The Chief Minister pointed out that I had only quoted one paragraph from there. But there are others. On the same page, 497, it states that a private member's matter was allowed to be debated and it was noted that the matter was a civil one and that a jury was not involved. So the chair should be taking that into account. Another factor that the chair must take into account in making a judgment on the application of the sub judice rule is whether the matter is of a criminal or civil nature. The test and the latitude that should be given in the case of a civil matter should be much greater.

In the end, though, it does come back to separation of powers, as Mr Stefaniak rightly raised. The members opposite seem to have a different understanding of the separation of powers. They think that judges should be making the law and we should not be able to talk about it.

Mr Hargreaves: Did you get yours off Joh Bjelke-Petersen?

MR SESELJA: We could talk about Sir Joh and some of the similarities. It does go back to the public interest for us to be able to scrutinise ministers in this place. There needs to be a large degree of latitude. What has been touched on here has not even gone close to the sub judice rule. There needs to be an ability to debate these matters. We have not

spoken about the subject matter. What we are speaking about is that there is a clear conflict of interest here for this Attorney-General in bringing this action. As some of these authorities that I have cited show, it is absolutely imperative that the legislature, with very limited exceptions, is able to debate these matters, and I would put it to you, Mr Speaker, that we have not come close to the sub judice rule in our discussions today.

It is imperative that we are able to debate this. Otherwise, every time there is a tough matter for the government, they could bring a court action and we would be barred from talking about it. That is not the way this works. The sub judice rule is a limited protection for the courts. As was pointed out, it is a self-imposed discipline by the legislature. The legislature decides what is reasonable, but the authorities would say that the discussions today have not gone close to encroaching on the sub judice rule.

MR QUINLAN (Molonglo—Treasurer and Minister for Economic Development) (11.41): Mr Speaker, in relation to the dissent motion, I think your ruling has to be accepted in this place, unless there is anybody here who can categorically predict that conflict of interest will not become a matter before the Supreme Court. If that cannot be shown, obviously the sub judice rule that you have applied ought to be applied.

As to matters of public record, there is much on the public record in relation to this coronial inquest that ought not be there. I would be very concerned if the previous lack of regard for the judicial process shown by the opposition through a series of question times—walking the fine line and making accusations of public statements—were to become the benchmark or the low water mark for this place. Mr Speaker, I commend your ruling to the house.

MRS DUNNE (Ginninderra) (11.43): Mr Speaker, it is a very unusual event—I am sure that it is not necessarily an entirely painless one for you or us—that we are moving dissent from your ruling, but this matter is of paramount interest to the community and the ACT as a whole. Your ruling, Mr Speaker, boils down to the fact that we in this place cannot mention anything that, in your view, may come before the Supreme Court. Mr Quinlan expanded on that and said that we have to maintain your ruling, unless we can categorically predict that the issue of the attorney's conflict of interest will not be raised before the Supreme Court.

I disagree heartily for two reasons, and they go to the heart of why we are moving dissent from your ruling today. The question is not whether a matter may be raised in the Supreme Court. The question is that in discussing it here and then its subsequently being raised in the Supreme Court, the discussion of it here will in some way prejudice the hearings, that the discussion of it here will in some way substantially affect the judgment of the full Supreme Court.

We appointed those people to high positions of trust because of their capacity to act independently. At the same time we appointed people to the Magistrates Court to act as coroners because of their high status in the community and their capacity to act independently. It would be a different matter if this were a jury trial. There would be a different set of rules, a different set of criteria.

Everyone has spoken in hushed tones about the sub judice rule. It has been extemporised and carried out to such an extent that the first law officer has shown a complete lack of

understanding of what the sub judice rule is about when he claimed that, because Mr Smyth canvassed things on 2CN this morning, he was in conflict with the sub judice rule. The sub judice rule applies to us in here. It does not apply to the Leader of the Opposition and 2CN, any more than it applied to the Attorney-General when he spoke about this matter on 2CN some time ago. This debate is about how the rule applies to us.

There has been extensive quotation from *House of Representatives Practice*. If you go quotation shopping through the seven or eight pages on the subject in *House of Representatives Practice* you will find a quotation to suit your argument, but the whole point of this rule is that it is a precautionary measure to ensure that a matter that is or may come before a court will not be substantially prejudiced by what is said in this place. *House of Representatives Practice* and all other practice rely on the fact that when push comes to shove the discretion of the chair is paramount.

Let us look at that. There has been a great deal said on the subject. The doctrine of sub judice has evolved over time. Once upon a time, you could not mention anything that was before a court. As Mr Seselja alluded to, it was very much the practice of the Queensland government in the 1960s and 1970s, if it wanted to stop anyone criticising the government, to bring a matter before a court and shut down debate.

That is not how we operate in the ACT in the 21st century. We have an open and evolving democracy and one of the things that we have to be careful about in the application of the sub judice rule is that we do not impinge upon the privilege of members to discuss an issue in this place. Those things need to be weighed very carefully. We have to remember that the essence of democracy is the right of members to speak about issues and to exercise their role as members.

There have been many issues of privilege brought in this place and others about cases where members' rights are impinged upon. As an issue of the evolution of the sub judice rule, I would refer you to page 225 of *Odgers' Australian Senate Practice*, which says:

> In earlier years there was a tendency for the chair to restrain debate in the Senate on any matter which was before a court. In the 1960s and 1970s, however, there was a change in emphasis and a greater focus on the question of whether there was a danger of prejudice to proceedings.
>
> In 1969, President McMullin ruled:
>
> > As a general rule the Chair will not allow references to matters which are awaiting or under adjudication in the courts if such references may prejudice proceedings.

Importantly, it goes on:

> But it does not necessarily follow that just because a matter is before a court every aspect of it must be sub judice and beyond the limits of permissible debate in Parliament. That would be too restrictive of the rights of Parliament.

Mr Speaker, your ruling today impinges upon the rights of members to discuss in this place matters that are of paramount importance to the community. The community has a very great interest in the proceedings of the coronial inquest and the community has

a very great interest in the fact that the proceedings of the coronial inquest have been interrupted. Mr Speaker, members of the community are very angry about what has happened and we are exercising our legitimate rights as their representatives to examine and pursue those matters. The principal reasons we are here today are to turn around some of that anger and to put a stop to an unprecedented action by an attorney-general.

The community is not angry that individual citizens are out protecting their rights and using the courts, as they are entitled to do, to protect their rights. But the community is angry that the government has exercised its unwarranted power to join in that matter because it is afraid of scrutiny. The community is telling us that it believes that the government is afraid of scrutiny and we are here today trying to scrutinise the government's actions. Your ruling, Mr Speaker, if it is maintained, will mean that you will be joining the government in closing down scrutiny of the Attorney-General.

The Attorney-General is not being scrutinised here as Jon Stanhope, member for Ginninderra. He is being scrutinised and his actions are being scrutinised as the first law officer—a role, as Mr Stefaniak has said, which is beyond the individual, beyond politics, beyond self-interest, beyond conflicts of interest.

If your rulings are maintained, you will be taking a step back to the old days when, if something was before a court, that was it, we were closed down. You will be closing us down. You will be impacting upon the entitlement of members to exercise legitimate rights for which they were elected and for which they maintain privilege in this place. You would not be making a decision that would have an impact only in this place; you would be making a decision that may have an impact in other jurisdictions, in other parliaments, in Australia.

Mr Speaker, it is not a light thing to do, but your ruling, we believe, is wrong, and it must be set aside, because you would be creating a precedent for this parliament whereby people could hide behind the fact that there is a court matter. We need to make the distinction. The sub judice rule is about unreasonable prejudice. It is to protect a proceeding from unreasonable prejudice. Today, you have to take into account who may be prejudiced by this ruling.

Will the three members of the Supreme Court who sit together to look at these matters, which for the most part we are not going into, be seriously prejudiced because the members of the ACT opposition question the motives of the Attorney-General? The real matters at heart before the Supreme Court are the rights of nine individuals. We are not discussing the rights of the nine individuals. Their rights are paramount and sacrosanct and are being upheld by the opposition. We are discussing the role of the Attorney-General. The role of the Attorney-General is a different matter and your decision today, if allowed to stand, will set an unfortunate precedent for many years to come.

Question put:

> That **Mr Stefaniak's** motion be agreed to.

A call of the Assembly having commenced—

MR SPEAKER: Order! Dr Foskey, you have to vote when your name is called.

Dr Foskey: I think that in this instance—

MR SPEAKER: Order! Advice cannot be handed up in the course of a vote.

The Assembly voted—

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

Question so resolved in the negative.

MR SMYTH (Brindabella—Leader of the Opposition): (11.57): Mr Speaker, I guess we have to ask: what does the coroner do? The coroner is there to examine the role of individuals and organisations, including the government, in relation to what happened after a specific event, in this case the bushfires of 18 January 2003.

The coroner's role is inquisitorial, not adversarial, and it should be tough as these are serious issues. With four deaths, 500 homes lost and over a billion dollars worth of damage, it should be very inquisitorial and very tough to make sure that we get to the bottom of the matter.

The coroner will give individuals the right of reply. They see the sections that pertain to them and they normally have the right to write to the coroner and say that something is right or wrong and they agree or disagree. The coroner makes recommendations; the coroner does not lay charges.

Since the start of this process the Stanhope Labor government seems to have been at odds with the coroner. The coroner advised that she wanted additional counsel, that they should separate their lines as to who was counselling whom in case there was a conflict of interest later, as became apparent. Even though the government had been urged on several occasions to provide additional counsel, it chose not to.

The government has dragged its feet on this process since the start and it is continuing to drag its feet to slow down the process and to muddy the waters. You have to ask why. What is the purpose? Why shoot the messenger? The coroner is simply a messenger. The whole purpose of it is to discredit the process so that, no matter what the outcome, the outcome will be tainted and, no matter what the recommendations, the recommendations will be tainted, so that when the coroner delivers something that may or may not be to the disadvantage of the government, the government can simply dismiss it by saying that the whole process has been flawed. That is what we are having here and that is why there are proceedings in the Supreme Court.

This is about the actions of the government. It has been using a delay, delay, delay approach, which is standard operating practice for the government. It is now taking the next line of muddying the waters and shooting the messengers so that whenever we get some sort of result out of the coronial inquest the government can use the line that this whole process has been flawed. Let's face it: that is what it is about. It is about this government protecting itself.

We should go to what the Chief Minister has said about the role of the Attorney-General and whom the Attorney-General is there to protect. I will just use the last of the quote Mr Stefaniak used in question time yesterday. He said that Mr Stanhope stated on 6 May 1999:

> The Attorney-General must on occasions separate himself, in terms of his responsibilities to the law, from his role as a politician.

Mr Stanhope sets the standard here. The politician does not come first: the Attorney-General and his role in relation to the law must come first; so it is a vital and accepted part of his role as Attorney-General. I will read it again:

> The Attorney-General must on occasions separate himself, in terms of his responsibilities to the law, from his role as a politician. It is a vital and accepted part of his role as Attorney-General.

Yesterday, we had confirmation that the Attorney-General does not believe that any longer. In answer to a question from Mr Seselja, Mr Stanhope said:

> The Attorney-General, as the first law officer, has essentially a dual responsibility. The Attorney-General is also a politician. I am a politician; I am a first law officer … I am the Attorney-General, I am a politician and I act in the interests of the government …

I thought the Attorney-General acted in the interests of the people of the ACT, but apparently the role of the Attorney-General now is simply to protect the government. He is seeking now to put his role as a politician first. Perhaps the Chief Minister should take his own advice of 1999 that sometimes, if he is true to the job, he must put himself above his role as a politician.

I would like to quote further from what Mr Stanhope said in that debate on 6 May 1999. It is quite ironic that he would have said what I am about to quote because it is absolutely applicable to his behaviour here and it was not applicable to Mr Humphries when Mr Stanhope first made this comment. The current Chief Minister said:

> We come to the nub of the matter here, Mr Speaker. In doing so, the attorney must be seen to be acting at arm's length and in a completely and totally disinterested manner. We admit that that will be difficult where some of the issues reported to him could well relate to adverse findings against some arm of government, for instance, or perhaps against some government employees—who knows? The point of it is that there must be a well-founded and grounded perception in the community that the attorney is acting in such a manner; that he is acting at complete arm's length; that he is acting in a totally disinterested way.

Mr Speaker, this Chief Minister, this Attorney-General, is not doing that. He is directly involved in these matters. He is not acting at arm's length. He is not acting in a totally disinterested way.

MR SPEAKER: Mr Smyth, you are straying into a dangerous area.

MR SMYTH: We sometimes stray, Mr Speaker; I will take your advice. The current Chief Minister went on to say:

> Not knowing simply does not deflect from the fact that it exhibits, at the best, a perception, if not an actuality, of bias. It exhibits the fact that—

MR SPEAKER: Order! Mr Smyth, we have just had a long debate on this subject.

MR SMYTH: I am quoting from the Assembly of 1999, Mr Speaker.

MR SPEAKER: You can quote as much as you like, Mr Smyth, but the matter has come before the court since then.

MR SMYTH: No, this is about the way the Attorney-General operates and it is about whether the Attorney-General has a bias, not about whether the coroner has a bias.

MR SPEAKER: Continue.

MR SMYTH: The current Chief Minister went on to say:

> Not knowing simply does not deflect from the fact that it exhibits, at the best, a perception, if not an actuality, of bias.

That was the quote. He went on to say:

> It exhibits the fact that here we have an Attorney that acted in a way that was contrary to his responsibilities as Attorney-General and first law officer on all occasions to act as Caesar's wife did.
>
> This is the principle that we have had for a couple of millennia. Caesar's wife was aware of the need to be above reproach, to be beyond suspicion. It is a principle that has been around forever, and it applies particularly to an Attorney-General, to a first law officer, and this Attorney-General has failed.

That is what we, on this side of the house, believe, Mr Speaker. This Attorney-General has failed.

In closing my contribution to this debate—obviously, I cannot go beyond the time limit because of the government gag—I want to quote another supposedly eminent politician. His contribution to a previous debate was:

> … I believe that in this affair, in a matter so grave relating to actions on behalf of government, any action taken by the Attorney would be at absolute best very injudicious and would represent a considerable ineptitude on behalf of the Attorney.

Mr Quinlan, you got it right at the time.

DR FOSKEY (Molonglo) (12.05): I would like to speak to Mr Stefaniak's motion. The Greens have a range of competing concerns about this matter. The coroner's inquiry to this point has taken evidence from a vast array of people and cost the taxpayers millions of dollars, and the public interest in achieving an outcome is enormous.

We will soon be in bushfire season again and it is vital that this season be managed, as far as possible, in a way that will ensure that we do not have a recurrence of the events of summer 2003. The public also has a right and a need to know those factors that contributed to the devastation of south-western Canberra. They need to be confident that the lessons arising from the bushfires have been learnt and that all the necessary steps are being taken to ensure the safety of Canberra residents and homes for the future.

They rightly fear that, if a thorough assessment of the past actions is not undertaken, the lessons of the past may not, in fact, lead to substantive changes in behaviour by the significant players. It is also of vital importance that the decision makers in the lead-up to the fires are held accountable for their actions, not by way of a witch-hunt, but simply as a mechanism for understanding how decisions may need to be different in the future and for determining who should take responsibility for which aspects. There does, of course, also need to be an examination of whether any past poor or negligent performance by a key player or players contributed significantly to the situation that occurred.

Mr Speaker, it is particularly inappropriate for a majority government to hide behind its numbers in the Assembly to prevent proper scrutiny of the events leading to the largest disaster ever faced by Canberra people. It is also inappropriate for it to be party to legal proceedings designed to thwart the public's right to proper consideration of all the issues. If, however, the perception of bias claimed by the appellants and the government in this case leads in the end to recommendations coloured by actual bias on the part of the coroner, the public interest will not necessarily have been served by allowing the coroner to continue in her duties.

There is no value to be placed on the development of recommendations that spring from a mind made up long before the evidence has been heard and considered. In such a circumstance, it may be better to call a halt to proceedings before further moneys are expended on the development of unsound recommendations. However, there are other possibilities open to the government.

Section 55 of the Coroners Act 1997 requires the coroner to give a person about whom he or she has made adverse comment in a report or finding the opportunity to respond prior to release. It would be open at that time for the government either to respond and request that its response be included in the report or to take action directed to the perceived bias to prevent the release of the report.

The advantage of that course of action would be that the government and the other appellants, on sighting the report, might determine that they were needlessly worried about bias and be comfortable that the report should be made public. Alternatively, they might decide that their concerns could be adequately addressed by providing a response

to be included and publicly released along with the coroner's report. Either of these responses would mean a vast saving in witness time and money and would ensure a timelier conclusion of the inquiry and a speedier implementation of the necessary recommendations.

On balance, and given the extraordinary amount of time and effort that have gone into this inquiry to date, we would have preferred to see the government wait until it had seen a copy of the coroner's report before deciding whether it was influenced or potentially influenced by bias. At that point it would still have had the option to take legal action to prevent publication of the report on account of perceived bias or alternatively to provide the coroner with a response to be published along with her findings. We acknowledge, however, that a decision at that point to institute legal proceedings would have left the government open to even stronger claims of a cover-up.

It is important to note here, however, that without knowing the substance of the case in relation to the perception of bias that is to be brought before the Supreme Court, the Assembly as a whole is not in a good position to decide whether, in all the circumstances, such a case should go ahead. Nor can we now ask the government to give us the detailed reasons that we would need to make an informed judgment.

Therefore, I have somewhat reluctantly come to the conclusion that this matter must be left to the determination of the Attorney-General; so I am not supporting the opposition's motion at this time. I would ask, however, that the Attorney-General take the time again to reflect upon whether the interests of the Canberra community may not be better served by the government withdrawing its appeal and simply intervening in the case to advise the court and the other appellants that they have a later opportunity to make their case, when they will be in a far better position to judge whether their perception of bias was warranted.

It is probably opportune at this time to note also the concerns of the legal profession and elsewhere in the community about the system used for allocating magistrates to particular matters. Currently, there is a rotating roster so that when a matter arises the next magistrate on the list is the one to deal with it. It would seem more sensible to select magistrates to hear matters on the basis of their skill and their expertise in the area rather than just because their number came up. That would have the effect of ensuring that coroners have a less steep learning curve when they confront a major inquiry.

It is also worth noting, Mr Speaker, that a discussion which is too big to have here today is soon to take place between the state attorneys-general about how appropriate it is for disasters of this scope and type to come before a magistrate.

MR QUINLAN (Molonglo—Treasurer and Minister for Economic Development) (12.12): I commend Dr Foskey on some of the very relevant points that she made. I will be guided by you, Mr Speaker. I am not all that familiar with the nuances of sub judice; apparently most of us are not.

Mr Smyth made a point about just letting it all happen, as there is a right of reply. We all know that in practical terms ex post disagreement with what the coroner may bring down

is going to sound far less hollow. Imagine the position, firstly, of the individual who initiated this appeal that they genuinely feel that they are not getting a fair shake.

It just seems to me to be crazy for the Leader of the Opposition, or for the opposition as a whole, to put forward the thesis that it is okay for the individuals to appeal against bias because they may be affected, but it is not okay for the Attorney-General to step in and say, "I have a responsibility for the administration of justice, but I will stay out of it because I happen to have been a witness." I have not been a witness before the coronial inquest. I am part of this government and I would expect this government, like the individual, to get a fair shake.

If there is a genuine belief that there is bias and if that has been supported by analysis by an eminent jurist, which it has, why wait and say, "We will still let it all happen. We will watch this very public inquest. We will watch the sensationalisation of some of the evidence. We will witness within this Assembly the very grubby process of trying to break into it."?

