Debates

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Wednesday, 28 February 2007

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

Sub judice convention and standing order 54
Statement by Speaker

MR SPEAKER: Members, I wish to make a statement concerning the application of the sub judice convention. The sub judice convention, as described in the fifth edition of *House of Representative Practice*, is:

> … subject to the right of the House to legislate on any matter, matters awaiting adjudication in a court of law should not be brought forward in any debate, motions or questions.

Members will be aware that there is an appeal pending in relation to adverse findings made by the coronial inquiry into the cause of death of four persons in the January 2003 bushfires. The adverse findings made against four ACT public servants are being challenged by those public servants.

In deciding whether to invoke the convention for today's debate, I intend to follow the principles that are set out in the 11th edition of Odgers—namely, that there should be an assessment of whether there is a real danger of prejudice in the sense that it would cause real prejudice to the outcome of the proceedings; that the danger of the prejudice must be weighed against the public interest in the matters under discussion; and that the danger of prejudice is greater when a matter is actually before a magistrate or a jury. My ruling is that, in relation to the matter still before the court, members should restrain their comments about the adverse findings made against the four public servants involved.

I also advise members that standing order 54 requires that members may not use offensive words against any member of the judiciary. Also, section 14 of the Judicial Commissions Act 1994 states:

> A member of the Legislative Assembly must not raise in the Assembly a matter that relates or may relate to the behaviour or physical or mental capacity of a judicial officer—
>
> (a) except by way of a motion to have a specific allegation made in precise terms in relation to the judicial officer examined by a judicial commission; and
>
> (b) unless the member has given to the Attorney-General not less than 5 sitting days notice of the motion and the member has not been notified by the Attorney-General within that period in accordance with section 16 (2) that the Executive has been requested to appoint a commission to examine the allegation.

I ask members to be mindful of this provision when debating today's motion.

Chief Minister
Motion of want of confidence

MR STEFANIAK (Ginninderra—Leader of the Opposition) (10.33): I move:

> That this Assembly no longer has confidence in the Chief Minister, Mr Jon Stanhope, MLA, particularly in view of his and his Government's handling of the 2003 bushfires.

I seek leave of the Assembly to speak without limitation of time.

Leave granted.

MR STEFANIAK: Mr Speaker, on 18 January 2003 we saw the most comprehensive failure of a government: the bumbling, the lack of a plan for dealing with the fires bearing down on Canberra's suburbs, the failure to adequately tell the police, the failure to coordinate the resources that were available, leaving fire crews idle while parts of Canberra burned, the glaring omission of the government to prepare the people of Canberra for what could happen, the lack of an evacuation plan, and inadequate and dangerous misinformation after the fires hit. Mr Speaker, that is the stuff of the Third World, not the capital of Australia.

I think it is appropriate, in leading this debate, to quote the words of another member of this place in a not dissimilar debate only a few short years ago. That member stated:

> Mr Speaker, in many respects, my contribution to this most serious debate was written by the coroner, Mr Shane Madden, for it is Mr Madden who, in his report on the inquest into the death of Katie Bender, has so comprehensively damned the administration of the Government led by this Chief Minister. Mr Madden's scathing condemnation and the Chief Minister's failure to answer his criticisms responsibly have brought on this debate. One thing is sure, that is, that the systemic failings so clearly identified by the coroner and the Chief Minister's stubborn and arrogant refusal properly to accept responsibility for them demand a sanction that only this Assembly can deliver.

Mr Speaker, one has only to delete the name of the coroner and replace it with "Mrs Maria Doogan" and delete the words "inquest into the death of Katie Bender" and replace them with the words "inquests and inquiry into four deaths and four fires between 8 and 18 January 2003". And those prophetic words, spoken on Wednesday, 24 November 1999 by none other than Jon Stanhope, can now be equally and fully applied to him. Indeed, the matter we are debating here today involves a report far more damning of the Chief Minister and his government than Coroner Madden's report ever was in relation to the then Chief Minister, Kate Carnell. I quote again:

> … the Chief Minister's stubborn and arrogant refusal properly to accept responsibility for them demand a sanction that only this Assembly can deliver.

I wonder whether the Chief Minister, Mr Stanhope, realises just how well-founded his words were.