I wish that I could believe that the opposition was motivated by the high-minded concerns that they put forward here. But one can tell by the level of questioning that has gone on over the last couple of years, right down questions about where the Chief Minister was on the Friday night, as if that somehow made a difference to the intensity of the firestorm, that it has been a totally political exercise on the part of the opposition.

As I said, I am not that familiar with the detail of how the law operates, so I will try to be careful, but let me say that if the government perceives, if the Attorney-General perceives, that there is at least validity in this appeal and there are individuals also involved, what would be the atmospherics, what would be the conclusion drawn from the government not supporting that appeal?

That would be not to support the rights of those individuals who went to the extent through their legal advisers of having the proceedings examined by an eminent jurist. This appeal is not based on the whim of the individuals and it is not based on the whim of the Attorney-General. This appeal is based on analysis by an eminent jurist. Once that opinion that there may be a case was available to the Attorney-General, who was in the unfortunate position, if you like, of having a number of hats to wear, as we do in a very small jurisdiction, I do not think he had a lot of choice in the action that he would need to take in his role as Attorney-General. I know that it was not taken hastily. It was an action not taken with alacrity; quite the reverse.

Yes, there are political overtones to this matter, but let me ask: over the past 18 months, from where have the political overtones emanated? How straight a bat has the Attorney-General played under questioning? How has he played that down? Last year, he tried week in, week out to stay away from the proceedings of the coronial inquest while that lot over there, Mr Speaker, was trying to beat them up at every opportunity. This is a muckraking political beat-up; that is what it boils down to.

If the opposition is so concerned about justice, why not wait for the full process to occur? I do not know what the outcome of the whole exercise is going to be. From time to time, the law has been described as an ass. I would say that, at least, the law is a lottery. What are you afraid of? Why don't you just let the appeal go through? If there is huge political

mileage to be gained, let all the judgments be made. Let the Supreme Court address the appeal. Should it be dismissed, let the coronial inquest continue and, if you think after all that that you can squeeze political mileage out of the coroner's report, then do so.

Why go before the event? What are you trying to influence by bringing up this matter? Why have you been, for the last year and a half, trying to run through this place, under the protection of this place, a parallel inquest, which is what we have seen? Why not wait? Are you concerned, in fact, that the appeal may be vindicated? If you are concerned about justice and the process, let the entire process take place. Let the Supreme Court make its evaluation—as I said, we do not know what it will be—and then let the coronial inquest continue or be picked up in another way, by another coroner if needs be, but let that happen and then go for it, if you must, if you want to make politics out of it.

I would think that that would be a reasonable thing to do politically when the report comes out. But what is grubby is this continued creation of a parallel inquest, of trying to feed concepts and ideas into the process or into the public mind.

Mr Speaker, I believe that the Attorney-General has acted in the only possible way that he could in the circumstances. As we have said, they have been described as unprecedented and extraordinary. Certainly, those concepts were appreciated before the decision was taken. However, as I said, the appeal is based on analysis by an eminent jurist—not on the whim of the Attorney-General, not on the whim of the solicitors of the nine individuals, but on expert opinion.

MRS DUNNE (Ginninderra) (12.22): Mr Speaker, the question before the Assembly today is that the Attorney-General instruct lawyers representing the Attorney-General and the ACT government to discontinue the appeal against the coroner in the Supreme Court. The question is whether the ACT should be a party to that appeal. Mr Quinlan and Dr Foskey need to listen to this very carefully. The question is not about stopping the action before the Supreme Court. Nothing that we do in this place, nor would we choose to do it if we could, could stop that.

There are nine individual citizens of the ACT who have taken it to the Supreme Court, as is their right. The issue before us today, which Dr Foskey does not seem to have grasped and Mr Quinlan chooses not to grasp because it is inconvenient for him, is whether it is appropriate for the Attorney-General to join in that matter. The question is whether it is appropriate for the Attorney-General to be a party to this matter.

It will be said today—I am sure that it will have to be said ad nauseam—that this is not a matter about the rights of nine citizens. It is a matter about the appropriateness, Dr Foskey, of the Attorney-General's actions.

Mr Speaker, my colleagues have spoken about the role of the Attorney-General and about how the Attorney-General is never above the law, but how he needs, in his role as Attorney-General, to be above politics, above self-interest. The Westminster system is predicated upon that role. It is a role that has evolved over a long time. But the general crux of the matter is simply that the first law officer, the Attorney-General, has to stand above and to the right of his cabinet colleagues when it comes to the administration of the law.

Everyone has been quoting *House of Representatives Practice*, and I shall do so again. It says on page 62:

> As First Law Officer the Attorney-General gives advice on the basis of what is just, and must separate that advice from any political considerations. The principle of this independence of the office of the Attorney-General was the subject of the resignation of Attorney-General Ellicott on 6 September 1977. In his letter of resignation to the Prime Minister he stated:
>
> > It is with great regret that I am forwarding herewith my resignation as Attorney-General. I am doing so because decisions and actions which you and the Cabinet have recently made and taken have impeded and in my opinion have constituted an attempt to direct or control the exercise by me as Attorney-General of my discretion in relation to the criminal proceedings *Sankey v Whitlam and others*.
> >
> > In the circumstances I feel that I have no other course but to resign my office. I regard it as vital to our system of government that the Attorney-General's discretion in criminal matters remains completely independent.

This is not a criminal matter, but the same things apply, and they are completely independent of the political realm as well as the realm of self-interest. *House of Representatives Practice* goes on to say:

> This resignation illustrates one Attorney-General's view of the independent nature of the Office of Attorney-General, notwithstanding the general concept of Cabinet responsibility.

There it is in black and white. That is how the role of the Attorney-General has developed under the Westminster system. This person holds an office and that office, irrespective of the person and the holder, has to be above politics and above self-interest. We contend that in the action that the Attorney-General has taken—not the actions of the individuals; the actions of the individuals are perfectly legitimate—in his unprecedented joining of this matter he has sought to politicise a process which is before the courts. He has taken some political imperatives and perhaps some personal imperatives and made his role as chief law officer, first law officer, subservient to those political and personal ambitions.

This government has been the subject of a great deal of scrutiny as a result of the January 2003 bushfires. There are lots of questions being asked in the community and there are lots of questions on the public record about who knew what; when were people informed; and, chiefly as a result of that, why the ACT community was not warned about the impending fires and the impact that they would have.

I could go through at length a whole chronology of events and say when the Chief Minister and Attorney-General became aware of particular things, when he was told and when his department was advised and therefore, under the Westminster principle, he was advised. We have already had a debate in this place about whether it was appropriate, because "I wasn't told" is not enough of an excuse for shirking responsibility. Under the Westminster principle, if an official who is responsible to the Attorney-General is told, it

is as if he were told, especially in a grave matter. Mr Speaker, there has been no graver matter to confront the people of the ACT than the bushfires of January 2003.

I could recount to you a whole litany of occasions, but I suspect you would rule me out of order, when the Attorney-General was told that things would happen, that he would need to do particular things, that there was a clear and present danger of impact of the fires on the urban edge. All of those things have been canvassed here, in the Coroners Court, in the media and generally, but I will not stray into your ruling.

I will say that these matters are clearly on the record and bring to the mind of the people of the ACT that the Attorney-General, in acting in the way that he has, is, in fact, setting up a scenario whereby, if there is an adverse finding against members of the government, both of the executive and of the bureaucracy, he will be in a situation to sully the reputation of the coroner. That is not what the first law officer should be doing. The first law officer should be upholding—

Mr Corbell: I rise on a point of order, Mr Speaker. Mrs Dunne is imputing that the Attorney-General is seeking to impugn the reputation of the coroner. She made that very clear in her statement. That is, in my view, contrary to the standing orders. Imputing that sort of motive to the Attorney-General is highly disorderly and I ask you to ask her to withdraw that.

Mr Smyth: Under which standing order?

Mr Corbell: Imputing improper motives.

MR SPEAKER: That really is not applying to members of this place, but it is inappropriate to reflect on the judiciary.

MRS DUNNE: I did not.

MR SPEAKER: All I can say is that I will review the *Hansard* and make a decision in respect of it in due course.

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

Sitting suspended from 12.32 to 2.30 pm.

Questions without notice

Health—job cuts

MR SMYTH: Mr Speaker, my question is to the Minister for Health. Last Sunday, the *Canberra Times* reported that you had confirmed that you would be cutting administrative jobs from your department as a result of the centralisation of your department and the re-amalgamation of the hospital.

Will the jobs cut be in the hospital or in the head office? Which areas of your department will you cut? Does your definition of administrative staff include hospital workers

supporting medical staff such as ward clerks, hospital storemen, kitchen workers and hospital cleaners? And will these positions be considered for these job cuts?

MR CORBELL: No, they won't.

MR SMYTH: Minister, how many additional SES officers have joined your department since the introduction of this government's so-called health reforms? Are any of these facing cuts?

MR CORBELL: Mr Speaker, I thank the Leader of the Opposition for the question. I cannot provide him with that figure off the top of my head, but I will take the question on notice and provide the information to the member.

In relation to whether those positions are being considered for redundancy: not at this time. The areas that are being considered are in the finance and human resources areas of different elements of ACT Health.

Alcohol and drug program

MR SESELJA: My question is directed to the Minister for Health. For two years, whistleblowers tried to get you to do something about allegations of serious impropriety in the alcohol and drug program, taking their concerns to the chief executive of your department in 2002.

For two years the government did nothing, until the complainants went to the *Canberra Times* in July. Your government then commissioned a report, which you are refusing to make public. One of the whistleblowers is cited in today's *Canberra Times* as saying that it is a disappointing decision and almost impossible to have faith in the process given that their concerns have been ignored for two years.

Why should these whistleblowers have any faith in the process, given that you ignored their concerns for two years and you are now refusing to release a damning report?

MR CORBELL: Perhaps Mr Seselja did not hear my answer yesterday. The reason I am not willing to make that report public is that it contains information of a private nature that reflects directly on individuals working in the program, and it names them. They are still public servants and they are still entitled to some level of protection in that regard.

That said, the reports—and there are three reports, not one, two of which have been completed and one of which is currently being completed—have been fully acted on by ACT Health. They are receiving close scrutiny from me and from the chief executive of the department. I envisage that two of the three reports will be released. Mr Seselja may or may not be aware that I have already released one of them in the previous Assembly. I anticipate that the third report will be released. But, because of the privacy issues related to the details and actions of individual staff who are directly named in that report, on advice I have decided not to release that other report.

MR SESELJA: Mr Speaker, I have a supplementary question. Minister: what action will be taken against those named?

MR CORBELL: The primary issue deals with the director of the alcohol and drug program, who is now no longer in that position in ACT Health.

Hospital waiting lists

MR STEFANIAK: My question is also to the Minister for Health. Minister, waiting lists under this government have increased from 3,488 to 4,722, and waiting times for elective surgery have got far worse under this government. The Auditor-General has now found, on page 56 of her report, that the number of surgical operations at the Canberra Hospital has declined by 2.9 per cent for the 11 months to June 2004.

Given that waiting lists under this government are blowing out, waiting times have got far worse and the number of surgical operations at the Canberra Hospital, according to the Auditor-General, is falling, will you now admit that your reforms have failed?

MR CORBELL: I thank Mr Stefaniak for the question. As I indicated to members yesterday, we are undertaking more elective surgery now than has ever been undertaken previously. The government has invested an additional $20 million into elective surgery over the next four years. Already in this financial year we have seen an extra 800 Canberrans, above and beyond what was projected, get access to elective surgery as a result of the government's initiatives.

At the same time, we have seen a very significant increase in the number of additions to the lists. Not only has the number of removals from the list—that is, surgery undertaken, amongst other things—been at its highest level ever but also the number of additions to the list is also at its highest level ever. That is putting a strain on the system, and the government is responding to that with an additional $20 million for elective surgery over the next four years. As I indicated yesterday, just in the 2004-05 financial year there will be an additional $1 million to provide another 200 people with access to elective surgery targeted at joint and cataract surgery.

So the government is working hard on this issue. It is a difficult issue to address. Despite the very significant increase in funding, we are still seeing record numbers of people being added to the list, and we will continue to work hard to address those issues.

MR STEFANIAK: Mr Speaker, I have a supplementary question. Minister, why have the government's so-called reforms to the health system made the health system worse?

MR CORBELL: It is a simplistic assertion if you decide that the only way to measure the performance of a health system is through elective surgery activity. That is the assertion in the Liberal Party's comments. That is the assertion in their comments. It has got worse because waiting lists have gone up.

Well, Mr Speaker, there are other measures as well that should be taken account of. For example, I do not hear the Liberal Party mentioning that, in the past six months, the government has reduced access blocking our emergency department down to a level of 20 per cent because or our reforms. We do not hear the Liberal Party talking about that measure because it does not suit them. The level of in-patient activity through an emergency department is at a record high—the busiest ever period.

These are also measures of the performance of the health system and, in particular, our public hospitals. If the opposition wants to engage in a debate about health, I am very open to doing that. But the issue the opposition needs to appreciate is that waiting lists are not the only measure of the effectiveness of the system.

Mr Stefaniak also deals with the issue of the government's reforms. The government's reforms are right now addressing duplication of staffing in the health system. Mr Smyth's comments bring this to attention, of course. We do have duplication because, under them, we did not have one health system; we had three or four. We had Community Care, we had Calvary Public and we had the Canberra Hospital—and then we had the department of health. We had four health systems under the Liberal Party!

For a jurisdiction of 300,000 we had four health systems, each reporting in a different way, each accountable in a different way and none of them working together, none of them coordinated in their activities one little bit. It was an eco-rat response from the Liberal Party, an eco-rat response that divided rather than unified our health system. It was one that forced the system to work against itself, not with each other as a team. And no matter what they say, they know that it created enormous problems. Every other jurisdiction in the country is now moving away—

Members interjecting—

MR SPEAKER: Mr Corbell, resume your seat. I have called for order on more than one occasion—Mr Smyth in particular. I do not want to be drawn into issuing warnings to people, so I will just ask you to remain silent while Mr Corbell deals with the question that has been put to him.

MR CORBELL: Thank you. So, Mr Speaker, every other jurisdiction in the country is moving away from this desegregated model. Every other jurisdiction is now following the ACT lead in creating a unified, single health system. So the reforms are working. I can very proudly report to members that we now have the highest level of coordination that we have ever had in the delivery of health services in the ACT. We have clear lines of responsibility, clear lines of accountability and reporting, and I think that it is an important reform that the government has put in place, a reform that we will continue to implement because it will deliver the results that we need for the Canberra community.

Planning—Griffin legacy plan

MR GENTLEMAN: Can the Minister for Planning advise the Assembly how the Griffin legacy plan supports the work of the ACT Planning Authority for the central area of Canberra?

Mrs Dunne: I take a point of order, Mr Speaker. My understanding is that the Griffin legacy plan is a matter that has been brought forward by the National Capital Authority. I am not quite sure of the head of power under which the ACT Minister for Planning can comment on the Griffin legacy plan.

MR SPEAKER: There is no point of order.

MR CORBELL: Nice try, Mrs Dunne! This morning I was very pleased to join the federal Minister for Territories and Local Government in launching the Griffin legacy project at Parliament House. The Griffin legacy project is an initiative of the National Capital Authority, and the ACT Planning and Land Authority has been closely involved in its development. In fact, we had representation at senior officer level on the reference group that assisted in the development of the strategy.

Mr Gentleman asked me how it complements the work of the ACT government. I am very pleased to advise members that I believe the Griffin legacy project, in a very significant way, represents an unparalleled level of cooperation on the broad vision for the future growth and development of the central area of Canberra—in a way that we have not seen since self-government.

The reason for that is that the Griffin legacy project mirrors very closely the government's own initiatives through the Canberra plan, particularly the spatial plan, but also our master planning exercises on behalf of the city west—work that we are now doing through the Canberra central program on the growth and development of the city.

The Griffin legacy project says that there should be more urban intensification within the central city area. In particular, the Griffin legacy project highlights Constitution Avenue as an opportunity for residential development that could accommodate up to 22,000 additional residents—a very significant redevelopment along the stretch of Constitution Avenue.

Of course, the territory owns significant parcels of land along that corridor and we will be continuing to work very closely with the National Capital Authority as it undertakes further work to implement the Griffin legacy project. The Griffin legacy project says—something that the ACT government has been saying very strongly since its election—that we have to focus development on areas that bring the city to life, with support public transport and with support intensification of uses and activity in the central area. The Griffin legacy has confirmed that the approach taken by the ACT government is, indeed, the approach that is needed for Canberra.

I am very pleased that we set the track through the strategic planning process with the spatial plan. The NCA has now done a very significant body of work incorporating its detail for its area of responsibility around the central national area and we now have an unparalleled opportunity to work cooperatively with the National Capital Authority to implement this vision—a vision which strengthens the city heart, which makes the city the dynamic centre of Canberra, which brings life and activity to the city and which brings economic development and activity into the city.

These are the objectives of the government. I am very proud to say that the Griffin legacy project confirms and supports the initiatives that the ACT government has taken through its economic white paper, through its spatial plan and through the Canberra plan framework overall. It is something on which we will continue to work very closely with the National Capital Authority.

MR GENTLEMAN: I have a supplementary question, Mr Speaker. Can the Minister for Planning advise the Assembly how the Griffin legacy plan ties in with the OECD report?

MR CORBELL: The OECD report—a report whose instigation and finalisation spanned two governments, the previous Liberal government and the first Stanhope government—highlighted very carefully and very prominently that we have as a city an extremely valuable range of assets, but what fails to bring them together and give them coherent mass and give them energy is the lack of a coherent city centre. What the Griffin legacy work does, along with the city west master plan, the spatial plan and the economic white paper, is to identify the opportunities to bring the city to life.

An interesting proposal in the Griffin legacy document, which was first mirrored in the ACT government's city west master plan, is the one for a land bridge over Parkes Way towards East Basin as well as towards Commonwealth Park. That land bridge would unlock enormous development potential to bring activity close to the lake. Our city needs a lakefront address and the Griffin legacy project has confirmed that the work undertaken by the government through the city west master plan is valid and the right way to go. We will work very closely in helping to achieve that vision.

Disability services

DR FOSKEY: Mr Speaker, my question is to the Minister for Disability, Housing and Community Services. Minister, I note that, in your response to the matter of public importance raised yesterday, you said that the government had been informed by and adopted many of the positions of the disability reform legislative working group in relation to the disability commissioner.

I understand that, in addition to the positions of the group listed by the minister as having been adopted by the government, the working group made a number of other recommendations, which include giving the disability commissioner the following functions: one, to review the causes and pattern of complaints and identify ways in which those causes could be removed or minimised; and, two, to review the situation of a person or persons with a disability. Will the minister advise the Assembly whether these recommendations have been accepted by the government and will be included among the functions of the new disability commissioner when established?

MR HARGREAVES: I thank Dr Foskey for her question and her interest. No, I am not going to give you an undertaking that that will be the case, Dr Foskey. However, I will give you an undertaking to assure you that the government's introduction of a disability commissioner is all about advocacy and advising the government on how to do things better for people with a disability and how to have an independent view on it. We have to take the role of the disability commissioner in the context of services provided by the Department of Disability—

Mrs Dunne: Mr Speaker, I wish to raise a point of order. Could we ask the minister to address the chair, in accordance with the standing orders?

MR HARGREAVES: I thank Mrs Dunne for wasting probably 25 seconds of Dr Foskey's answer. Good on you; well done; you are a champ; you are going to go a long way in this game. The significance of the commissioner is about the independence of this commissioner in the advocacy role. It is independent of the Department of Disability, Housing and Community Services and it is independent of the other advocacy

groups. If you have a close look at it, in fact this commissioner is responsible to the Chief Minister. We will have an enormous amount of dialogue with that commissioner; we need the independent advocacy role. No, Dr Foskey, I will not be picking up those particular powers at this point.