I will be returning to the debate on 24 November 1999, because there were some very important principles enunciated in it by the Chief Minister and by other members of this place in relation to the notion of ministerial accountability and responsibility, a notion that is more than relevant to this debate today. But first, let me set the scene.

The January 2003 fires were the worst disaster to hit Canberra in living memory. These fires killed four people; they injured 435 people; they destroyed 487 homes; they damaged 215 homes, commercial premises, government premises and outbuildings; they destroyed the Mount Stromlo Observatory, an institution of international renown; they killed or injured an inestimable number of animals, many thousands, and put at risk a number of species; and they burnt almost 70 per cent of the ACT, some 157,170 hectares. The financial losses have been estimated to be at least $610 million. It has been suggested that, when unquantified losses arising from damage done to catchment areas and the flow-on effect in terms of costs to Canberra's water supply are added, this figure could be closer to $1 billion.

Mr Speaker, the myths and untruths spun by this government have been systematically dispelled by one of the most forensic and detailed coronial inquests in ACT history. On the basis of what the coroner has discovered, the calm before the storm had more to do with ignorance, incompetence and psychological denial of what was really happening. It was that there was a lack of professionalism and a failure to have a plan for the fires reaching Canberra and for warning people and key services such as the fire brigade and the police that the coroner discovered in over 90 days of hearings in a report of nearly 800 pages.

No doubt the Chief Minister will try to sell the message of a once in a lifetime natural event that could not be stopped, that everyone did their level best. Certainly, the volunteer firefighters, the urban fire brigade and the police ran with what little information they had. They performed great feats of courage. The police took it on themselves to warn some people on their own initiative. But most residents never knew what hit them until the flames came over the fence. Mostly, people were left on their own. There were no brochures about fire preparedness delivered days before the fires hit, as in 2001, and there was no organised warning of residents by megaphone street by street ahead of the fires, as in 2001. People in Canberra, inundated with fire, just managed to escape with their lives. Most just managed by sheer good fortune to escape in what they stood up in. Tragically, four people did not.

In response to claims that the severity of the firestorm could not have been foreseen, the coroner, Mrs Doogan, says:

> I do not accept this. Australia has a recorded history of extreme fire events dating back to at least 1851 ... CSIRO fire expert Mr Phil Cheney predicted several years ago a conflagration of the type experienced in January 2003.

Much was made during the inquest and afterwards about the benefit of hindsight. It is certainly something this government often speaks about. Here is what counsel assisting had to say about the matter:

> If the evidence demonstrates, as we submit that it does, that particular people knew particular things at a relevant time and failed to act on their own knowledge then there is no role for complaining about the wisdom of hindsight, but rather the complaint is that there was a failure to have appropriate foresight.

A coronial inquest is held to establish facts, and in the coroner, Maria Doogan, the coronial process had found a dogged and dedicated seeker after truth in the formidable Australian coronial tradition. The coroner says:

> The point to make here is that experiences in life, be they good or bad, serve no useful purpose if we fail to learn from them. It is to be hoped, therefore, that the many lessons that can be learnt from this catastrophe in the ACT are in fact learnt and result in positive action, not just supportive words and shallow promises.

A telling comment indeed.

It is inevitable that, in a thorough coronial inquest such as that conducted by Maria Doogan, individuals will be blamed for taking or not taking certain actions. It is a strength of our system that individuals do need to take responsibility for their actions, and consequences often flow from that. The coroner's report is damning in relation to a significant number of individuals, including the Chief Minister. As the person ultimately responsible, the Chief Minister should resign. In the simplest terms, the Chief Minister was negligent in his duty. He took advice and acquired knowledge that he should have passed on to the people of Canberra. He failed to do so. In not doing so, he failed the people of Canberra and he failed the test of leadership.

The coroner's report revealed, amongst other things, a litany of failed opportunities, persons being in positions where they were out of their depth, an inadequate and inappropriate use of resources, inabilities to convey information that should have been conveyed within organisations and between organisations and the public, and failure to heed the advice of experts such as Phil Cheney and experienced people on the ground such as Val Jeffrey, the man who saved Tharwa.

The opposition will argue from the evidence to the Doogan inquiry and other inquiries that the Labor government's policy of locking up and leaving the environment contributed to the disaster by allowing high fuel loads to provide ammunition for the fires to burn more fiercely, by resisting backburning and bulldozing that would have saved the fauna and flora in the national parks from the firestorm when it came, and by obstructing access ways for firefighting vehicles.

The opposition will argue that there have been a number of predictions of just such a firestorm entering Canberra itself, including in the days leading up to 18 January 2003. The opposition will, on the basis of the evidence, show that the ACT under this government, the Stanhope government, was shockingly unprepared for

the fires. As the coroner said, the left hand did not know what the right hand was doing and mostly both were doing nothing.

The coroner found that there was misinformation and even denial about what was happening. Indeed, as the opposition will show, denial remains the response of this government to the 2003 fires. And while it has cost the ACT dearly, the failure to acknowledge fault means that lessons have not been learned. The result is that the ACT and Canberra are likely at some future date to burn again. Other members of the opposition will elaborate on these deficiencies and will highlight the continued lack of effective action by this government to address and implement the lessons we must learn from the January 2003 bushfires.

The two main points that concern Canberra residents are: why weren't we warned and why weren't the fires put out when they first started? Experienced firefighters I have spoken to are still pulling their hair out at the lack of action by the authorities to aggressively attack the three fires in the ACT. Indeed, the same can be said for the New South Wales authorities in relation to the McIntyres Hut fires when they started on 8 January 2003. The lack of a proper response in the early days, in the coroner's view, significantly contributed to the disaster on 18 January 2003. She found in relation to the Bendora fire:

> If the crews had not been withdrawn on the night of 8 January the fire would most probably have been contained, and if it had been fought during the following days by properly resourced teams it would most probably have been extinguished.

She made similar findings in relation to the fire at Stockyard Spur and Mount Gingerra. From her report it is clear that from around 13 January onwards government officials were at least aware of the potential for the fires to burn into the urban areas of the ACT.

But, Mr Speaker, of even more importance to the Canberra community is the question: why weren't we warned? There were many opportunities to do so. Coroner Doogan found that no effective warnings had been given until it was too late. She found that, until the first standard emergency warning signal was sounded at 2.40 pm on Saturday, 18 January, there was no official warning given to the people of Canberra. That message "was too little, and it was delivered far too late"—the words of the coroner, a finder of fact, not mine.

This inquest is a first, members, because it lays direct blame on the Chief Minister. I do not think that in my time in this place I have seen an inquest that has done that. Despite what the Chief Minister and his colleagues may say to the contrary, he has failed in his duty to the citizens of the ACT in not ensuring that adequate warnings were given to the population, and there is no escaping from that fact. The coroner said that as well as not warning the population:

> Mr Stanhope either misunderstood or deliberately downplayed the seriousness of the situation in his comments on ABC 666 and 2CC radio station at about 3.00 pm—

on 18 January—

> referring to the declaration of a state of emergency as "essentially an administrative measure" and telling people who were obviously in danger not to be unduly anxious or alarmed.

Despite what the Chief Minister might say, the coroner listened to those tapes, too. She heard the evidence. She made a finding. Despite what the Chief Minister might say or feel about it, it is a fact. In failing to warn the population, it seems that Mr Stanhope fell into the same trap and mindset as others who appear to have willed themselves to believe that the fire was not as serious as other people were telling them and that, in fact, it could be stopped in the grasslands.

Having heard the evidence, Coroner Doogan summarised the events of those last crucial days by saying that there was recognition on the morning of 18 January that there was potential for the fires to hit the suburbs that afternoon or evening, but that no warnings were given. She found that there was a deliberate holding back of information and a desire not to alarm the community. She found that there was no contingency plan. She found that predictions as to the timing of the impact of the fires on the suburbs were not acted on. She found that Jon Stanhope was the relevant minister at the most crucial time of the firestorm. She found that at the cabinet meeting on 16 January the Chief Minister knew there was a potential disaster, but did nothing to warn the community.

The coroner found that there were inadequate lines of control, operational protocols, communications systems and interagency liaison. She found that the declaration of a state of emergency and the public warnings were given far too late and that this placed people in even greater danger. She found that as late as 3.00 pm that day, on ABC radio, the Chief Minister tried to downplay the seriousness of the situation, even as houses in Duffy began burning. The coroner also noted that the community should have been told at first light on 18 January that some impact was a certainty. She said:

> Information in clear, precise and authoritative terms should have been delivered about the predictions that had been made the previous afternoon, identifying specific areas along the rural-urban interface and the forecast time of the predicted impact.