However, can I say this also: these commissioner positions—and there are a number of them; the Commissioner for Children and Young People is another—are a response to community concern. We would hope that, as these positions are bedded down, perhaps their powers and authorities might change over time. We will just have to wait and see.

DR FOSKEY: Mr Speaker, I have a supplementary question. Minister, can you provide to the Assembly a list of the functions recommended by the working group for the disability commissioner, and the government's response to each of those recommendations?

MR HARGREAVES: Not at the moment; I do not have them about my person. We will have a look at them and see what the status of the document is. If there is no difficulty in providing them to the Assembly, I will do so with some speed.

Hospital waiting lists

MR MULCAHY: My question is to the Minister for Health. The health department's budget has increased from $431.5 million in 2001-02 to $612.9 million in 2004-05. In relation to waiting lists, I ask the minister to comment on the fact that on page 36 of the Auditor-General's report there is the significant finding that waiting times for elective surgery are generally worse than those in other jurisdictions in Australia, and have become longer in the past two or three years. In light of that increased outlay, could the minister explain why this serious deterioration has been allowed to happen?

MR CORBELL: I thank Mr Mulcahy for his question. The budget for ACT Health is not spent solely on elective surgery. If it were, then, of course, Mr Mulcahy's question might have a point. The fact is that the budget for ACT Health is spent on a broad range of activities. First and foremost, of course, is wages. We, as the government, have to work to make sure that our healthcare professionals—whether they are nursing, medical, specialists or allied health staff—have appropriate rates of pay that keep the territory competitive with their counterparts in other jurisdictions. We now have a very strong wages agreement in place with the ACT nursing work force, recently negotiated by this government without dispute. I also indicate that the government is the first government since self-government to have re-negotiated and issued new VMO contracts without stoppage by VMOs. We have a strong record of managing the industrial framework without unnecessary disruption. Of course, a significant element of the $160 million increase is down to wages growth, something that the previous government simply failed to address, hoping that someone else would come in and pick up the pieces at some later point.

Of course there are other things that the budget has been spent on. For example, Mr Mulcahy fails to mention that, whilst our waiting list figures do not rate as well as we would like them to against national averages, our emergency department response times rate amongst the best in country—in fact, the best in the country. There is a range of measures that can be taken into account when you look at measuring the performance of

the health system overall. The government, I believe, has a strong record in managing the system more effectively, more efficiently and in a more timely way. But that is not to say, by any means, that everything is perfect. There is a range of issues that continues to be addressed by the government and we continue to work hard on those.

It is interesting that the Liberal Party went to the last election with a commitment to spend $110 million on our public health system; but, of course, they were going to spend it on bricks and mortar. They were going to spend it on buildings and equipment—

MR SMYTH: On a point of order, Mr Speaker. If the minister is going to attribute spending to the Liberal Party, he should get the facts right. The facts are that some $25 million of that money—

MR SPEAKER: That is not a point of order.

Members interjecting—

MR SPEAKER: Come to the subject matter of the question.

MR CORBELL: The point I am making is that the contrast between the government's financial management of the health system and the Liberal Party's proposed management of the health system could not be more different, could not be more stark. We have invested money in people, procedures and activity. All Mr Smyth wanted to do was spend money on buildings, bricks and equipment but nothing on staff, nothing on people to work in the hospitals, no-one to deliver the services. I just wonder what the new opposition Treasury spokesperson thinks of a plan that uses capital money to fund the current expenditure and whether he has had a word to his leader about the financial nonsense that that is.

MR MULCAHY: I have a supplementary question. In relation to wages, would the minister inform the House what the redundancy provisions were in those wages agreements and are they relative to any other state or territory in Australia?

MR CORBELL: I am not familiar with the redundancy arrangements for the nurses' agreement. I presume that is the agreement Mr Mulcahy is referring to. If that is the case, I am happy to provide that information to him.

Education—student performance

MS MacDONALD: Mr Speaker, my question, through you, is to the Minister or Education and Training, Ms Gallagher. Minister, can you inform members of the performance of ACT students against national and international benchmarks in numeracy, literacy, maths, science and problem solving?

MS GALLAGHER: I thank Ms MacDonald for her question. It is great to have the opportunity to report to the Assembly on the work of students, teachers and school communities here in the ACT. As members would know, each year the states and territories compile information on how students in each jurisdiction are performing against nationally agreed benchmarks through a standardised assessment program. The assessment program provides the ACT government with an overview of student

performance in literacy and numeracy against national benchmarks. All government and Catholic schools and some independent schools participated in this years ACTAP. Benchmarks describe nationally agreed minimum acceptable standards for aspects of literacy and numeracy. If not achieved, a student will have difficulty making sufficient progress at school.

Mr Speaker, it gives me great pleasure to report to the Assembly that ACT students continue to perform well above national benchmarks in reading, writing and numeracy. In reading, ACT schools continue to maintain the high standards of previous years. There is improvement in year 7 reading results from 91 per cent above benchmark in 2002 and 2003 to 95 per cent above benchmark in 2004. In writing, our students continue to achieve excellent results with results in 2004 similar to those in previous years. In numeracy, ACT students performed at a high level with 95 per cent of year 3 students and 92 per cent of year 5 students above benchmark in 2004. The results for year 7 students against numeracy benchmark is of concern, being lower than those in reading and writing. However, we believe this is a trend nationwide and the ACT results from 2001 to 2004 are amongst the best in the country.

In particular, I would like to draw the attention of the Assembly to some excellent results which can be draw from the ACTAP figures. There is a high proportion of students achieving in the two top profile levels in reading, writing and numeracy in years 3, 5 and 7, and year 9 results were consistent with those in previous years with over 50 per cent of students in the top two profile levels.

Mr Speaker, yesterday the ACT education sector also received more good news through the results compiled as part of the program for international student assessment, or PISA. The PISA program, which began in 2000, focussed on reading and literacy and covered more than 300,000 secondary students in 43 countries. A second round of study focussed on results in mathematics and problem solving. The report released this week focussed on this study. The test results show that some school systems do better than others in providing teenagers—these are 15-year-olds—with skills that they can use for the rest of their lives. Australia did very well in this study, with ACT students in particular returning impressive results.

Mr Speaker, 893 students from the ACT participated in the study, with 601 students from public schools, 201 students from the Catholic system and 91 from independent schools. The schools and students were randomly selected, with the result that a high proportion of public school students from the ACT participated in the study.

In reading literacy only one country achieved significantly better results than Australia, and that was Finland. In scientific literacy only three countries achieved better results than Australia, with Finland, Japan and Korea achieving higher scores across the student sample. In maths only four countries outperformed Australia, with Hong Kong/China, Finland, the Netherlands and South Korea not far ahead of our performance. In problem solving, four countries performed better than Australia, with Korea, Hong Kong/China, Finland and Japan registering better results than Australian students. Australian students also performed well above the OECD average in this area.

These results are a great endorsement of the hardworking teachers and students in all Australian schools. However, special mention must be made of the ACT results.

MS MacDONALD: Mr Speaker, I ask a supplementary question. I thank the minister for that answer. Minister, how did ACT students rate against other Australian jurisdictions in the PISA results for 2003?

MS GALLAGHER: I thank Ms MacDonald for her supplementary question. I am pleased to report that ACT students performed well in all areas of assessment. I think the ACT led the other jurisdictions in three of the four categories. Students from the ACT topped the maths literacy category, achieving significantly higher results than students in NSW, Queensland, Victoria, Tasmania and the Northern Territory. This result was very close to matching the international high point in the category registered by Hong Kong/China. In problem solving, ACT students, along with their counterparts in Western Australia, achieved significantly higher results in this category than all other states except South Australia. They were on par with the international high point—in this case, Korea.

The ACT was joined by Western Australia at the very top of the scientific literacy category, with both of these jurisdictions well ahead of other states and territories. In reading literacy, the ACT was again at the top of this measure, with more students performing in the highest percentile than other jurisdictions. Other states, including Western Australia, South Australia and New South Wales also performed well in this category.

Mr Speaker, these results are from a respected international survey and are an indication that the ACT education sector in travelling extremely well. Compared to other countries and compared to other states and territories, ACT students are leaders in every field. The significance of these results should not be downplayed. They are a significant indication that out schools, teachers and students are engaged in an active learning process which is delivering results. I should say that the performance of the many public school students in the survey is particularly pleasing.

Preparations are now underway for a third round of tests in 2006, this time focussing on science. Through the various assessment processes we are seeing real improvements in some areas, which are consolidating the ACT's leading position.

Work remains to be done on some areas, including indigenous education, with results in year 3 particularly pleasing. But more needs to be done to improve literacy and numeracy strands. The Department of Education and Training is pursuing a number of programs to facilitate this.

The education system in the ACT is supportive and active in ensuring that student literacy and numeracy levels are maintained and that students are able to function in this society once they leave the school setting. The ACT government provides support and resources to schools to address literacy and numeracy issues for students in the lowest 20 per cent of the cohort, not those just below benchmark. The ACT government will continue to address all the issues in education that impact on literacy and numeracy and we will continue to ensure that every student is able to perform to the very best of their ability.

Mr Speaker, the students and teachers of the ACT deserve our special commendation today on these excellent sets of results.

Canberra Hospital—surgery

MRS BURKE: Mr Speaker, my question, through you, is to the Minister for Health, Mr Corbell, and is in relation to the DOSA rate, day of admission surgery. The day of admission surgery rate is generally indicative of surgical efficiency. ACT Health set a target of 90 per cent DOSA in June 2004 to make more beds available. However, the Canberra Hospital achieved a rate of only some 64 per cent for that month. Why did the Canberra Hospital fall so short of meeting its target in June 2004, minister?

MR CORBELL: I thank Mrs Burke for the question. Day of admission surgery rates, or DOSA rates as they are known, relate to when someone is admitted for surgery, in particular the process of trying to ensure that people are admitted on the day of their surgery rather than the night before, in which case they are essentially taking up a bed for no really good reason.

In terms of bed utilisation, it is important that we increase our DOSA rates and it is something that the government is working hard on. It is not an easy process to turn around, but we have seen significant improvement. DOSA rates have gone up significantly since the government first started to address these issues earlier this year.

I do not have the exact figures in front of me, but I can confirm to members that overall there has been an increase in the DOSA rate at the Canberra Hospital of a significant nature since this issue was first raised by the government and ACT Health earlier this year. We will continue to work closely on improving DOSA rates because the more we lift that level, the more beds that frees up to address other issues in the system, in particular people coming through from the emergency department.

DOSA rates are on the up. We would like to see them higher. We will continue to work on them to make sure they are higher. But I can confirm to members that the rates have increased significantly compared to earlier this year.

MRS BURKE: I thank the minister for his response. Minister, you might be able to give us, then, the monthly rate since, say, June 2004.

MR CORBELL: I am happy to take that question on notice, Mr Speaker.

Housing—tenant participation project

MS PORTER: My question is directed to the Minister for Disability, Housing and Community Services. Can the Minister advise the Assembly of recent moves to establish a tenant participation model in the ACT?

MR HARGREAVES: The tenants' union and Shelter (ACT) were commissioned in February 2004 by the ACT government to undertake a 12-month tenant participation program. Tenants expressed a desire to have more of a say in decision making in issues that directly affected them. Over the past six months around 70 tenants have attended

regular meetings to discuss their participation in both policy and operational aspects of the public housing system.

A joint champions group, comprising tenants and Housing ACT staff, has also met regularly over recent months to discuss ways of working together more effectively to achieve better outcomes for tenants and staff.

Tenant participation is absolutely essential to building and maintaining a mutually beneficial and respectful environment between tenant and landlord. If the government and the housing community are to work well together, we are dependent on this invaluable feedback from tenants to make sure that the services we are delivering are on track. This work is being undertaken to achieve a very important overall goal: to establish a culture of tenant participation.

To me, what 'establishing a culture of tenant participation' means, in a practical sense, is a consideration of tenant participation as a regular part of what we do on a daily basis—both from the perspective of tenants and those delivering services to them. The experience of other housing authorities has shown that tenant involvement in the very things that affect their lives is critical to building and maintaining a mutually beneficial and respectful environment between tenant and landlord.

It is also shown that there are significant dividends for both tenants and government in doing so. What are the benefits we anticipate for tenants? They are numerous, including the opportunity to contribute to the decision-making process. It also provides a way in which tenants can build community involvement and assist each other to establish and maintain links within their community.

Through tenant participation, tenants have the opportunity to meet new people and gain new skills. All these things contribute to sustaining tenancies. The establishment of a tenant participation model in the ACT will have equal benefits for government and my department, including improvements in customer services and increased customer satisfaction, and improvements in the way resources—both financial and human—are allocated.

The project will have tangible benefits, but the less tangible are possibly more important. What tenant participation really means is a whole new way of working together, ushering in a whole new way of doing business, where the government is listening to tenants.

The ACT government and the department recognise that tenants can be the best source of advice and information on operational and policy issues.

Mrs Burke: What are you going to do about the existing process? What about what's happening now?

MR HARGREAVES: The last thing they want to do is listen to anything Mrs Burke has to say. As an organisation that delivers services to clients, it is important that the department understands the needs of clients and endeavours to match those services to their needs.

Last month, the ACT government supported a public housing summit to discuss the next steps in establishing a structure to ensure tenant involvement in the things that affect their lives. The outcomes of the summit and the project will be reported to my department with recommendations for tenant participation models, future resourcing needs and proposals for further work in 2005.

I went to the tenant participation summit and was encouraged by the way in which the people who attended—there was a huge number of ordinary people who are occupying public housing stock—just wanted to be involved. Many Housing ACT staff were there in their own time and they wanted to work jointly with the tenants. It is a refreshing change to listening to Mrs Burke's scaremongering, banshee wailing issues.

Education—staff behaviour

MR PRATT: Mr Speaker, my question is to the minister for education. Minister, you will remember that in November last year the chief executive of your department sent out a guideline on inappropriate behaviour by all staff in relation to improper contact with students. In November of this year the chief executive sent out another memo stating:

> Despite this previous advice being provided there have been incidents of inappropriate actions by staff. These inappropriate actions have resulted in the dismissal and resignation of teaching staff.

How many instances of inappropriate action by staff regarding improper contact with students have there been in the past year?

MS GALLAGHER: I am aware of two. If there are more that haven't been brought to my attention, I will report back to the Assembly. I am certainly aware of two.

MR PRATT: Thank you, minister. Minister, how many staff have been dismissed in the past year for improper conduct with students?

MS GALLAGHER: Again, I will report back because I don't want to make any errors here. I am certainly aware of two dismissals this year.

Environment—climate change

MRS DUNNE: Mr Speaker, my question is to the Minister for Environment. Minister, the Premier of New South Wales has released a second report into climate change, which is entitled *Climate change in New South Wales*. In that report he predicts increasing drought, higher temperatures and a shift in rainfall patterns for Canberra and the region. In fact, in releasing the report, the Premier specifically identified south-eastern New South Wales as being subject to dramatic climatic extremes. Given the grim forecast for the diminished rainfall, will the ACT re-evaluate its predictions—as outlined in volume 3 of "Think water, act water"—of increased water resources for the Cotter and Queanbeyan rivers?

MR STANHOPE: Thank you for the question. At this stage we do not propose to adjust the commitments we have made and the targets we have set in relation to "Think water, act water"—the ACT's water strategy. Our determination is to implement the strategy. We are, of course, also mindful of issues in relation to climate change and the potential impact of climate change upon weather patterns within the ACT and our region, and indeed within our catchments.

Much of the work Actew is currently facilitating in relation to a detailed scientific investigation into issues around the potential to secure an additional water supply or water source for the ACT involves an analysis of climate change and the impact of climate change on our water catchment and water yield within the ACT region. It is just one part, one aspect, of the detailed work being done under the leadership of Actew at the moment.

Mrs Dunne: I wish to raise a point of order, Mr Speaker. My question went specifically to the predictions for the yields of the Cotter and Queanbeyan rivers and whether they would have to be downgraded as a result of this report. The minister is not addressing that. He has talked about the targets for "Think water, act water" and then moved on to work being done by Actew. I am talking specifically about things in "Think water, act water" volume 3, which show an increased yield. Do they have to be downgraded as a result of this survey?

MR SPEAKER: Thank you, Chief Minister; come to the subject matter of the question. But I remind you, Mrs Dunne, he has another three minutes to get to the answer.

MR STANHOPE: I think Mrs Dunne is simply not interested in the issue or a discussion around it. At this stage, the government has no intention of downgrading any of its predictions in the water strategy.

MRS DUNNE: Mr Speaker, I have a supplementary question. Has the government, in light of the New South Wales report called *Climate change in New South Wales*, commenced its own risk assessment to develop and implement strategies for water supply to mitigate the impact of climate change?

MR STANHOPE: Not in the light of the New South Wales report, no. We have done it otherwise.

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

Personal explanation

MR SMYTH (Brindabella-Leader of the Opposition): Mr Speaker, I seek leave to make a personal explanation under standing order 46.

Leave granted.

MR SMYTH: Mr Speaker, during question time Mr Corbell purported to be quoting Liberal Party policy where he said we were going to transfer $10 million, which is incorrect

MR SPEAKER: Keep to the personal matter, Mr Smyth.

MR SMYTH: His reflection was that I did not know the difference between capital and recurrent. It is quite clearly set out in policy documents. I will have to brief the minister if he wants me to. It is just a given that he was found to be and censured by the Assembly for being a persistent offender in misleading the Assembly.

MR SPEAKER: Order! That has got nothing to do with standing order 46.

Offensive language

Mrs Dunne: Mr Speaker, I seek your ruling. In concluding his answer to a question, Mr Hargreaves likened Mrs Burke to a banshee and I would seek your ruling whether that is appropriate language for the parliament and whether it should be withdrawn.

MR SPEAKER: I will take a look at *Hansard* at the first opportunity and report back.

Mr Hargreaves: Mr Speaker, if it is of any help, I offer an apology to the banshees.

MR SPEAKER: That will not help me in my deliberations.

Minister for Health—portfolio responsibilities
Ministerial statement

MR CORBELL (Molonglo—Minister for Health and Minister for Planning): I ask for leave of the Assembly to make a ministerial statement concerning my portfolio responsibilities as Minister for Health.

Leave granted.

MR CORBELL: Mr Speaker, the purpose of my statement today is to outline some of the critical areas for development in the health portfolio during this second term of the Stanhope Labor government.

First, may I say how delighted I am to be able to continue as minister in this challenging but rewarding portfolio. Health is undoubtedly one of the most critical areas for any government, and I am aware of my responsibilities to the community. I became minister in December 2002 and since that time it has been my privilege to meet many of the excellent and dedicated health professionals working in our public health system, in the hospitals, in our health centres and out in the community. Whether they are performing intricate surgery or testing if your take-away food is safe to eat, our health professionals are the backbone of a healthy community, and its quality is testament to their skill and professionalism. We will continue, as a Labor government, to provide them with what they need to achieve even better health outcomes for the ACT community.

In this context, Mr Speaker, it makes sense for me to begin with that most critical of health policy issues, our work force. In line with the Health action plan 2002, part B, *Building a sustainable work force*, a major priority and goal of the government is the development of a new, strategic ACT Health work force plan. It is anticipated that the

first draft of this plan will be circulated for comment early next year and will ultimately cover the period until 2008.

This first work force plan will provide a comprehensive outline of the current ACT Health work force and will forecast future work force needs based on trends and strategic information. An aim will be to provide strategies to minimise the anticipated impact of social, technological and demographic changes such as a slowly growing but ageing population and ageing work force and what this means for service delivery in health.

A further priority related to work force is education. A priority and goal for the government's work force strategy is to better align ACT Health with the tertiary sector. Almost all health profession education and training relies on the public health system for clinical training and experience. However, health service providers currently have little or no influence on the decisions made in the education and training sector, which directly impact on the future availability of the health work force. There are a number of projects related to this issue that the government is now implementing to address it. They include:

- first of all, developing an allied health assistants program in the ACT;
- supporting the development of new postgraduate health professional courses at the University of Canberra through a $10 million grant to that institution;
- creating joint appointments between the health and tertiary sector; and
- developing new health professional courses that will also allow the ACT to increase the number of health professions grown within the ACT.

In addition, the ACT has committed $13 million for the development of medical school facilities on the Canberra Hospital campus. These facilities are scheduled to open for the 2006 university year. Unlike the Liberal Party, we did not just talk about it; we did it; and we funded the medical school to make it a reality.

The ACT is also assisting with the salaries and associated costs of the conjoint staff appointed to the medical school. Funding of half a million dollars was provided in 2002-03 and $3.5 million has been provided in 2004-05 and for each year after that.

The government is also focusing on work force redesign; it is a priority for ACT Health. The government has completed legislative changes to support the role of nurse practitioners and will now focus on exploring new job roles to support health professionals into the future.

Allied health assistants are another initiative which we will be exploring to assist the currently overstretched allied health professionals and to help deal with the anticipated work force shortages to come. There will not be enough allied health professionals to deal with the expanding population, so these staff will remove the menial tasks from the professionals, allowing them to perform the more complex procedures and treatments. The allied health assistants are seen as a complement to rather than a replacement for allied health professionals.

Currently there is no established formal training scheme for assistants in the ACT, so ACT Health, in conjunction with Disability ACT, has undertaken a study to determine the need for such a course. The project determined that the ACT did need this type of course and that it should be offered at a certificate IV level. Discussions are now under

way between ACT Health, Disability ACT and the CIT for the establishment of a certificate IV course to start in the second semester of next year. Of course, recruitment remains a key issue in addressing our work force shortages.

We have finalised a labour agreement with the Australian government to streamline the process for recruiting overseas trained health professionals. This is a short-term but important strategy to address any work force shortages until other strategies mature, such as growing additional health care professionals within the ACT. Members will see from this approach that the government has a comprehensive strategy in place to address work force shortages which will be so critical in future years in our health sector.

Another goal for the government is to move the health professional boards under the new Health Professionals Bill 2004. Work is under way to develop the schedules for each health profession to be regulated by the new act. The health professional standards project has been completed and will be publicised widely.

It is important to note that the ACT does not provide undergraduate education for most allied health professionals. These people are educated in other states, and hence it is a major effort to attract them to Canberra from their home states and retain their services.

In the nursing and midwifery work force, it is important to acknowledge that nurses and midwives are integral and pivotal to our health care team. Recruitment and retention are complex issues that present a significant challenge to governments and health care organisations locally, nationally and globally. Attracting and retaining highly skilled and experienced nurses and midwives is one of the Stanhope government's key priorities. We are working collaboratively to adopt a whole-of-ACT approach to implementing a comprehensive range of strategies that support lifelong learning and education, nursing and multi-disciplinary research and supporting nurses and midwives who wish to return to the profession. The introduction of 21 new clinical development nurses will provide clinical support and will continue to develop a highly skilled, knowledgeable, articulate and confident nursing and midwifery work force.

The nursing and midwifery work force in ACT Health continues its upward trend, having increased each year for the past four years. As at June this year, there were 1,807 full-time equivalent nursing staff and midwives employed, increasing from 1,609 full time equivalents as at 30 June 2001. This represents an increase of 198 full-time equivalents or 12.3 per cent. The government has committed to investigating possible options to support staff with carer responsibilities and to research the impact of workload and workplace safety. These all contribute to a healthy work environment and to improving the quality of the work/life balance for staff.

In addition, certification of the proposed ACT public sector nursing staff agreement will see ACT nurses and midwives with some of the best conditions and being among the most highly paid in the country. For example, rates of pay for clinical nurses in the ACT are now comparable with or better than the rates paid in New South Wales. For enrolled nurses, new graduate registered nurses and more highly skilled specialist nurses, the rates of pay are exceptional. For more senior staff, the pay rise under the new agreement will exceed 20 per cent. Registered nurses level 1 who demonstrate high-level nursing skills

may be advanced to level 2 on a personal basis, significantly expanding nurses' opportunities for career advancement.

New on-call allowances are competitive with the rest of the country and support for nurses' continuing professional development is significant, with three days professional development leave and a further two days each year allocated to maintaining and extending nursing skills. The ACT is also a leader in paid parental leave, the flexibility of its personal leave entitlements and its family friendly and work/life balance initiatives. That said, the government will continue to focus on opportunities for assistance in nursing as well. This is an important initiative to address work force shortages over the longer term.

I would now like to move to the area of information management technology. ACT Health is a major user of IT in government, with complex needs and highly sensitive data that needs good management. We are soon to launch the ACT Health IM and IT strategic plan, which will set out information management and information technology directions over the next five years. This strategy addresses the increasing global dependency of health services on IT to support the complexity of service delivery, as well as to meet the demand for improved quality, safety and efficiency in health.

In the ACT, the public health sector has traditionally focused its IT budget on administrative support systems. The most significant project undertaken by ACT Health and its predecessors in the last 10 years has been the community care information system designed to improve the coordination of service delivery across Community Health. However over the same period there has been inadequate corresponding investment in clinical information systems, where the need has been just as great. This has brought about a proliferation of small, non-integrated and poorly supported systems.

By Australian teaching hospital standards, ACT Health is poorly served by its IM and IT systems. To address this, the ACT IM and IT strategic plan is designed to improve the quality of health care by providing information to health care providers to support improved decision making at the point of care.

The main objectives of the strategy are to:

- integrate patient administration systems across ACT Health, including the Canberra Hospital, Community Health and Mental Health;
- establish a common patient identifier across the system;
- continue the development of a comprehensive patient electronic record, including future appointments and treatment plans;
- facilitate better exchange of information between ACT Health and external care providers such as GPs;
- allow GPs to receive discharge referral information and results, as well as providing a mechanism for GPs to book appointments for ACT Health services; and
- implement key clinical systems, including order entry and results reporting, electronic storage and delivery of medical images and electronic medication management.

We will also continue to develop an enterprise reporting architecture to provide management with a coherent and timely view of the organisation's performance.

Now I would like to turn to the issue of strategic planning in clinical services. The government has committed to the establishment of a total of 20 new medical beds for the ACT's public hospital system over the next 18 months. Provisionally, the allocation of these beds involves 12 new beds at Calvary and eight new beds at the Canberra Hospital. Work has commenced to ensure that this target is met and that our election commitment is implemented.

The number of overall beds is only one point for consideration in meeting demand for acute services. There needs to be a concerted consideration of bed equivalents and effective access to available beds. We have commenced the bed access study to identify the barriers to efficient bed utilisation, based on the work undertaken by the National Health Service in the United Kingdom.

Our initiatives to date include:

- the establishment of a rapid response team and an ED rapid assessment team to reduce waiting times in the emergency department;
- opening three additional intensive care beds at the Canberra Hospital;
- opening discharge lounges at the Canberra and Calvary hospitals.

Just in: since August this year, we have seen 400 patients pass through the Canberra Hospital discharge lounge. In early 2004, ACT Health began developing a draft clinical services plan to guide the future delivery of public hospital services and to identify guiding principles for the future delivery of community health services.

The plan was released for public comment in June this year. As a result of that consultation and meetings with representative groups, further development of the plan is now under way and a second draft of the plan will be completed early in the New Year. In order to inform the second draft of the plan, as well as service projections and plans, an acute care forecasting model is now being developed. The model will use data relating to demographics, system capacity, work force and demand factors and will enable scenario or "what if" projections. This will allow us to get better information on the overall capacity our system needs to provide into the future.

The government is also focusing very strongly on service and facility planning. Our projects include contribution to further work on finalising the design of the 60-bed sub-acute facility on the Calvary campus; guidance and support on the completion of the feasibility study for replacement of intensive care facilities at the Calvary Hospital; guidance and support to Mental Health ACT, particularly in the provision of a high-security facility, and a facility to replace the psychiatric services unit at the Canberra Hospital.

The government is also working towards the completion of feasibility studies relating to the establishment of a centre of surgical excellence in the ACT, another key government election commitment. The centre will introduce three technologies to the ACT and will make us the first or the second jurisdiction in the country to have this available. The technologies are: robotic surgery, dedicated laparoscopy theatres and a surgical simulation laboratory.

Dedicated theatres for laparoscopy have been shown to bring about a 60 per cent increase in theatre efficiency and a major increase in day-stay procedure. Laparoscopy surgery has significant benefits for patients, with reduced pain, reduced complications and quicker recovery time,

The dedicated multidisciplinary simulation centre will create, at the Canberra Hospital, a learning facility to help train students, professionals and trainees in surgery, anaesthetics, nursing, physiotherapy and medicine. The skills simulation centre will provide a variety of hands-on, practical training and performance assessment in the promotion of the highest standards of health care. The centre will concentrate on team simulation, where practitioners from several disciplines will be able to demonstrate their abilities to work together in a trauma or acutely ill scenario.

In relation to maternity services, the government will shortly be making its response to the report of the inquiry into ACT maternity services by the Assembly's last Standing Committee on Health. The inquiry covered a range of issues relating to the planning and provision of maternity services, and the government response will comprehensively address its recommendations.

In the area of diabetes, the government is in the final stages of a review of diabetes services, with the purpose of improving the integration of diabetes services in the ACT. The review is seeking to identify ways in which diabetes services can be better integrated in providing services to people with diabetes.

In strengthening primary health care services, we will be focusing strongly on making sure that our primary health care services remain the first point of contact that most people have with the health system and are central to maintaining people's health and providing support for people with chronic and less serious health conditions.

ACT Health is currently developing a primary care strategy to strengthen primary health care services in the ACT, focusing on better care for people with chronic illness, continuity of care between hospital and community-based health services and promoting and maintaining health. In this regard, the government has committed an additional $2 million per annum in its election commitments to improve health care, health promotion and disease prevention activities. We will also continue with the implementation, in partnership with the Canberra After Hours Locum Medical Service, and establishment of new after-hours clinics at the Canberra Hospital and Calvary Hospital. These clinics are expected to open early next year.

Aboriginal and Torres Strait Islander health remains a key priority for the government. The overall health of Aboriginal and Torres Strait Islander people in Australia is significantly worse than that of the general population, and this situation is regrettably similar in the ACT. Over the past three years, the ACT government established a range of initiatives to improve the health of Aboriginal and Torres Strait Island peoples, including a midwifery program to provide support for Aboriginal mothers; a hearing health program to reduce hearing problems arising from ear infections among Aboriginal children; support services for Aboriginal people with mental health and drug and alcohol problems; and support for the relocation of the Winnunga Nimmityjah Aboriginal Health Service to larger premises in the Narrabundah Health Centre. Over the coming term, the

government will continue to develop initiatives in this area. These will include a bush healing centre for people with drug and alcohol problems.

Of course, health and community care services are also key issues for older people in our community. Accommodation services for older people are key and have been the focus of a specific ACT government strategy. But services that can maintain the health and independence of older people in the community are equally important. These services are essential for assisting older people to maintain their quality of life and to continue to make a contribution to our community.

Our initiatives in this regard include improving rehabilitation services and establishing a sub and non-acute facility at the Calvary Hospital; establishing an intermittent care service to provide focused support services for older people who are leaving hospital; expanding the home and community care program; and developing and implementing innovative approaches to respite care.

We have focused very strongly on improving access to dental services. Recurrent funding of an additional $500,000 commenced in the 2003 financial year, and this was used to reduce the waiting time for dental services and has now achieved the best results on record. At the start of July 2003, 2,878 clients were waiting, on average, 22 months for restorative services. At 30 October this year, there were only 1,097 waiting, and the waiting time is down from 22 to 5.5 months—a very considerable decrease and improvement. The government will continue to focus strongly in this area and we have allocated additional funding as part of our election commitments to improve these results further.

Alcohol, tobacco and drugs remain another key area for the government. They are major causes of health and social problems in the ACT and, recognising this, the government released its alcohol, tobacco and drug strategy early this year. We will continue to implement this strategy, with election commitments to fund further implementation, including measures to continue to reduce smoking rates and exposure to tobacco smoke; extra methadone and buprenorphine places to support people to stop using heroin; needle and syringe vending machines to provide greater access to clean injecting equipment and to reduce the spread of blood-borne diseases; enhancing school-based alcohol and drug education programs; and improving our case management for people with complex drug and alcohol problems.

Turning to mental health: this is a critical area for the government. There are several key areas for activity in the coming months. Firstly, the government will be focusing strongly on the provision of men's supported accommodation. We currently have 30 rehabilitation beds at the Brian Hennessy Rehabilitation Centre, 65 places in group homes, 18 places in respite accommodation and 100 outreach places managed by community services organisations. To expand: the government will be increasing expenditure by over 55 per cent to community ambulatory mental health services. The Australian average is 37 per cent, so our funding in the community sector is well above the national average and we are improving the services available.

Despite this, though, there is considerable pressure on inpatient beds. We propose to increase staffing numbers in the community mental health teams to increase the capacity to manage more people in the community and reduce the stress on inpatient facilities.

Other priorities for community and mental health in the coming year include developing specialised individual responses to clients whose needs are associated with personality disorder, in particular borderline personality disorder.

Finally, Mr Speaker, I want to turn to the issue of older persons' mental health. There is an identified gap in services, particularly inpatient services, for older persons with mental illness. We now have in place planning for a 20-bed inpatient facility, and the priority for 2005-06 will be to develop models of care and begin a recruitment strategy to recruit appropriately skilled staff for the new inpatient facility.

In relation to elective surgery and access block, which have been matters of some debate and discussion in the Assembly today, I would like to reiterate: the government is acutely conscious that, while strategic changes set the scene for longer term improvements to our system, the issues of elective surgery and access block affect the community's daily interaction with the system. They are key issues. The advice I have from ACT Health is that the changes the government has recently put in place to ease access block are having an effect. As I indicated, access block is down to 20 per cent, compared to the 35 or 40 per cent it was at previously.

The government has committed to the provision of an additional 20 acute care beds and will be moving to begin to deliver on its promises in relation to that. The new 60-bed sub and non-acute facility to be built at the Calvary Hospital will ensure that acute hospital beds are taken by patients requiring acute care, rather than care better provided in another health care setting.

Mr Speaker, the government has a proven record in delivering additional resources dedicated to improving health services for the people of Canberra. Despite these additional resources, I acknowledge there is still more work to be done to address the emerging demands across the health sector. I am confident the government has a comprehensive strategy in place to address these issues and will continue to work hard to address what is a key issue for the Canberra community.

Minister for Planning—portfolio responsibilities
Ministerial statement

MR CORBELL (Molonglo—Minister for Health and Minister for Planning): I seek leave to make a ministerial statement concerning my portfolio responsibilities as Minister for Planning.

Leave granted.

MR CORBELL: I am pleased to present this ministerial statement outlining the government's priorities in the territory's planning and development, including transport, over the next four years. The key issue for the government is to make the planning system simpler, easier to understand, with greater certainty, consistency and in a contemporary setting.

In its first term, the Stanhope Labor government fundamentally changed the role of planning in the ACT by establishing the ACT Planning and Land Authority, the ACT Planning and Land Council, the Land Development Agency and re-establishing

a position of chief planner. A number of ministerial powers relating to development applications in particular were transferred to the new authority.

We have also established a new strategic direction for the growth and development of the city over the next 30 years, through the Canberra spatial plan, and we have identified opportunities for infill development as part of a contemporary vision for the sustainable development of the city. In doing so, we have also taken steps to protect the garden city character of Canberra by limiting ad hoc development within the suburbs.

As I foreshadowed, Mr Speaker, in my statement of planning intent, which was tabled in the Assembly in December last year, the government will continue the reform agenda by making the development assessment system more efficient and manageable. It will limit the requirement for preliminary assessments in Civic, the town centres and relevant areas of the central national area.

Streamlining the planning system has already started, with a thorough examination of the existing legislation, policies, processes and the structure and format of the territory plan. We will be comparing the ACT system against other jurisdictions in Australia and the National Development Assessment Forum DA model, often known as the DAF.

Other specific initiatives include renewing and expanding the exemption of the change of use charge for targeted redevelopment activity in Civic, town centres and public transport corridors to encourage redevelopment and ensure the revitalisation of these areas. We will move to require all new single-residential dwellings to meet five-star energy efficiency standards and minimum standards for water efficiency, and commercial development has to satisfy a range of sustainability measures.

We will establish new standards for water sensitive urban design in greenfield land development. The government committed, through its election commitments, an additional $50,000 to undertake this work. We will be establishing a Chief Minister's prize for excellence in design, and again our commitment is $50,000 for this purpose. And we will provide $50,000 to the establishment of the Canberra biennale, which will provide a national forum to promote design and architecture in Australia, right here in the nation's capital.

We will be looking at reforming the ACT's planning and land administration system. This has been identified as a priority for Labor and it will be the number one priority for me as planning minister during this term of government. A planning and development system cannot be successful unless it is capable of providing relative certainty, appropriate levels of flexibility, consistency and timeliness. While very significant progress has been made in reforming the overarching governance arrangements for the ACT, it is clear that there is still an unnecessary level of complexity, specificity, duplication and open-endedness in the development assessment process.

In conducting the review, we are taking account of the work that has been undertaken elsewhere in Australia to achieve more efficient, timelier and more user-friendly planning tools. This includes the work of the Development Assessment Forum and its leading practice model for development assessment, which has a particular role to play in our consideration of a single and integrated development process. The government will

not necessarily adopt the package as is; rather, we will always tailor a land act to meet the territory's particular requirements.

The planning and development system will always be a contentious issue, as even the most advanced system will result in processes and decisions that not everyone agrees with. Excerpts from papers across Australia illustrate debates similar to those occurring in Canberra even after there has been significant reform in some of these jurisdictions.

The government has made it clear that we need a clearer and more time-responsive system for the preparation and administration of planning and development policy. We need to simplify and clarify not only the steps involved in the decision-making process but also the system's expectations of proponents and members of the community who participate in it.

The government's view on the key elements of the overarching reform agenda is on the public record. I would like to reiterate for the benefit of members what we expect these to include. They include:

- first of all, the management of the leasehold estate as part of the territory's planning and development regulation system, with an emphasis on compliance with lease conditions, a reduction of speculation in undeveloped land and simplification of the processes for granting and administering leases;
- secondly, streamlining the development assessment system for all activities, including the administrative processes that have evolved around this system and promoting a single integrated development assessment path;
- thirdly, short-term changes to minimise planning system impediments in Civic, town centres and along transport corridors, including the pre-application phase, reducing the repetition in process and examining levels of public notification for those most affected;
- having a clear hierarchy of planning instruments underpinned by a policy-derived territory plan;
- improvements to the environmental impact assessment process; and
- elevating the status and role of strategic planning and policy instruments in guiding decision making and engaging the community early in the planning process.

Finally, we will continue to provide appropriate safeguards for members of the community most directly affected by policy change and development applications, and we will implement the spatial and sustainable transport plans.

Turning to the transport plan: it was introduced by the government to establish targets and strategies to make Canberra less car dependent and reduce our greenhouse gas emissions. The plan establishes targets for the percentage of trips by walking, cycling and public transport.