She then listed what the people should have been told. She concluded her list of what people should have been told with probably the most profound comment of all, saying:

> Apart from a late notice about some indoor and outdoor preparations, the people were told nothing.

Chief Minister, why weren't we warned? What an indictment. What a tragic failure of leadership.

Mr Speaker, I turn now to the question of ministerial responsibility. Under the terms of ministerial responsibility as expressed in *House of Representatives Practice*:

> When responsibility for a serious matter can be clearly attached to a particular Minister personally, it is of fundamental importance to the effective operation of responsible government that he or she adhere to the convention of individual responsibility.

Mr Stanhope set out his interpretation of ministerial responsibility during the debate on 24 November 1999. His own code of ministerial responsibility at that time required individual ministers to be responsible to the Assembly for the administration of their departments and agencies and that, where there was a systemic failing of government administration, the minister must be held responsible even if the minister had no direct or personal responsibility for the failing that, in the case of the implosion he was talking about, led to Katie Bender's death.

Mr Stanhope went on to state that his test of the standard of ministerial responsibility is proximity. Where something goes wrong and the ministers involved were well removed from the incidents and the public servants involved were well down the chain, the minister is not responsible. That is probably something we all accept. He stated, however, that in the case of Kate Carnell in relation to that implosion:

> … the proximity is stark. We are talking about the head of the Chief Minister's Department. We are talking about senior executives in her department, with direct access to the Chief Minister. We are talking about the Chief Minister's media adviser; her personal staff; the staff in her office.

Kate Carnell defined ministerial responsibility in the hospital implosion no-confidence motion as:

> If a Minister ignores advice—if I had ignored advice that there may be a problem with the implosion—the Minister should be out.

She said further in relation to that matter:

> Remember, the coroner has made it clear that there was no information that came to me to alert me to any problems.

She added some prophetic words which are so relevant to the debate today, saying:

> Did the government know that anything was wrong?

She went on to say:

> If we had known that there was any danger at all, obviously we would have done something about it. If we had known something was wrong and we had done nothing about it, I have to say that there would be no need for this no-confidence motion today because, as Mr Humphries said, I would not be here right now.

The hospital implosion coronial inquiry did not blame Kate Carnell in terms of having that required degree of proximity. She did not know anything was wrong and she blithely, along with half of Canberra, went along to see an event that went tragically wrong.

Let us consider Mr Stanhope's proximity to this matter. Unlike Kate Carnell, he knew. Coroner Doogan found that, from as early as 13 January, government officials, including Mr Stanhope, knew of at least the possibility, that turned into a probability, that turned into the inevitable, that the fires would get into the urban areas of Canberra. Coroner Doogan, an experienced magistrate, a finder of fact, after assessing the evidence of the 16 January cabinet meeting, a meeting of which senior government officials at the time had very vague recollections but at which more junior people did take notes, found:

> On Thursday 16 January, two days before the firestorm hit the suburbs, the Cabinet generally, including Mr Stanhope, knew a potential disaster was on Canberra's doorstep but did nothing to ensure that the Canberra community was warned promptly and effectively.

Why didn't you warn us, Chief Minister? The coroner has found that as fact. Mr Stanhope can get up and say what he likes, he can swear 50,000 statutory declarations and he can scream about it until he is blue in the face, but it is fact, because the coroner has found it to be fact—end of story.

Mr Stanhope: Ha, ha! Black is white.

Mr Corbell: Even you couldn't keep a straight face.

MR STEFANIAK: I am laughing at you, not with you. How more proximate can you get? Jon Stanhope, Chief Minister of the ACT, heard advice and did nothing. He was negligent in his duty as Chief Minister, he failed the people of the ACT and he failed the test of leadership by his own exacting standards.