We will, as a government, continue to implement the plan by boosting the ACTION base budget over the next four years, revising the existing timetable structure by providing more services earlier in the morning and later in the evening on a working day to give choice to commuters. As an example of this, Labor has already introduced the new espresso routes providing direct services between Belconnen and Tuggeranong and Woden. Further through-services will be introduced and commuters can look forward to

faster and more direct services. I can very happily report to members, Mr Speaker, that since the espresso services were introduced we have seen a 5 per cent increase in adult patronage on those routes.

The Stanhope government is committed to an accessible, sustainable and high-quality passenger transport system through our fleet replacement program for ACTION. This is a critical component in assisting ACTION to meet the patronage targets identified in the government's plan. In its first term, the government committed $23.4 million to the purchase of 62 new accessible buses for ACTION's fleet. Through the introduction of these new buses, ACTION's accessible fleet will more than double. This means we will meet the Disability Discrimination Act accessibility targets of 25 per cent of the ACTION fleet by 2007.

Further, ACTION will also have an important role to play in the Stanhope government's commitment to reduce greenhouse gas emissions. Although we have introduced a long-term program to convert the ACTION bus fleet to compressed natural gas fuel, we will continue to investigate alternatives while the replacement program is implemented. As such, ACTION will be trialling alternative fuels such as biodiesel in the ACTION fleet.

The government will also be implementing a new real-time information system. This will be piloted next year, giving customers up-to-date information on when their bus will arrive. This information will be displayed not only at bus stops but in shopping centres and at selected places within entertainment and educational facilities. The information provision has been one of the major factors influencing the perception of bus reliability and it has led to increased usage in other cities where it has been introduced. We anticipate the same here in the ACT.

In addition, the government will be trialling a demand responsive transport system. This will provide an innovative, flexible public transport service for Canberrans. We have been trialling this model in Weston Creek since 2003 through ACTION. This model is based on an outbound area service from the Woden interchange, with a fixed route return. ACTION began the trial as a precursor to its implementation in suitable areas across the network. Planning is well advanced to implement new area/evening services in Belconnen, Tuggeranong and Gungahlin from March next year and these services are to be further enhanced by a telephone booking system for return direction travel.

The government is committed to improving public transport services, including establishing bus lounges for Belconnen and Woden and the development of the Belconnen to Civic busway as the first in a network of high-speed, mass-person transit corridors.

Unlike other major cities, Mr Speaker, a work journey in Canberra by car can be four times quicker than a bus, and parking is readily available and relatively cheap. As Canberra grows, we will see increasing road congestion and reduced car parking in major centres. We need to start right now to provide infrastructure to cope with the future transport demand. If public transport is to be successful it must be competitive in journey time; it must be reliable, frequent and reasonably priced.

High-speed transit corridors such as the Belconnen and Gungahlin to city busways will not only be faster over the equivalent route for the road journey but will be perceived as

being superior as public transport passes stationary car traffic. The Belconnen to Civic busway is the first of such transit corridors and will cut up to 15 minutes off the journey from the west Belconnen suburbs to the city. Within the town centre, the current bus interchange will be demolished and replaced by a series of four bus stations servicing shopping, community, recreational and educational facilities.

To encourage greater use of bicycles, the government will continue with its implementation of its $345,000 commitment to place front-mounted bike racks on trunk route services. This initiative will allow cyclists to cycle to the major interchanges and then transfer onto a bus for the remainder of their journey.

Turing to the spatial plan, Mr Speaker: this is the ACT's key planning document for growth and development over the next 30 years. It will inform all new future planning and infrastructure decisions by the government. A key planning outcome of the spatial plan is the East Basin urban renewal project. The East Basin site is an extension of the Kingston Foreshore, which stretches to the Monaro Highway, adjoining the Jerrabomberra Wetlands. It offers the ACT an opportunity to undertake a world-leading project to demonstrate sustainable development on one of the largest urban renewal sites in Australia.

It is anticipated that this project will be a mixed-use development, building on the existing major facilities in east Fyshwick, including residential development as a logical extension of the Kingston Foreshore, incorporating the Fyshwick markets and the Canberra Institute of Technology campus. Initial planning studies of the site are about to commence, and stakeholder and community consultation will commence next year.

As with the Molonglo Valley, the East Basin represents a unique opportunity for the ACT to demonstrate more sustainable development. With the wetlands as the feature, buildings that are best practice in energy and water efficiency and development being based around public transport, East Basin can provide a residential environment that offers a green lifestyle choice.

The Molonglo Valley area, which is subject to further detailed assessment, has the potential to provide opportunities to undertake more sustainable development due to its proximity to existing services, roads, employment centres and options for water use and reuse. Once our investigations are complete in Molonglo, including community consultation, a variation to the territory plan, an amendment to the national capital plan, a preliminary assessment and an environmental impact statement will be prepared so that the Molonglo Valley plans can be incorporated into these formal planning documents

I'd like now to turn, Mr Speaker, to the issue of Canberra central. In question time today I was talking about the importance of revitalising the city, an issue identified both in the economic white paper and the spatial plan. Canberra central is the first comprehensive program developed to ensure that all the work and endeavour across the ACT government, the development and commercial sectors are coordinated to enhance the look, the feel and the experience of the city centre.

Under the guidance of a task force comprised of the heads of agencies from the ACT government and including the National Capital Authority, seven focus groups have been established. These groups are working simultaneously on the issues of improving access,

the social infrastructure, the cultural expression, investment, environmental and urban quality as well as the maintenance of our public spaces.

Already the work of these groups has had an effect. There is an events program being developed for the city, and Childers Street in City West is to be remodelled to showcase best practice environmental management in the public realm. Clearly, this program will take a long-term view, up to a decade, to establish the city centre as a fitting community symbol for Canberra's centenary in 2013. To realise this important objective, the program requires the continuous support of the government and stakeholders.

I'd now like to turn to the issue of community engagement and consultation. The Canberra community highlighted community consultation during the election as an important issue. During the last term of the government, following a comprehensive review by the National Institute for Governance, I announced a number of initiatives that I believe and the government believes will result in a process that ensures broad community representation and participation in consultation on planning matters. Underpinning the initiatives is the desire to ensure that community consultation on ACT planning activities is appropriate, inclusive and administratively practical.

The key components of the package include:

- an invitation to the existing community councils to participate in engagement in parts of the planning process aligned to those matters through which the advice of the Planning and Land Council is sought—

Mrs Burke: Are you going to pay them?

MR CORBELL: Yes, we are, actually. They include:

- the strengthened role for the Planning and Development Forum and changes to its membership and terms of reference;
- the proposed consultation matrix that is being developed by the ACT Planning and Land Authority, identifying minimum levels of consultation for the different exercises it undertakes.

This approach recognises that the community councils have provided an enduring and extremely valuable community service and have valuable grassroots links that can provide a conduit for engaging with the community on important planning issues. To help achieve this, the government will be contributing up to $40,000 per year to help with the role being asked of the councils by the government.

Further, the Planning and Development Forum will be used to discuss broad strategic planning and development of policy with the authority's key stakeholder interests. The forum consists of representatives from the community councils, the conservation council and ACTCOSS, the Master Builders Association, the HIA and the Property Council, along with the professions—the Royal Australian Institute of Architects, the Planning Institute of Australia and the Landscape Architects Institute.

Mr Speaker, finally, the government will continue its program through the work of the Land Development Agency. The Land Development Agency will:

- implement the development of major greenfields residential sites in Gungahlin through the development of the LDA's own estates and in partnership with the private sector;
- facilitate the continuing development of Civic, Gungahlin and Woden town centres as vibrant, mixed-used centres through further land release;
- continue the delivery of Kingston Foreshore as a key government urban development project. In this financial year the common parkland and eco pond will be completed and work will commence on the largest infrastructure component, the boat harbour;
- continue to support the government in addressing housing affordability by continuing its moderate-income land ballot processes, assist in the provision of accommodation for aged persons by identifying and releasing land for high and low-care aged care accommodation;
- develop and implement a land supply and demand research project in cooperation with key government agencies;
- assist in the delivery of the direct grants program; and
- promote sustainable urban development outcomes by collaborating with industry and developing and promoting best practice.

Mr Speaker, the government has committed to the future growth and development of Canberra. Stanhope Labor have done the planning, and the next four years is about beginning the journey of achieving the aspirations of a sustainable community through an appropriate planning system, an effective public transport system and a strong land release strategy. I commit the government to further efforts in this regard.

Bushfires—coronial inquest

Debate resumed.

MRS DUNNE (Ginninderra) (4.02): Just to conclude in the minute or so that I have: where I was at the moment when we left is that there is a clear perception in the community that the actions of the government, in going and joining the matter in the Supreme Court, seem to be an attempt to sully the reputation of the coroner.

MR SPEAKER: Order! I'm not going to accept that. We've been through this. Again, these are matters that are going to come before the courts, Mrs Dunne, and I ask you again not to impinge upon them.

Mr Seselja: Mr Speaker, just on a point of order: Mrs Dunne only referred to the community perceptions. I don't see how that could in any way go to the court case.

MR SPEAKER: Mrs Dunne referred to a community perception of a government setting out to sully the reputation of the coroner.

Mr Seselja: If that's the community perception, surely it can be discussed in this place. That doesn't affect the court case at all. It certainly is a community perception. I don't see how referring to a community perception could in any way go to the court case. She didn't say there was an actual bias.

MR SPEAKER: The question is that the motion be agreed to.

MR SESELJA (Molonglo) (4.04): Mr Speaker, it is unfortunate that we are here today, nearly two years after the January 2003 bushfires. and the coronial inquest has not yet been completed. I think that some of this responsibility must rest with the government who failed to fully understand the representational needs of various parties. I'd like to just reiterate what the Leader of the Opposition has said: the government, through its actions, has sought to delay and to muddy the waters and to shoot the messenger.

The Chief Minister gave an interesting response yesterday to a question regarding his unprecedented actions. Most of his response was about irrelevant matters, but he did make one pertinent point. The Chief Minister said that it is important that justice not only be done but be seen to be done and that it be seen to be done according to some very strict principles and protocols. Mr Speaker, the perception that justice be done does go to the heart of the matter. That's what Mr Stanhope was speaking about yesterday and that really does go to the heart of the matter. It's a crucial principle that the community must have confidence in the process. Mr Stanhope has been making the point over and over that that is what he is doing.

I would put it to the Assembly, Mr Speaker, that in this circumstance it can't be seen to be done. We have a person, who potentially faces an adverse finding and who is also charged with protecting the legal system, making a decision to seek to have this process, the coronial process, shut down. At least there is a serious perception—any reasonable person would look at that and say, "Hey, this isn't quite right; this person who could have an adverse finding against them is also the person who is meant to be protecting the legal system, is meant to be upholding due process, and is the same person who's now moving to shut down the process." So, I would contend that this does go to the heart of the matter: justice needs to be seen to be done and in this situation it is not. The community needs to have confidence in these processes.

What if Kate Carnell had tried to do the same thing in the same situation? What if Kate Carnell had been Attorney-General at the same time? You would have heard the howls of disapproval from the opposition if Mrs Carnell had tried to shut down the inquest into the death of Katie Bender. The same principle applies here.

Mr Quinlan: What if she wasn't getting a fair hearing?

MR SESELJA: Yes, I know. So I make the point that, if Mrs Carnell had tried to do that, it would rightfully have been condemned. But that's not what happened. Yet that is what's happening here. We have got scrutiny of the government in a coronial inquest and they are seeking to shut it down. It's inappropriate.

There is a pattern developing here, Mr Speaker, of shutting down debate and scrutiny; we have seen a gag order on the length of speeches, committee appointments which ensure the busiest areas of government are scrutinised by members of the government; 6.00 pm adjournments; and now we have the government hiding behind the sub judice rule. We have the Attorney-General now seeking to shut down a coronial inquest. There is a pattern here: they don't want scrutiny; this government does not like scrutiny; it's uncomfortable; it's uncomfortable to have scrutiny; they didn't like the scrutiny of the coronial inquest; now they don't like scrutiny of the Assembly and so it's being shut down. It shouldn't happen.

Mr Speaker, on the day of the fires, the Chief Minister said, "Blame me." Unfortunately, since then he's done nothing but seek to avoid blame and instead blame those who are seeking answers. It is only just that a coronial inquest should ask hard questions. The government does not like these hard questions being asked.

I put it to the Assembly that these questions need to be asked. It is inappropriate to be seeking to shut this down; it is a government that hates scrutiny; they'll shut down debate; they'll shut down inquests when they don't like them. This is inappropriate. A good coronial inquest seeks the truth, and this is a government that can't handle the truth.

MR PRATT (Brindabella) (4.08): Mr Speaker, I rise to support the motion and I want to touch on a couple of points. Firstly, it's important the ACT community learn the lessons, apply those lessons and strive never to repeat the failings of the ACT's emergency management system, which developed over some years and culminated in the worst emergency this community has seen. The coroner's inquest is a vital part of that process. The Chief Minister has been no champion of that process and, in my view, has deliberately moved to exercise control over its very, very important work.

I intend to show the Assembly here today why the Chief Minister, as Chief Minister and attorney, is hindering the inquiry, this coronial inquiry. In the greater community interest, that is, its safety, I will appeal to members of this place to vote for and direct the attorney to cease interfering in this inquiry's urgent and vital work and support its ongoing process.

Mr Speaker, I will argue here today and demonstrate to members that the attorney's actions against the coroner's inquiry represent a strong pattern of unacceptable behaviour seen over almost three years in respect of poor governance of the ACT's emergency management system. I argue that the attorney has consistently failed to inquire into and fix, in good order and in good time, the ACT's emergency management system. He and his ministers know that and they have been frightened of this and other inquiries exposing these weaknesses. They are adverse to scrutiny.

What we know about the attorney is that political power is always more important than rectifying weaknesses in governance. What we have come to see from the attorney is that representing pro-government lobby interests in the community, closing ranks with those lobbies, will happen at any cost, even if that means hiding the facts at the expense of serving the greater good. The ACT community will eventually awake to the fact that it has been let down by the government, and in particular the Chief Minister and attorney, over these failures and is already stirring restlessly over the attempts to nullify the Doogan inquiry for the spurious and pathetic reasons that have been advanced.

Let's have a look at this pattern of behaviour by the Chief Minister in failures to fix, to inquire and to be open about the emergency system and its failures, the pattern of behaviour which is repeated in this unacceptable interference in the coronial inquest and which therefore requires the attorney to cease that interference.

Mr Speaker, coronial inquiries are part of this community's best means of getting to the bottom of emergencies such as this. They may not have the powers of other inquiries but

they are still very, very useful; they are independent; they are required to search for the truth; and, in this case, the Doogan inquiry was always going to have a better fist of getting to the bottom of the weaknesses and the lessons to be learnt in the wake of January 2003 than McLeod or any other inquiry ever did.

Let's have a look at the role that the coronial inquest procedure played after the December 2001 fires. That inquest was long; it was slow—it could have been faster—and, while the report recommendations were far too long in coming out, they were at least far reaching and more useful than any other inquiry at that time.

If we look at the ESB inquiry into the wake of the lessons coming out of December 2001, some of those lessons were useful—some of those recommendations were useful—but the report was not exhaustive, whereas the coronial inquest at that time was a far better and more capable vehicle of identifying and applying the lessons to be learnt.

Surely, on the basis on that experience, it was always going to be necessary that the coronial inquest be mobilised and supported in the wake of January 2003—a properly resourced and a properly supported coronial inquest—and that was what was going to be needed if the community and this representative government were ever going to get to the bottom of the reasons why the greatest emergency seen by Canberra in modern times had occurred. That was a given, I would have thought, Mr Speaker.

Let's have a look at the Chief Minister's failure to take note of the Auditor-General's report into failures of the Emergency Services Bureau in the period leading up to 2002. I'm saying that this demonstrates—

Mr Quinlan: On a point of order, Mr Speaker: are we debating the referral of the appeal or are we debating what the Chief Minister did leading up to the bushfires?

MR SPEAKER: I think the motion goes to the issue of the confidence in the coronial process so it's open for members to refer to the coronial process and the matters which came before it, I would expect.

Mr Quinlan: I submit that Mr Pratt is not going to that at all. He is inventing failure by the Chief Minister or the government in relation to emergency services.

MR PRATT: On the point of order, Mr Speaker—

MR SPEAKER: I think they are debatable issues and it's open to government to counter those arguments. I have been keeping a pretty close eye on this debate and I intend to keep doing so. I don't think you've got a point of order this time.

MR PRATT: Thank you, Mr Speaker. It is important to identify this pattern of behaviour on the part of the attorney. The Auditor-General's inquiry in 2002, released in 2003, dug quite deeply into the workings of the Emergency Services Bureau and indeed it did even more so than what the McLeod inquiry did later. We know that some officers in JACS and ESB objected to the findings of Mr Benton—the Auditor-General's findings—into the Emergency Services Bureau, particularly comments about the dysfunctional nature of the ESB at it was then identified.

It was disappointing at that time that the attorney pooh-poohed the Benton report, and that, I am putting to you, Mr Speaker, is a demonstration of the behaviour of the attorney if he doesn't get his own way when it comes to looking at these things. Well, that's not his first duty. His first duty is to identify what's gone wrong in terms of governance, in terms of safety management and in terms of the good safety and order of the community and sort it out.

We know that the McLeod report was a reasonable report, an adequate report, but it was not deep enough and therefore we had to rely on the Doogan inquiry to much more properly get to the bottom of what had gone wrong in January 2003 and in the years leading up to January 2003. We now know the McLeod report didn't cover all the ground and, as the inquiry unfolds, we see that more ground is being uncovered.

Mr Speaker, I put it to you that the Chief Minister has been a bit of a serial performer in collapsing or pooh-poohing inquiries or independent performers who haven't been able to provide perhaps the line that he would have preferred. Mr Speaker, I put it to you that this Attorney-General is too willing to reject and ridicule the Auditor-General's report into the ESB failings in 2001-2002. The Auditor-General is too willing to ridicule the likes of Chaney and other experienced rural settlers and other experts about the advice and the evidence that they have brought forward in the wake of January 2003.

Ms MacDonald: Mr Speaker, I wish to raise a point of order. As a point of clarification, I think Mr Pratt just referred to the Auditor-General. Was he actually speaking about the Attorney-General?

MR PRATT (Brindabella) (4.18): Thanks for that time being wasted. If she had been listening, Ms MacDonald would have understood that I was talking about the Auditor-General's report of 2003. He is therefore not willing to improve the ACT's preparedness of 2002 in the worse drought year following. The attorney was too willing to—I seek a short extension. (*Extension of time not granted.*)

MRS BURKE (Molonglo) (4.18): Hopefully I can get mine out without being gagged. We have seen a precedent set in this place today which is very sad. In a letter to the *Canberra Times* on 3 October 2004, Heather Ponting of Greenway asked us all not to be victims to the 2003 bushfires. She ends her letter by saying, "Victims do not have any rights of appeal within the ACT legal system." I rise this afternoon because my whole focus is geared around how this is all affecting the community.

Contrary to what Ms McDonald said, there are many letters and articles that appear—and people on radio—from people who are concerned about the stoppage that is happening here. In an article by Lucy Gibson on 31 October, a former resident spoke out publicly for the first time. He said:

> … the stalling of the $6 million coronial inquiry firmed resolve among the bushfire-affected residents.
>
> "This business with the inquiry being derailed is the last straw for many people.
>
> "Jon Stanhope seems more concerned about a handful of senior bureaucrats than for the 500 odd families whose homes and lives have been destroyed."

Obviously Mr Stanhope believes he has risen to such lofty heights that he is now totally above the law and cannot be touched, no matter what. Worse still, for the people now affected by this delay it is just too bad. Those people in our community who are still in limbo, still displaced, still bearing the scars and hurts—physical and otherwise—of the January 2003 bushfires need closure in order to get on with their lives. But here we are now, nearly two years later, with many of those people still not back in their own homes.

The area of particular concern to me in this appalling delay is—and one has to keep asking—why were the proceedings really halted? That is the crucial question in all this debate; this is at the heart of this motion; this is why our motion is calling on the Attorney-General to instruct the lawyers to just get on with it. Of course, only Mr Stanhope truly knows the answer to why this has happened, that is, if he has not forgotten.

Since the bushfires, Mr Stanhope and the government have been most self-congratulatory with regard to the recovery process but much has been done and many people have moved forward. Good things have been achieved, and we have seen a heightened sense of community. Many people have been assisted. I congratulate the government on that, although I did dig my heels in with regard to the closure of the recovery centre. Already, in the last two weeks, four or five people have told me that they really miss it; but what is the point of saying anything, because the government does not want to know. I have tried to direct them to other places, but they say they are not quite the same as the recovery centre. That could be a debate for another day, although it is probably over.

I say that because we have a large number of residents from public housing properties on our rural outskirts who are still living in anguish, waiting for some answers to whether and/or when they can return home. That is a debate for another day. I understand that the Chief Minister may be meeting with the territories minister soon. Obviously, as long as this inquiry is delayed, there will be no closure for the people in our community so badly affected by the events of 18 January 2003.

I ask Mr Stanhope whom he has regard for in this matter: obviously he has little regard for the community at large. Is he then protecting himself or senior bureaucrats—or is it the real reason for us being in this place? Is he standing up for the community? According to letters in the paper, people on the radio and so forth, it appears not.

Our community is very angry about the stalling of this outcome. The government does not like scrutiny, but the community deserves it. No-one would dispute the fact that every person has the right to a defence. What the community does dispute is whether the government has the right to stall a process that severely jeopardises good human beings and prevents them from being able to get on with their lives.

Mr Stanhope should put himself in somebody else's shoes for a day. If he could only do that, he would realise what he is putting these people through. The Liberal opposition's motion today does nothing more than instruct the lawyers representing the Attorney-General and the ACT government to discontinue the appeal against Coroner Doogan in the ACT Supreme Court, and affirm his and his government's confidence in the coronial process. As somebody else said in this place, that brings into question

Mr Stanhope's personal view of Coroner Doogan—it has to. Why would you ask somebody and not respect their position? I am without an answer on this, and Mr Stanhope has not given a significant answer.

Why is the Chief Minister and Attorney-General trying desperately to derail this process? People's lives and ongoing wellbeing depend upon this coronial process being allowed to continue without delay. Affected people will now have to live through another Christmas without the answers they deserve. Is that fair? What about your Human Rights Act, Mr Stanhope? I wonder if that comes in here? Of course, none of that can really be enforced anyway, can it?

I have not yet heard a suitable answer from the Attorney-General. He has not given a good enough reason as to why he thinks he is allowed to overstep the mark with regard to his roles, responsibilities, and separation of powers—that is even if he understands them. As I have been listening to the debate today he, as Chief Minister and Attorney-General, has not only let his government and himself down in showing his absolute ignorance—that has been ably detailed for us by my colleague Mr Stefaniak—but also, more importantly, Mr Stanhope has let down these people in our community. Do you know that the people in our community depend upon us in this place to do the right thing by them and for them? We are put in an extremely important position in this place. We are, at this stage, now playing with people's lives. I will leave you with that thought.

The community depends upon Mr Stanhope as the Chief Minister and defender of the law in this city—the chief law-maker—to make decisions for them, not for his own self-interest or that of bureaucrats. These people simply cannot be defended against the actions of this government. In the same way, Mr Stanhope has made provision for the nine bureaucrats. We do not dispute their getting the help he has given them, but what about the people on the other side of the coin, Mr Stanhope? How have you left them?

I think you are lopsided, are you not? What about people's rights—on both sides? This is not a matter of the rights of people to see justice, it is about the Chief Minister's involvement in this matter and the appropriateness of his actions. One must ask: what about the rights of others now affected by such action? It is alarming and gravely concerning that Mr Stanhope, in his capacity as Chief Minister and Attorney-General—and I would have thought, someone who should have known better—has set such a precedent in this place. I ask: what will become of future adverse findings against this government? Will it continue to meddle and mess with due process to suit its own ends and to protect itself? That remains to be seen.

MR MULCAHY (Molonglo) (4.26): I rise to speak in support of the motion. I think Mrs Burke touched on a very important aspect of this, which relates to the distress that has been caused by the lack of closure in relation to the fires. I share the concern that has been touched on today about the enormous costs associated with this endeavour. I would encourage the government to rethink the direction in which it is heading, because of the impact on our ACT expenditures—and probably better allocations of those funds that are going to be consumed in legal fees.

During the course of the campaign I called on literally hundreds of residents in Duffy and Chapman. I came across many people whose lives had been impacted in various

ways—not just those who had previously lost homes but others who had had various impacts on their lives. Those people are looking for some closure. The exercise being undertaken by the Attorney-General and the ACT government is going to extend that whole process for a considerable period. As Mrs Burke just pointed out, we are already looking at a couple of years, and it looks very much like continuing for quite a deal longer.

Without any exaggeration, even in the very short time I have been in this Assembly, I have had calls from constituents who have asked me to take up this issue. I believe that people do differentiate some of the circumstances surrounding the fires and the progress of the coronial inquiry, which has now been severely delayed, as an immediate response or as an immediate expense to the ACT taxpayer, due to the Attorney-General's actions.

In the *Canberra Times* editorial of 27 October, it said:

> … it is for the ACT Government to explain why it is trying to prevent the facts coming out, some proper explanation of what occurred, of people having some capacity to draw their own conclusions and, perhaps, why yet further delay serves any public interest.

It goes on to say:

> … just whose heart is being protected by the expenditure of some extra two or three million dollars probably—and why?

We do not know what all this is going to cost. The attorney yesterday kindly agreed to provide additional information but alluded to the fact that it was probably at least $5 million or $6 six million dollars already. I think it is reasonable, at this point, to assume that there is not going to be much change out of as much as $10 million by the time this whole exercise runs its course.

I think that, in respect of where those funds could go in Canberra, if that $10 million were sent into those areas of need and priority, we could end up with another 100 police; we could have four new operating theatres in our hospital system for less than the $10 million; we could have an upgrade of equipment, surgical implants and prosthetics—all the things we promised to do as part of our election program. That $10 million will disappear into legal costs and those legal costs will deliver little benefit to the territory's future.

I will address later on today, if I have the opportunity, the issues of capital and recurrent expenditure, because I have examined those matters in some detail. They were adequately addressed in our analysis and have not been adequately rejected at any point along the way. We would welcome that discussion at another time. Despite the debate that has occurred, I believe the community has divided issues over the management of the fires and may be willing to give the benefit of the doubt in certain situations.

I think the intervention in relation to the inquiry has raised more questions than it has answered. In fairness, I think members on all sides have worked to try to help victims. In my case, prior to my election, within two hours of being advised of what was happening—I was in Sydney—I instructed an appeal to be launched, which raised over a quarter of a million dollars from one sector of industry. I know others across both sides

of the chamber have done things in that regard, but the actions we are seeing in respect of the delay of this inquiry and the decision by the Attorney-General and the ACT government will not assist those people and will not assist the Canberra community.

There have been a number of references today to the House of Representatives guide, *Odgers' Australian Senate Practice* and others, but I think we should reflect on what Chief Justice Sir Anthony Mason said when he remarked that it is a responsibility of the first law officer, a responsibility of the first importance, to uphold the rule of law. He said that it is a responsibility that should not be subordinated to party political considerations when the integrity of judicial institutions is under challenge.

MR STANHOPE (Ginninderra—Chief Minister, Attorney-General, Minister for Environment and Minister for Arts, Heritage and Indigenous Affairs) (4.31): This is a nonsense motion. It is a motion that has been moved for the short-term political purposes of the Liberal Party, a very seriously and severely discredited party within the ACT community at the moment.

It is interesting, I think, for us to reflect that, in the first sitting week of a new parliament following a major defeat by the Liberal Party at the election, with this new opportunity and with new challenges and new horizons facing them, the first serious debate they initiate is one which goes back to an issue that has been debated ad nauseam in this place—an issue which is being dealt with by the courts of the Australian Capital Territory. They are in fact backward-looking, a party that has made absolutely no effort or attempt to analyse why they were so sorely treated by the people of Canberra in the election on 16 October.

That is something that I think is worth reflecting on. It surprises me. The Liberal Party, coming into a new four-year term as a seriously diminished party, has the only Leader of the Opposition in 15 years of self-government who was regarded by and treated as so inadequate by the people of Canberra that they handed majority government to his opponent.

Mr Smyth: Mr Speaker, I rise on a point of order: relevance.

MR SPEAKER: Come back to the point of the motion.

MR STANHOPE: I will, Mr Speaker. This is the first Leader of the Opposition not to be able to resist passing majority government to his opponent.

Mr Smyth: Mr Speaker, on a point of order: the Chief Minister, as always, continues to ignore your direction; he should be brought to heel.

MR SPEAKER: Yes. Come back to the point of the motion.

MR STANHOPE: I will; but it is worth pondering those issues; and we will indeed. In relation to the decision I took on behalf of the government, which is the subject of the motion today, the coronial process has been active for a significant time, and it has some little time to run. It had reached a stage when all the individuals represented before it—namely nine highly respected members of the Canberra community—had reached a position in relation to certain aspects of conduct and certain incidents that occurred.

Each of these has been detailed in the submissions made to the coroner at the time the application was made to her that she might consider disqualifying herself. Those submissions are, of course, on the public record, and I commend them to the members of the opposition, to all members of this place, and to all those within the community who are interested in or concerned about the detail and the facts in relation to the debate we are having, because there has not been much in the way of facts delivered in the debate by the opposition today. I commend the document containing the submissions made to the coroner to all members of this Assembly. It is a public document that sets out the detail of the issues that essentially are now to be put to the Supreme Court.

The submissions have been revised and amended, as one would expect, by the senior counsel who was engaged, and have now been lodged. That will, in due course, become a public document. The shadow attorney indicated that he had read those submissions. He would understand, as a practising lawyer of some experience, the weight required to be attached to the issues raised in those submissions and the extent to which, if those matters are proved, they go to the administration of justice.

Members would be aware that, on the basis of those submissions, the parties—that is the nine individuals, joined by the territory—after the coroner had taken a decision not to disqualify herself, went to Justice Gray in the initial stage, sought an adjournment and then went to Justice Crispin in the Supreme Court with a view to pursuing the same issue: a judgment in relation to whether or not concerns raised by the nine individuals and the territory were well founded. Justice Crispin said, "Yes, they are well founded. These are serious matters that are deserving of the attention of a full bench of the Supreme Court."

We are not talking here about frivolous matters. This is not, as has been portrayed here today by members of the opposition, my being frivolous and suggesting that there are no weighty matters in relation to the administration of the law to be tested. Justice Crispin believed and judged that serious issues had been raised by the nine people and the territory, represented before this serious inquiry, which must be resolved. Justice Crispin felt the issues to be of such an order that a full bench of the Supreme Court was required.

That is the nature of the issues put to me as Attorney-General. Those were the serious issues on which I took advice; the basis on which I felt I had no option but to do my duty as attorney and accept the advice; to seek to have the matters tested and to ensure, through that process, that the integrity of the administration of justice in the ACT was in no way impugned or damaged.

It is essentially an appeal: it is an appeal from matters put to the coroner in relation to the conduct of the inquest, which she did not accept. Those who put those matters felt they were of such an order that that decision must be tested. What do we do when that happens in the Magistrates Court? We appeal to the Supreme Court. What do we do when a matter tested in the Supreme Court is dealt with in a way that leaves us concerned at the outcome? We test it in the Federal Court. What do we do if we remain concerned? We test it in the High Court. A matter dealt with in a lower court, the Coroners Court, is to be tested in the Supreme Court by a full bench. The matter is to be tested in the Supreme Court, whether or not the ACT government—the territory—is

represented. Nine individuals, nine good Canberrans, including volunteer firefighters—people who risked their lives for us—

MR SPEAKER: You should not go to the merits of individuals, Mr Stanhope.

MR STANHOPE: Nine people wishing to protect their interests are seeking to have a full bench of the Supreme Court make a judgment on a matter which each of them as individuals believes is important to their reputations and their futures. Who would deny them that, other than the Liberal Party of the Australian Capital Territory?

It is interesting that at the moment we have a similar issue running in parallel, namely a matter being pursued by David Eastman, using exactly the same principle. A convicted murderer, a person who murdered our assistant police commissioner, is pursuing a matter through our courts in relation to his interests. I will defend David Eastman, convicted murderer, to the death in his right to do that. I will defend the rights of a convicted murderer to use the law to protect his or her interests. If I will protect and defend the rights of a convicted murderer to the death as part of my responsibility in relation to the administration of justice, I will defend to the death the rights of nine fine Canberrans, who risked their lives for us, to defend their rights and to utilise the law as they believe appropriate in their interests.

As the Attorney-General of the Australian Capital Territory, I will do my duty in relation to the administration of justice and the need to protect the integrity of the administration of justice and our courts through the testing of serious matters in relation to the administration of justice in our Supreme Court. I will accept that process and continue to utilise it; but any bunkum to the effect that I have delayed anything, or that the government has delayed anything, should be rejected. This matter will proceed whether or not the territory is there.

MR STEFANIAK (Ginninderra) (4.42): I think the Attorney-General again misses the point. I am glad he mentioned the matter of Eastman, because I think that is an important matter—just to show the distinction between what he has done here and what is appropriate behaviour for an Attorney-General.

Mr Stanhope: What about the Smyth defamation case? Is that appropriate? Tell us about the actions of Gary Humphries in relation to the Smyth defamation case.

MR STEFANIAK: He mentions the Gary Humphries matter, and we have quoted from that at length today. The Attorney-General has gone against exactly what he said there. I have no problems with what he has said there in relation to the role of the Attorney-General; the opposition does not have any problems with that, but he has gone completely against that in what he has done in this matter. This is an appeal, as you say, attorney, to the Supreme Court by nine individuals. We have no qualms about that.

Mr Stanhope: Then what is all this nonsense about extra cost and delay?

MR SPEAKER: Order, order! Chief Minister, please.

MR STEFANIAK: I heard you in silence. The second point is in relation to that. I also have read the submissions. I have read the other submissions too against why this appeal

should proceed. I make no comment on those. I look forward with interest to seeing what happens as a result of the full bench of the Supreme Court, but that is sub judice.

No-one is disputing the right of nine individuals to do this; what we are disputing—and there is a fundamental principle here in terms of the separation of powers and the role of the Attorney-General—is your action. You indicated that you did not need to take that action because there was already an appeal afoot by nine individuals, yet you took it anyway. You may have taken that action out of ignorance or whatever—I do not know; you may have misconstrued the difference between when you should take action and when you should not; but, quite clearly, what you have done is unique. I am not going to go back, in the seven minutes and 40 seconds left to me, and canvass all the debate today. My colleagues have made a number of very valid points in relation to that.

Mr Stanhope: Which ones were they, Bill?

MR STEFANIAK: Quite a few Jon, quite a few. I hope you were listening. You were out of the chamber for a fair amount of time, so maybe you were not listening.

MR SPEAKER: Chief Minister: no more interjections. Mr Stefaniak, it does not help—

MR STEFANIAK: There is a significant difference between the role of the attorney—and the attorney does have to get involved in a number of cases before the court—and what has happened here. Do not take it from me. Take it from learned people like Dr Freckleton. I will go back again to mention a couple of things that he says in relation to the coronial inquest. Firstly, he says that the Attorney-General has a vested responsibility to ensure that an inquest runs smoothly, and this would normally mean not interrupting it. I will come back to that one in a minute, and what the attorney has said.

Dr Freckleton's final point is that he is not aware of any comparable incidents where an Attorney-General has done anything like the Chief Minister has done. That is for a very obvious reason: the Chief Minister has joined an appeal in relation to apprehended bias by a judicial officer—a coroner. By its very nature, that conflicts with the normal role of the Attorney-General, which is not to take everything a court says as gospel but to uphold and protect the integrity of the judicial system. He says that, quite clearly, he joined in an action he did not need to join in in relation to a matter of apprehended bias. The normal precedent would dictate that an attorney would have a duty to let that inquest go through—especially a big inquest like this that has cost the community a lot of money, where people are hanging out to find out what happened—so that improvements can be made.

If people did do the wrong thing, there might be some punishment along the way; I do not know. That often happens in inquests as well, but it is primarily to ensure that steps are taken to improve a situation so that, hopefully, we never see anything like this again. That is what an inquest is all about; that is why it is so important to let it go through.

There are hundreds of people left hanging on this. We now hear of groups of people who might be taking civil action against the government. Big inquests take a lot of time. You mentioned Bender, which took a long time. This has taken a large amount of time and I think we were within about one week of sittings, when it would have come to an end. The attorney does have a duty to see an inquest through and, quite clearly, he has not

done so. What is he trying to do here? Is he muddying the water? He is certainly not acting as an Attorney-General should.

The attorney has taken a certain line on the Eastman case. As attorney, I took a different line when the matter was first raised. Both actions by the respective attorneys at the time are completely legitimate and completely within the role of the Attorney-General. He did not criticise me, and I have not criticised him for what he is doing there. It is quite appropriate for an Attorney-General to ensure that there is an appeal, for example, against a decision made by a judge in a civil matter. There is no problem there; that is part of the process.

Here we have a situation where there is no precedent for this action anywhere in Australia. There is no need for the Attorney-General to take this action. This is, in fact, something that even he was trying to make some mileage out of in question time in relation to questions by the opposition—questions that were allowed—about letting the inquest run. He wants the coronial process to be seen through. As late as 17 August this year he criticised questions asked by the opposition about the inquest. He said, "I do not want to get into a slanging match with the coroner." He went on to say:

> I have taken the decision that I, unlike the opposition, will let the court process run. I will let it be handled by those charged with that responsibility.

He went on to say:

> I am not responsible for running a coronial inquest; no I am not. It is called the "separation of powers".

Well, hear, hear! He went on to say:

> You might want to come to some understanding of what "separation of powers" means, because you quite clearly have no clue at all. Nor do you understand the … inappropriateness of what you are doing in relation to the coronial inquest. It is essentially inappropriate—

This was in relation to opposition questions. It continues:

> —it is wrong—that you, through this forum, seek or wish to rerun a judicial process. It is just wrong. It is wrong as a matter of governance and process. It is wrong that you should seek, through this place, to second-guess a judicial process. I do not accept the criticism. I will not get into a slanging match with the coroner; I will respect the court. But I do not accept her criticism.

Whether Mr Stanhope was right or wrong in his comments about opposition questions, he was certainly correct, as at 17 August, in saying he does not want to second-guess the process; he is not going to get into a slanging match with the coroner, and he will respect the court.

He is also quite correct and within his rights to say that he does not accept the coroner's criticism. There are times when even attorney-generals criticise the judiciary, and former justices who address learned sessions—and I have a number of quotes here that I will not go into—make the point that no-one expects even the Attorney-General to agree with

everything the judiciary or judicial officers do. But that is very different from taking the action he has taken, which undermines the position of the coroner and the system and undermines the institution of the court—not only the Coroners Court but also the justice system itself.