I suggest to you, Mr Speaker, that this played on his mind. He knew it was his responsibility to take the blame and he said so publicly. It is now one of those iconic statements that will long be remembered: "If you want to blame someone, blame me." What did you mean by that, Chief Minister? What were you thinking? Was it sincere? It seemed at the time a courageous and heartfelt sentiment, but did you really mean it? Was it merely empty rhetoric, a cynical one-liner, a media grab designed to buy you time to explain how things could have gone so badly on your watch? Let's be clear, Chief Minister: it was on your watch. You were the responsible minister and, by all reasonable accounts, you failed your responsibility. Did you think that, by saying it, it would make the whole issue go away? If so, it did not, and it will not. Yes, Chief Minister, we do blame you, but you now refuse to accept that blame. You should have resigned.

I have to ask the Chief Minister: what was going on in your mind on 16 January, the day of the cabinet briefing? There you were, in a meeting with your colleagues, listening to reports about the fires. Among the many serious issues reported on at that briefing, you were told that there was serious potential for the fires to affect assets in the ACT, including Canberra suburbs. You were told that Dunlop and Weston Creek were at greatest risk. You were told that Uriarra Forest was 70 per cent at risk. There were cabinet briefing notes. There was a

cabinet submission made. The coroner discovered a full list of what was discussed at that cabinet meeting on 16 January.

She found a number of things. The weather forecast for the coming five days was alarming. That was accurate, wasn't it? We all know that. I am not going to read out everything, but I will read out the salient ones. The fires were formidable in size and growing. That was obvious, wasn't it? There was a warning of the potential for spotting from the McIntyres Hut fire in the event of stronger winds from the north-west, and such winds were predicted for the ensuing days. That happened, didn't it? There was a warning that spotting from the McIntyres Hut fire had the potential to seriously affect ACT pine forests and the urban area. It was noted that the McIntyres Hut fire was already one to two kilometres from the nearest forest—danger signals, guys—and that spotting can occur over several kilometres. Indeed, we heard during the fires and after that spotting can go on for about 10 kilometres.

She found that among the areas—or assets, as they were called—that were listed as being under potential threat were rural leases and the urban edge. She found that Dunlop and the suburbs of Weston Creek were mentioned as being at greatest risk. There was discussion about assistance from the state emergency services, if necessary, around the urban areas. There were references made to "urban periphery" and "urban firefighters". There was discussion of the procedures for declaring a state of emergency and the situation in which this would need to be done. Indeed, the likelihood of a state of emergency needing to be declared was assessed as between 40 and 60 per cent. There was discussion of major infrastructure loss. There was discussion of the need to recall cabinet in the event that decisions had to be made to abandon or protect specific property or assets. In terms of the cabinet meeting, if members look at, I think, page 232 of volume I they will see on page 2 of the cabinet briefing a list of issues, with clear reference to the urban edge, amongst other things.

Surely, Mr Speaker, such advice would raise questions in your mind. Chief Minister, what questions did you ask? Did you get specific answers? If not, did you press those questions? Did you ask, for example, what the contingency plan was in case the risk became a reality? The coroner found:

> No specific warnings were issued to people living in those areas identified as being at greatest risk, and no general information about the serious risk was made known to the people of Canberra.

Why didn't you warn us, Chief Minister?

We do not know why Mr Stanhope's administration was so wanting in understanding the information it was receiving, particularly in the cabinet briefing on 16 January, which included a warning that the fires could reach the suburbs of Canberra. They were so unconscious of the danger, apparently, that the emergency services minister went on leave, leaving Mr Stanhope to take over the day before the fires hit and when fire conditions were extreme.

It is interesting, members, that other agencies, such as Actew, prepared for the fires to make an incursion into the urban area. Actew ordered in new electricity poles in the days before the firestorm. I understand the figure was some 3,000. We know

that the then emergency services minister, Bill Wood, managed to go out to Lanyon on the Saturday, in the middle of the day, to retrieve the Nolan collection. But the government, with Mr Stanhope at the centre of emergency operations, by his own testimony, still did not warn the people of Canberra, who knew nothing until shortly before the fires struck the urban edge at around 3.00 pm. Why didn't you warn the people of Canberra, Chief Minister? Wasn't it your responsibility to share some of that information? At what point did you propose to take the people of Canberra into your confidence?