This is a distinction he seems to have missed. He has appreciated that he did not need to join this action; he said that publicly—and he does not resile from it today—yet, several weeks ago, he took an extraordinary step, one which I cannot see any other Attorney-General having taken at all.

The case of *R v Michael Somes ex parte Francis Woods and Co* was referred to in the list of cases submitted to the coroner by counsel representing the nine people who will appear. This is a case that members who were around in 1997 or 1998 might recall: it relates to a death in custody at Quamby.

Magistrate Michael Somes was the one who refused bail for the young man, who had all sorts of problems. He remanded him in custody at Quamby where, tragically, the young man died. This application was taken by a number of persons employed at Quamby at the time, on the grounds of apprehended bias, to stop Coroner Somes, who had dealt with the young man on the bail application and refused bail, from dealing with the matter.

Not only is it interesting to compare the parties here, but also what the Australian Capital Territory and the person standing in for the attorney did. I think Russell Bayliss was the solicitor and Chris Erskine represented the territory. In reading this judgment, Chris Erskine, on behalf of the territory and the Attorney-General, strongly defended the need for the coroner to get on with the job, even though at the end of the day there would be findings that might be adverse to the government and individuals. That I think indicates what should happen here; the Attorney-General is quite wrong in what he has done.

Question put:

> That **Mr Stefaniak's** motion be agreed to.

The Assembly voted—

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

Question so resolved in the negative.

Attorney-General
Motion of want of confidence

MR STEFANIAK (Ginninderra) (4.56): Mr Speaker, I seek leave to move a motion of no confidence in the Attorney-General.

Leave granted.

MR STEFANIAK: I move:

> That this Assembly expresses a lack of confidence in the Attorney-General.

I had hoped that events would be somewhat different—but they are not. I also indicate to the Assembly, especially to newer members who might not be aware of the procedure, that this is a motion only in relation to want of confidence in the Attorney-General. It does not relate to any other roles the Chief Minister has. I can read the numbers as well as most people but if, by some amazing miracle, the motion were to be successful it would simply mean he would no longer be Attorney-General. You might get a guernsey, Mr Hargreaves.

The opposition moves this with some reluctance, but we have seen a certain extraordinary set of circumstances here in relation to the matter now before the Assembly. I will mention several other matters that have occurred today which I think reinforce this motion. It relates not only to the matters that we have been debating in relation to the coronial inquest and the appeal before the Supreme Court but also to a number of other matters.

Today we have seen the government attempt to gag debate and the opposition not being given proper rein to put its case fully before the Assembly. Two days into a new government—a majority government for the first time in the territory's history—that does not augur at all well for this Assembly or for open and accountable government; far from it. In fact, I read with interest the *Canberra Times* article of Saturday, 16 October when Mr Stanhope said that fears about a majority government were unfounded, that we had nothing to fear from a majority government.

It is interesting that in that article Ros Dundas, the then Democrat member, said that a majority government would become uncontrollable. She said there was a risk of the federal outcome being repeated in the ACT—because she did not like John Howard—and the Stanhope government being elected with an outright majority. The attorney, in his capacity as Chief Minister, accused the minor parties of running a scare campaign and said, "I think there is an essential nonsense in this that politicians cannot be trusted with a majority. There is nothing to be feared. In fact, it's what occurs more often than not, so it is a furphy, something of a scare campaign, and the campaign that is being run is a self-interested campaign by the Greens, Democrats and independents."

Well, I think the events of today—and, indeed, the events of yesterday with committees, as Mr Seselja said, and issues like finishing at 6, and this matter we have just dealt with—indicate that the territory does have something to fear from this majority Labor government. Already we are seeing very arrogant actions by this government, by the attorney and by his government, and that is very concerning in the ACT. He did not get to move a motion, and we did not deign to move an amendment to the matter we have just dealt with. But there is an interesting paragraph that reinforces this point, and I will now read this in relation to the matter regarding the coronial inquest.

The Attorney-General notes he has special functions to fulfil under the Law Officer Act. That is a two-page act that deals with what the attorney can do. It says that those functions include:

> (c) to have responsibility for the administration of law and justice in the ACT; and
>
> (d) to institute and conduct litigation on behalf of—
>
> … the Territory …

In exercising those functions, it says that the Attorney-General has a statutory duty that stands outside the tide of political concerns and pressures: "The exercise of the special functions of the Attorney-General, as first law officer, cannot be subject to the direction of the Assembly." That is an extraordinary statement. That means that he is putting himself above the Assembly. That is in fact just plain wrong. He is not exempt from scrutiny by the Legislative Assembly due to his role as Attorney-General. The only reason, in fact, that he is attorney is that he is a member of the Assembly; therefore, he needs to face scrutiny by the Legislative Assembly in that role.

I am extremely concerned not only that this government is now gagging the opposition and the lone crossbench member of the chamber but also that the Attorney-General has now resorted to telling the community he is above scrutiny in his position as Attorney-General. The people of Canberra might have something to say about that down the track. The matter that we have just dealt with is indicative of the government's and the attorney's arrogant response to an issue on which any precedent indicates that he has taken an extraordinary action. He has quite clearly not understood things as basic as the separation of powers and the role of the Attorney-General. He accepts that he did not even need to take this action, yet he has gone ahead and taken it. As a result of that, and the fact that he will not reconsider and does not appear to understand his full role and just what he can and cannot do in relation to the courts, we have no option but to move this motion of no confidence in him.

I think it should be obvious to all concerned that this matter we have been dealing with was an unprecedented interference in a coroner's inquest through the legal actions before the Supreme Court. We have already debated the fact that there is no problem with the nine people appealing. But I think it should be plain to members now that the attorney has taken a quite extraordinary step. He has had probably a month or so to realise that that is quite an extraordinary step. Is he going to change? No, he has bashed that on the head and done it despite the obvious problems that it will cause and despite the fact that there are implications in it in terms of his failing to properly defend the judiciary against attack and, by his very actions, in fact, contributing to that attack.

He might feel strongly about some of the matters; I do not know. But the fact is that what he has done is an unprecedented step. It just has not occurred anywhere else in Australia. It is completely contrary to precedent, even in the ACT—precedent as recent as the matter I mentioned involving Coroner Somes back in 1998. There is a real concern here that if the Attorney-General is allowed to get away with this matter, what is to stop him—in confusing his roles as the first law officer and a minister of a government, and that is a very fundamental point here—from appealing against any proceedings where the

evidence might seem to be going against the government. That is something we need to be worried about. This is now a majority government. It is a majority government that has stymied debate. It rammed through a number of motions, which we on this side were not particularly happy with. What is to stop that occurring?

We do not want the ACT to be some sort of tin-pot dictatorship. We are a constitutional democracy in the ACT—and a very fine one. We are now in the Sixth Assembly. The actions we have seen in the past couple of days regarding this inquest are the actions of a very arrogant government and Attorney-General. Despite strong opposition and strong counselling against doing what he has done, the Attorney-General has gone ahead, completely contrary to legal precedent. I would imagine that most people in the community would expect a government to be committed to the process of the coronial inquest, which is to find out the truth and to take steps to ensure that such events do not happen again. On the contrary, this government is muddying the waters and raising the suspicions of a lot of people in the community that it is a government covering its back, protecting itself.

I will not repeat what I said earlier, but the Attorney-General has gone against a number of statements he made on a previous occasion. He has gone against the statements he made on 6 May 1999, which have been read out already in this place: that an attorney-general has to be seen to be acting at arm's length in a completely and totally disinterested manner. He admitted that it would be difficult where some of the issues reported to an attorney could well relate to adverse findings against an arm of government or perhaps against some government employees. But the point is that there has to be a well-founded and grounded perception in the community that an attorney is acting in such a manner, that he is acting completely at arm's length and that he is acting in a totally disinterested way. How on earth can this attorney say that he is acting at arm's length and in a totally disinterested manner in what we have seen here today over this matter of the coronial inquest? As I have already said, he is a witness; he has given evidence. There are a number of significant issues around this matter before the coroner. The Chief Minister was Attorney-General at the time; he was also a government minister. How can he say he was acting in a way that was totally at arm's length and in a totally disinterested way? He cannot.

The New South Wales Attorney-General, Bob Debus, said:

> The Attorney-General is able to play a significant role in maintaining public confidence in the integrity of the justice system and in protecting the rule of law. In defending the judiciary, the Attorney-General is not defending the decisions or the reasoning of the judiciary but the institution, its integrity and hence, the rule of law.

Daryl Williams, a former federal Attorney-General, a man who was criticised for not standing up and protecting the judiciary and who was wont occasionally to criticise them, in a speech to a conference on 7 April 2001, stated:

> … sustained political attacks capable of undermining public confidence in the judiciary may justify a defence made by an Attorney-General.
>
> In circumstances such as these I will not hesitate to step in and lend my support to the judiciary.

The trouble is that our Attorney-General is, through the very nature of this appeal, mounting an attack on the judicial system. It is an attack he does not need to mount. It is an action he himself indicates he did not have to take because other people were. And that is a very real problem.

I refer again to Professor Carney, who has stated:

> There is no precedent of which I am aware where an Attorney-General has been regarded as under a legal duty to intervene in the conduct of a commission of inquiry in circumstances where the commission may be exceeding its terms of reference.

The rules of sub judice in a commission of inquiry are not dissimilar to those in a coronial inquest; there are some similarities. Professor Carney went on to say:

> In any event, the appropriate parties to challenge any alleged excess of power by a commission of inquiry are those who are directly affected by the inquiry.

I would hope that all of us in this Assembly accept that that means the nine individuals who have made this appeal. That is directly relevant to what this Attorney-General has done wrong. Justice Angel of the Supreme Court of the Northern Territory said on 6 February:

> There is, in each jurisdiction of Australia, a need of an Executive that respects the rule of law and of an Attorney-General who holds himself or herself responsible for upholding the rule of law and thus the integrity of the legal system, and who respects the institution of the judiciary and the enduring principles of legal justice which the judicial system administers.

This Attorney-General, by his actions, which he now refuses to countenance changing, is not upholding the rule of law, despite what he thinks. Despite what he might think, he is not upholding the integrity of the legal system and by the very nature of his appeal he is not respecting the institution of the judiciary and the enduring principles of legal justice that the judicial system administers.

As I said earlier, a vote of no confidence in this minister would not mean that the government would be under any threat or that the Chief Minister would not remain Chief Minister. But it would mean that he would no longer be Attorney-General. That would be the result of the unprecedented and quite amazing actions that he has taken and refused to undo. For the reasons that I have given, we in the opposition submit that he has forfeited the right to be Attorney-General in this place.

MR QUINLAN (Molonglo—Treasurer and Minister for Economic Development) (5.11): Quite clearly, Mr Stefaniak lost his motion, but I do want to talk about it. A lot was said in the debate about the effect of the delay—all on the at least implied presumption that it was all down to the Attorney-General—about closure and about the cost to the community. Although I know that members do not want to, they need to understand and accept that that argument simply collapses, because individuals had already initiated action to set in motion this process before it was referred to the

Attorney-General. So what Mrs Burke and Mr Mulcahy said was absolute rot. It does not matter in terms of the timing and—

Mrs Burke: No. It was more than 100, Mr Quinlan. You seem to forget. There are 500 homes gone.

MR QUINLAN: Would you mind shutting up?

MR SPEAKER: Order, Mrs Burke!

MR QUINLAN: It does not matter whether or not the—

Mrs Burke: On a point of order, Mr Speaker: I will take it for so long, but Mr Quinlan can just retract that. I am continually told by Mr Quinlan to shut up. I ask that he withdraw that comment.

MR SPEAKER: Yes, it is unparliamentary, Mr Quinlan.

MR QUINLAN: Is it? Fair dinkum?

Mrs Burke: Come on. Just get on with it.

MR QUINLAN: I will withdraw that but I would like it noted for the record that it is unparliamentary from this day on, and I would ask, Mr Speaker, that Mrs Burke's continued carping come to your notice.

Mrs Burke: You can do it without a comment.

MR QUINLAN: What Mrs Burke and others have said today is utter nonsense. It was all "tug on the heartstrings" stuff that has no basis in logic—and not for the first time. The delays and the costs we are talking about will happen anyway. You lot even accept that the nine individuals affected have the right to do so and you have no objection to their running an appeal. So all of your argument collapses. What is left then is that the attorney, having been furnished with the opinion of an eminent jurist, had to decide whether the government would join in that action or not. The action would take place anyway, and that becomes a yes or no decision. He has to then say, "You've been furnished with an advice that says there is a problem with the process that is occurring."

The attorney then took the only decision available to him, to say, "Well, here I have an opinion that says there is a problem." As the attorney said earlier, that is a matter of record. Why don't you read it? Read it and know that there was an expert opinion that said that there is a problem. So the attorney is faced with a choice of saying, "I do not believe there is a problem" or "There is a problem but I will ignore it." I do not think he had many alternatives once he arrived in that position, and he therefore did what I think was the appropriate thing.

A lot has been said in the public forum about the delay and the extra expense. Some of the letters read into *Hansard* today said that it is the Attorney-General's fault that there will be delay and additional expense. And you lot would be happy to perpetuate that, even though it is not true. It is just not the case. We had Mr Stefaniak accusing

Mr Stanhope of an arrogant position, an arrogant response, by voting in support of what he did in the first place. How arrogant can you get? You have a contradictory position. On the one hand you say that the individuals have rights.

But, on the other hand, although Mr Stanhope was a witness, you say that because he is Attorney-General he has got no rights, or the government has got no rights. That just devolves to a nonsense. This particular Attorney-General is capable of wearing the Attorney-General's hat, of making the appropriate decisions—and, let me say, making sure that he took advice from every quarter possible before doing so and acting to ensure that everybody's rights were protected.

I will close because we really should finish this this evening. Mr Stanhope, the Attorney-General, was not involved in an attack on the judicial system. In fact, he has been involved in a process that attempts to ensure that the judicial system works appropriately.

MRS BURKE (Molonglo) (5.17): Mr Speaker, this is a serious matter before us today, although once again we see the government making light of it. The Liberal opposition has to stand to present the case. It has to ask Mr Stanhope and the government to seriously and sincerely consider if the Chief Minister has indeed overstepped the mark and whether or not he should hold the office of Attorney-General—an office that people look up to and that people are now feeling a little shaky about.

What are the grounds for the no confidence motion? Mr Speaker, I put it to you that there are probably three points. The first is unprecedented interference in the coroner's inquest through legal action. Is it appropriate in what has occurred to date? The second is failing to defend the judiciary against attack, and leading public attacks against the coroner and counsel assisting. The third is failures in administration of justice, including failure to appoint counsel for individual witnesses.

Professor Gerard Carney, Associate Professor of Law at Bond University, commenting on the role of the Attorney-General, states:

> There is no precedent of which I am aware where the Attorney-General has been regarded as under a legal duty to intervene in the conduct of a commission of inquiry in circumstances where the commission may be exceeding its terms of reference. Any intervention, certainly of a covert nature, would be viewed as a threat to the independence and integrity of the commission.

It is clear that Mr Stanhope has a case to answer and if his colleagues back him and deny the community some justice here—and there is a travesty of justice in this place—we will be in a serious situation where we will be allowing these actions, which have been ably and adequately defended this afternoon, to just pass through to the keeper. What does the future hold for such positions of integrity?

It is regrettable and disappointing that the government finds this matter amusing or just casts it aside. We see government ministers sitting around now, laughing and talking amongst themselves. They obviously do not hold their jobs in high esteem. They are taking things for granted now that they are back in this place as a majority government. They are feeling all safe and cushy, thinking, "We have nothing else to do now. The job's done; we can sit back, lads, and relax. We can just do what we want to do. We can

ride roughshod over the community. We can ride roughshod over this Assembly if we want to." How disgraceful and what an abuse of power, position and authority. What an abuse!

If those opposite cannot set themselves apart from the position to make a decision about what has gone on here, I will be really pleased, as will my colleagues, to forward a copy of this particular debate to as many people as possible in the community in order that they can decide for themselves, come the next election or possibly before, the suitability of Mr Stanhope to continue to hold the office of Attorney-General.

What are we doing in this place? We are setting a precedent to bring the position of Attorney-General into such disrepute. The position of Attorney-General is the most powerful position for anyone to hold. Mr Stanhope has stood in this place, almost tongue in cheek and with a grin on his face, trying to twist and turn this debate into something that it is not. He has not answered one straight question. He cannot, and has no argument to, defend what the Liberal opposition have put forward; nor have his colleagues. They have put forward very weak arguments indeed. For government members to cry "boring" and class this as a waste of time comes back to the heart of the problem today.

It has been said—and disappointingly—that we have an arrogant government, obviously now feeling so superior hat nothing or no-one can touch them. They think they are "the infallibles", the untouchables. I think we will nickname them that from now on. I will finish by reading from a letter in the *Canberra Times* of 3 October from Mr Stephen Andrew of Duffy:

> Well, well. The *Times* has finally woken up" and started to ask questions of the Labor Government and its performance before the inquest.
>
> Whilst the timing, immediately following the election, is suspect, I am still grateful to see these issues raised.
>
> I also note Stanhope's response of October 28.
>
> Frankly, Jon, take responsibility and stand down.
>
> Your conflict of interest is obvious to all except yourself and the ACT Law Society.
>
> Tell me, if the Coroner is forced to stand down, who chooses the new one?

That is an excellent question. Mr Andrew goes on:

> The apparent manipulation of the process is obvious and demonstrable; your use of spin even more so.

I could not agree more. He continues:

> Certainly, your own expertise and memory has been stretched, as was demonstrated in your own evidence to the inquest.
>
> I remember every minute of that day, perhaps because I had to stand and watch my neighbours' homes burn.

> Stand down or resign. I don't care which.
>
> I did some simple math—your expenditure of taxpayers' funds in actions before a court tasked with ascertaining the truth is about $12,000 for every household affected by the fires. Remember, this court cannot lay criminal charges or award civil damages.

He finishes:

> This waste, to protect your government, is an insult to those lives destroyed and damaged on January 18.

He says it all.

DR FOSKEY (Molonglo) (5.24): I am not supporting this motion. While I acknowledge that the Liberal members may feel that they have legitimate grounds for supporting Mr Stefaniak's motion, I regret that nearly the whole of this sitting day has been given over to discussing this and Mr Stefaniak's earlier motion. I understand that Mrs Burke's and other opposition members' statements reflect some of the concern out there in the community, but I am also aware that it is quite easy to mix up that concern with this matter. I think they are very separate things and by confusing them I do not think we are doing a service to the community affected by the fire.

It can feel frustrating that we cannot inquire into Mr Stanhope's reasons for joining this action, due to the sub judice rule, but we do at least know that those reasons will be given an appropriate airing in the Supreme Court. Since the motion of no confidence in the Attorney-General has such serious consequences, we need to be absolutely confident that there are good reasons for making such a claim—that is, that the Attorney-General is acting outside his powers.

Another reason for the frustration of the opposition—and of course I feel it myself—is the majority government. I think we are coming to terms with this. It inevitably sets up frustrations—I think I have used that word a few times today—for me and for the opposition, because at the moment we are looking at four years of gags and failed motions. That will be the case if we keep working the way we are. I am not sure how we are going to use this period constructively but I am pretty sure that we are going to have to find a way. I am not really looking forward to four years of name calling from both sides or to time wasting. We had a lot of business today that will not be discussed; it will be put off until February and that will mean that we will put other things off. I very much hope that we can get this matter out of the way and find ways to work more constructively in the Assembly.

MRS DUNNE (Ginninderra)(5.27): Dr Foskey has said that this is time wasting. But I ask you, Mr Speaker, to consider what is the most important issue that has confronted the people of the ACT in the past 50 years. I would submit to you that that was the disaster of the January 2003 bushfires. And what has happened since then has been a litany of cover-ups by the government and a litany of actions to protect their rear at every opportunity.

MR QUINLAN: What cover-up was that?

MRS DUNNE: Sometimes they are not cover-ups; sometimes it is just a Carmen Lawrence excuse: "I can't remember." We all had a touch of the Carmen Lawrences last year. The Treasurer, although he went to a briefing where he was told that we had a 60 per cent chance of a state of emergency, that various things would happen such as that substations and Uriarra Forest would go, that this would have an impact on the urban edge—and they named the suburbs—

Mr Quinlan: On a point of order, Mr Speaker: what relevance does this have to the Attorney-General?

MR SPEAKER: It is a wide ranging debate but, given that it is a no confidence motion in the Attorney-General, we should stick to the subject matter.

MRS DUNNE: Coming out of a briefing that told the cabinet all these things, the Attorney-General and the Treasurer said, "Well, we don't recall being told anything all that drastic and we did not have a perception that anything serious was going to happen." Oh, please!

Mr Quinlan: On a point of order, Mr Speaker: Mrs Dunne has just impugned what I have said in this place about what I remember and do not remember. "Oh, please!" she said. Now she is stretching the rules; she has got to be outside the rules because she is effectively saying that I have lied in this place.

MR SPEAKER: That was not the language that I heard, Mr Quinlan. There is a wide ranging debate going on about the Assembly's confidence in a minister, and it is difficult to restrict the debate.

MRS DUNNE (Ginninderra) (5.30): I understand that, Mr Speaker. What happened at that meeting was that advice was given that there would be a 40 to 60 per cent chance of a state of emergency being declared over the weekend and that that would have an impact. There was a list of suburbs from the west of Canberra, from Belconnen, south to Tuggeranong, with Weston and Dunlop listed, yet ministers say afterwards that they cannot remember. There was an interjection earlier about whether I was there. No, I was not there, Mr Speaker.

Let's put the matter in context. I have had a discussion a number of times with my colleagues about extraordinary cabinet meetings. I worked in this place as a ministerial adviser for two assemblies before I became a member and in the time of my being a ministerial adviser or political staffer there was one extraordinary cabinet meeting where my boss had to go into cabinet and discuss a particular issue. I remember everything about what was discussed in the run-up to that and I remember the things that were discussed and the things that were done as a result of that. I have gone and asked the people in the Legislative Assembly who were there at the time and they remember it vividly.

I tell you, Mr Speaker, that it was not about whether a large proportion of the ACT might burn down. It was a matter of finances and it was a problem. They remember that vividly. To put it in context, ministers had had days and days of briefings, had had helicopter rides and had been told a range of things, yet they do not have a clear

recollection of an extraordinary cabinet meeting. The thing about it is that it was an extraordinary meeting, but they do not have a clear recollection of it. "I don't remember," the Carmen Lawrence touch, is part of the government's covering itself, trying to protect itself, because if you cannot remember you cannot be held responsible for something. What we had in the course of the run-up to the election—

Mr Corbell: I take a point of order, Mr Speaker. Mrs Dunne is implying that ministers are lying. She is imputing an improper motive. That is disorderly and I ask you to ask her to withdraw it.

MR SPEAKER: I think that Mrs Dunne is arguing that the ministers' position in relation to matters discussed in cabinet was inadequate. I think that these are debating points.

Mr Corbell: On the point of order, Mr Speaker: Mrs Dunne is going further than that. She is suggesting that what ministers have said publicly about the cabinet meeting, compared with what is on the record about it, is inconsistent and that ministers are seeking to cover their behinds. That is implying that ministers are lying. It is a very clear imputation, Mr Speaker, and I ask you to rule on that, because imputations—

MR SPEAKER: I think that it is open to Mrs Dunne to make the accusation that what ministers are saying publicly and what is on the record is different. It is open to Mrs Dunne to say that, surely.

Mr Corbell: It is; but she is going further than that, because she is suggesting that it is being done deliberately, and that is imputing an improper motive.

MR SPEAKER: If that is what has been said, Mr Corbell, and I discover that that is the case, I will deal with it. I will listen more closely to what she says; but if there is anything said that can be recognised as an imputation of lying I will make sure that it does not proceed.

MRS DUNNE: Mr Speaker, what this boils down to is a pattern of, essentially, running interference with the community finding out what happened and the community finding the answers to why it was not warned. No-one expects to be told, "We could have stopped the fire and we didn't." No-one expects that. No-one reasonably thinks after the fires broke out and after a certain lapse of time that this was not an inevitable outcome.

What the community really objects to is that it was not warned and people are looking for the reasons for why they were not warned and why, as a result of that, four people died, 490-odd houses were burnt down, there was a billion dollars worth of damage, lives were scarred forever and people were physically and emotionally scarred forever, and people want outcomes on that.

What we are seeing here is delay. There were delays caused by not appointing counsel as was necessary and now, after the election, after delay strung out the coronial inquest so that the coroner could not report according to her original timetable, we have another series of delays. The issue is not that nine people took particular action; it is that the Attorney-General endorsed that delay and, in endorsing that delay, became complicit in

that delay in a way that is inappropriate for somebody holding the position of first law officer.

A person who has a matter before a court and who thinks that they may have an adverse finding about them, a firefighter or someone involved in emergency services, has the right under law—I uphold that right—to seek whatever redress is necessary. If Mr Stanhope, as an individual, feels that he needs to take that path, he is welcome to do so. But he is not welcome to do it while holding the office of Attorney-General. That is the crux of the matter being debated by the Legislative Assembly today.

Mr Quinlan can try to confound it all he likes but Mr Stanhope, as Attorney-General, has blurred the distinction between his rights as an individual and his responsibilities as the first law officer, his responsibilities as the Attorney-General. If he has that conflict of interest, if his self-interest comes before his role as the Attorney-General, he must stand down.

The motion that we debated before this one gave him the opportunity to set things right. It would not have stopped the delays, because nine other people are causing delays, but it would have meant that the attorney had had an opportunity to reconsider the appropriateness of his actions. The appropriateness of his actions is at stake here and, because he has acted inappropriately, he should be stripped of his office.

MR SESELJA (Molonglo) (5.37): The Treasurer stated that the government's actions do not add to the delay. They do add to the delay. The government will be making a submission that is going to add to further delay; so the statement the Treasurer made that it will not add to the delay or will not delay proceedings is incorrect. It will delay them; of course it will.

Mr Quinlan: An hour.

MR SESELJA: Do you think that it is going to take an hour? I think that displays the Treasurer's ignorance of this matter. He was saying to us that it was not going to add to the delay and now he is saying that it will add an hour. I would argue that it is going to be more significant than that.

The government's submission is going to be the most significant. The government will have a team of legal advisers. It has unlimited resources available to it, so it will cause considerable delay, not to mention considerable extra cost to ACT taxpayers. Mr Quinlan tries to write it off by saying, "Sorry, this is happening anyway and nothing we could have done would have changed the matter." It will change it; it will change it significantly. The Treasurer was clearly incorrect in what he was saying there. He was trying to fob it off by saying, "We are just jumping on board and we are not going to change anything." You are; you are changing it.

At the heart of the question is whether the attorney was in a position to make an objective decision as to what was in the interests of justice. Let's look at that. We have a person whose actions have been scrutinised by the coronial process. As Chief Minister, his actions have been scrutinised by the coronial process. At the end of that process, when it is finally allowed to run, there could be adverse findings against the Chief

Minister. No-one would dispute that there is potential for that. There is potential for adverse findings against the Chief Minister for his actions in relation to the bushfires.

The same person, as Attorney-General, has a responsibility as first law officer to protect the integrity of the legal system. On the one hand, he is a witness who could have an adverse finding against him; on the other, he is the first law officer and has a responsibility to protect the integrity of the legal system. The question is: how could the attorney make an objective decision in such circumstances? No reasonable person could think that the decision taken to join the action would be an objective decision. He has a personal stake.

MR SPEAKER: Order! That is a matter that could be discussed in the courts and I would ask you to refrain from going to the issue. We have been through this debate before.

MR SESELJA: I know that we have, Mr Speaker. This is not going to the ruling that you made previously.

Ms MacDonald: Really?

MR SESELJA: No, not at all. It is clear that there is apprehended bias in this case.

MR SPEAKER: It seems to me that you are trying to create that impression. That is an issue that I have dealt with in earlier rulings in relation to this matter and I would ask you to refrain from that, otherwise I will ask you to sit down.

MR SESELJA: Mr Speaker, with respect, all I am saying is that as a matter of record we have an Attorney-General whose duty it is as first law officer to protect the integrity of the judicial process. We also have, as a matter of record, an Attorney-General who has appeared before the coronial inquest and could potentially face adverse findings. Nothing I said there is not well known publicly. This is the fact of the matter. Nothing I said there is not factual.

MR SPEAKER: Just refrain from referring to matters that could become evidence before the courts. As I have said to you, I will ask you to resume your seat if you continue.

MR SESELJA: Okay, I will steer away from the actual. There is certainly a perception in the community and there certainly could reasonably be a perception of bias. Of course, I have been shut down on that, so I will move on to the next point.

We have seen that Mr Stanhope is forgetful. Mrs Dunne touched on that. He has displayed that over a period. He cannot remember lots of things, which is unfortunate. There could be a concern in the community that Mr Stanhope's memory may affect his ability to do his job. He cannot remember the cabinet meeting, he cannot remember a lot of the details and he cannot remember a six-minute phone call. There are some patterns. I note that Carmen Lawrence was on radio today. She forgot lots of things and our Attorney-General certainly has a habit of being a bit forgetful.

I go back to what I said earlier when I was speaking about the pattern developing of the government shutting down debate and scrutiny, which does go to this issue because community confidence in the attorney and the government relies on scrutiny and relies on the Assembly being able to do its job. Unfortunately, we are already seeing shut down the ability of the Assembly to scrutinise the government.

We have had a gag imposed on the length of speeches. We have had committee appointments that ensure that the busiest areas of government are scrutinised by members of the government. We have a 6.00 pm adjournment, so we cannot fully debate these things in one day; we need to go on to the next sitting day. We have seen the government hiding behind the sub judice rule. It has sought to hide behind it when clearly most of the discussion has not even gone close to breaching the sub judice convention.

Of course, part of this pattern is the Attorney-General's decision to seek to shut down a coronial inquest that is, in part, examining the actions of his government. Mr Speaker, I put it to you and I put it to the Assembly that any reasonable person looking at this matter would say, based on those facts, that there is something wrong. The attorney should not be making that decision. He has a stake—

MR SPEAKER: Resume your seat, Mr Seselja. I gave you adequate warning, I think.

MR PRATT (Brindabella) (5.44): Mr Speaker, I rise to express a lack of confidence to a great degree in the Attorney-General. The Chief Minister is not fit to be Attorney-General. I want to detail a number of issues underlying that concern. It is my belief that he has monumentally failed the ACT community at a time when the community needs to get to the truth of what happened and what failed in January 2003.

The Attorney-General, as first law officer, has more than just a narrow role with respect to the conduct of this coronial inquest. He has a responsibility to the nine individuals mentioned in current proceedings, but he has a greater responsibility to the other 330,000 citizens of the ACT. That is where he has failed in his fundamental duty. He has failed in his duty because he interrupted the urgent proceedings of the only inquiry capable of independently getting to the bottom of what went wrong in the worst emergency seen in the ACT in modern times.

The community is deeply concerned that the McLeod inquiry, while useful, did not adequately cover the ground. That was becoming starkly clear from the earliest days of the Doogan inquiry, when so many more substantive issues were being canvassed than had been the case throughout the life of the McLeod experience. Even if Doogan is allowed to continue, valuable time will be lost, and preliminary reports from Doogan would have allowed significant adjustments to be made to ACT emergency procedures during the current summer period. Doogan might have been in a position to offer preliminary reports at this time that could have influenced this government to make necessary adjustments as we go into this next summer bushfire season.

The Attorney-General surely must have known the damage he would be doing to this critical inquiry process. He has neglected the community greater good by allegedly representing the needs of nine individuals. I remind the house of the attorney's ridiculing

of the 2003 report in which the Auditor-General found the Emergency Services Bureau to be dysfunctional. We now know that the Auditor-General was right and the Attorney-General was wrong.

I am not talking about a professional disagreement on the part of the Attorney-General. That would be entirely acceptable. I am talking about an arrogant, sneering political attack on the Benton report—a substantive and very important report. That was unacceptable behaviour by the first law officer in respect of a legal and administrative procedure.

The Attorney-General has failed the ACT community by not making sure that no stone is left unturned in drilling down to the truth. The Attorney-General should have been sure that no stone was left unturned in all of the legal mechanisms available to this community to identify, to analyse and to take the lessons from the emergency that we had. The Attorney-General had a role to ensure that everything that could be done was done and done quickly. We needed to find the truth on what emergency systems failed in January 2003. We needed to find the truth on why the failings of previous years were not identified and rectified before January 2003.

The Attorney-General also failed in terms of the McLeod inquiry. The McLeod inquiry was barely adequate. The Attorney-General had a legal duty to ensure that the McLeod inquiry had teeth and was properly equipped to ensure that all the ground would be covered. Four people died, 490-odd houses were lost and a large amount of money was lost in terms of property damage. You do not have the trauma that this community suffered and you do not have such disaster occurring without the government of the day making sure that no stone is left unturned in such an inquiry. The Attorney-General had a duty of care and a duty of responsibility to make sure that the McLeod inquiry was properly equipped to get to the bottom of everything, and the Attorney-General did not.

Furthermore, the Attorney-General has failed the community and its legal system because he has put the narrow interests of his political power base before the greater good of the ACT community. He has lacked any urgency in ensuring that important emergency matters are addressed. The Attorney-General, as first law officer, has put the extremely narrow interests, important as they may be, before the broader safety needs of our community. You cannot as Attorney-General have tunnel vision. We need an Attorney-General who ranges across all the functions of the ACT and has a broader vision. Leadership and a broader vision are required. This Attorney-General does not have that; he is narrow of scope.

Mr Speaker, I put it to you that the Chief Minister is not capable of performing the role of Attorney-General. Therefore, I say to you that he is not fit to perform that role.

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

> That the question be now put.

The Assembly voted—

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

Question so resolved in the affirmative.

Original question put:

> That **Mr Stefaniak's** motion be agreed to.

The Assembly voted—

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

Question so resolved in the negative.

Eureka Stockade—150th anniversary

MR GENTLEMAN (Brindabella) (5.55): Mr Speaker, I move:

> That this Assembly:
> (1) congratulates the Stanhope Labor Government on its initiative to fly the Eureka flag over Canberra to mark the 150th anniversary of the Eureka Stockade;
> (2) recognises the significance of the events of Eureka to the development of Australian democracy and the enduring relevance of discussion and debate about the foundations and process of our democracy;
> (3) expresses its disappointment with the Federal Government's lack of willingness to engage with the ongoing debate about such a significant point in Australian history; and
> (4) calls for the ACT Government to ensure the continuing future commemoration of the Eureka Stockade in the ACT with the introduction of a calendar note from 2004.

Mr Speaker, the Eureka Stockade of 3 December 1854 was a significant event in the history of our nation. When the miners of Ballarat organised themselves in response to the harsh, unjust and unaccountable treatment meted out to them by the colonial administration, they set in train the vigour and the passion that remain inherent in Australian democracy and, indeed, in the democratic institutions of our territory.

The Stanhope Labor government should be congratulated for its actions in commemorating the 150th anniversary of this significant event. It has taken some time for the struggle of Eureka to receive pride of place in our history. It was not until the 1970s that the community of Ballarat itself embraced the tradition, though memorials had been conducted since the rebellion itself.

The Eureka flag has long since been a symbol of contention, used throughout the last 150 years as a symbol of rebellion across the political spectrum. The way in which we understand the event and its historical significance is itself an issue of fiery debate. Yet there have been few instances in our collective history that have sparked such vigour and passion, heralded by some and condemned by others.

It is here that we understand the significance of commemorating what was undeniably an important event. It has been said that Australians have always interpreted Eureka in the context of their own time in history. The story of the stockade has been a living history. Recognising that, and the debate that surrounds the story of Eureka, is the true value in its commemoration. Eureka sparks the fire of debate about the foundations and the process of our democracy.

The commemoration of the Eureka rebellion is a celebration of our democracy and recognition of the fact that democracy is about engaging and debating the process of change. The significance of the Eureka rebellion and the symbolism of the flag have been recognised nationally this year by state parliaments and local government municipalities.

The ACT government has led the way in positioning the Eureka flat atop City Hill. That could be interpreted as a symbol of defiance, but then it is the spirit that calls most loudly from the goldfields of Ballarat where, 150 years ago, the miners were taxed for their labour by a colonial administration that enforced its laws with a standing army.

The miners had no political rights and, despite being equal under law, had no voice in the making of those laws. Their movement was informed by a wide variety of political experiences that landed with the mass immigration spurred on by the discovery of gold. Governor Charles Joseph La Trobe referred to this pattern of unrestricted immigration as the cause of the build-up of frustrations: "the politically restless and disappointed elsewhere … whose interests must be promoted by social and internal disorder".

The charter of the miners of Ballarat heralded the arrival in Australia and was informed by the experiences of the British Chartists, and their interests were not the radical proposition suggested by the head of the colonial administration. Every citizen has an inalienable right to have a voice in making the laws he or she is called on to obey. The people are the only source of legitimate political power—basic tenets, it seems, of modern democracy. That is why we should celebrate and commemorate the events of Eureka.

Whilst the ideals seem none too radical now, in 1854 they were exactly that. The "interests" referred to by Governor La Trobe were the interests of working people in having a voice in the laws that determined their lives, irrespective of peerage or property ownership, and the social and internal disorder was about demanding a democratic voice,

an echo of the cry of the American revolution of no taxation without representation. The principles of democratic and fair representation that the Chartists bought with them from England fuelled the fire of the Eureka rebellion. Yet in 1854, these ideals were radical, as notions of democracy frequently are.

Debate interrupted.

Adjournment

MR SPEAKER: Order! It being 6.00 pm, I propose the question:

> That the Assembly do now adjourn.

Mr Corbell: I require that the question be put forthwith without debate.

Question put.

The Assembly voted—

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

Question so resolved in the affirmative.

Education—teacher numbers

MS GALLAGHER (Molonglo—Minister for Education and Training, Minister for Children, Youth and Family Support, Minister for Women and Minister for Industrial Relations) (6.03): Mr Speaker, in his inaugural speech yesterday, Mr Mulcahy made the following statement:

> … my personal frustration with the incapacity of our local public primary school to provide dedicated teachers for each of the classes for our children contributed to my decision to contest the most recent ACT election. That system, incidentally, is now canvassing the idea of having three classes of pupils assigned to one teacher.

I took this issue very seriously as I know how rumour can be taken as fact and how quickly innuendo can be used to discredit the hard work of ACT teachers and the school communities they support.

The primary school in question is adequately staffed to perform its functions and discharge its duties to all students who attend the school. I can confirm for the chamber that classes were not combined due to teacher absenteeism or teacher shortage. The primary school referred to is currently exploring options to expand the gifted and talented program, a program designed to foster creativity and add to the learning process for the students who participate.

I have been informed that parents and carers of students in years 4, 5 and 6 have been asked for their views on their children having the same teacher for more than two years. This has resulted in the use of multi-age classes to further exceed the standard educational needs of students.

MR SPEAKER: Order! I have just been advised that, through some keenness to vote on the adjournment motion, we have adjourned the chamber. The chair will be resumed at 10.30 am tomorrow.

The Assembly adjourned at 6.04 pm.