Mr Speaker, the Chief Minister's failure to warn the people of Canberra, particularly those in Dunlop and Weston Creek, was an appalling lack of judgment, if not an outright abrogation of responsibility. As Chief Minister, the office where the buck stops, it is his job to tell the people of any potential danger and to advise them to prepare. Even as late as 3.02 pm on 18 January, at the very moment the fire front was hitting Duffy, Mr Stanhope said on ABC radio that people should not be unduly alarmed. Really?

The sky was on fire, there were embers flying kilometres ahead, houses were burning, the people of Canberra could see, hear, smell, taste and feel its effects, and you said you did not want them to be unduly alarmed. I put it to you, Chief Minister, that your failure to inform and your failure to have a plan turned out to be far more alarming for a community totally unprepared for the devastation that was about to fall upon that community. And then there is your unexplained absence from 6.00 pm on the 17th to noon on 18 January. Where were you? What were you doing? Why had the ship's captain abandoned the helm when the storm was about to hit and why won't you tell us where you were and what you were doing?

Of great concern were all the collective memory lapses during the inquiry. The coroner was so incensed by that monumental loss of memory that she actually kept count. Without counting the Chief Minister's own lapses, many of his officials were unable to answer no fewer than 1,188 questions because they either could not recall or could not remember. We have to ask ourselves how much more we would know if those nearly 1,200 questions were answered.

Mr Speaker, we should not be having this debate today. Mr Stanhope should have resigned after the Doogan inquest findings were handed down. His behaviour in this whole saga has been less than exemplary. He even took the unprecedented step of appealing against his own coroner, an Australian first. Why do that? What was so important that he had to shut down the inquiry? Our system of responsible and accountable government requires him to resign.

By 17 January, most of the people I have discussed this matter with over the several years since the event had concerns, and had concerns even on that day. On that day there was a dry, hot wind—at that stage, I think, predominantly coming from the west—and there was smoke, causing limited visibility. People indicated to me that they held a fear these fires could get into Canberra. Indeed, one needs only to look at the accounts of victims in the coronial report. It is useful, I think, to quote several of those.

Let us take the example of Michael Boyle. He had been using binoculars to watch the McIntyres Hut fire from his home in Chapman for a period of about 10 days, and

he told the inquest that he "was reasonably confident that action would be taken to contain and control it". On 18 January, Mr Boyle was less confident, but felt he would be told if there was a real danger. Fire rolled over him as he descended his ladder. Mr Boyle is a professional in the field of contingency planning and he expressed his feelings as follows:

> Decent planning would have … perhaps months before worked out … we have to warn people. If we are to prevent panic, we must warn people—not the other way around.

Another example is David Ferry, an ex-firefighter and a former member of the bushfire council. Mr Ferry had lived in the Stromlo Forestry settlement since 1972. He could see the fires building and knew they were not contained. He remarked:

> With the experience I had … whenever there was a lightning strike everything was thrown at it.

When the New South Wales Rural Fire Service broke their camp at Stromlo settlement and left in the early afternoon of the 18th, Mr Ferry knew they were in trouble. He and his family prepared their house and, despite the fury of the fire and his own injury, Mr Ferry's house was saved. But the coroner's report noted that Mr Ferry had "no contact from anyone at emergency services, ACT Housing or the Winchester Centre before the fires hit".

Then there is Natalie Larkins, an ABC journalist. Her rented home in Rivett was destroyed in the fires. She was aware of the fires because she had reported on them the weekend before and had been in contact with a range of people, including a senior official at 6.00 am on 18 January. She had been involved in media briefings and broadcasts. She felt that if information about the fires had been given to the public in the morning, or even after the midday media conference, those extra few hours would have made "a great difference to people". She said, "There should not be a concern about alarming people because people have a right to be alarmed." She was concerned for several months, and underwent counselling for it, about whether she had done everything she could to inform people. She told the inquest:

> You know, had we had better information, could we have done more; could it change the outcome for people who lost their lives, people who lost everything they ever owned?

Finally, in terms of citing witnesses and victims on the day, I cite Sir Peter Lawler's evidence to the inquiry. His home was on Eucumbene Drive, Duffy. Apart from following the media stories about the progress of the fires and noticing the unusual morning sky on that fateful morning of 18 January, Sir Peter and his wife carried on a normal day, right up until 3.00 pm, when he walked up the driveway and saw a fire truck filling with water from a hydrant. He asked whether he should cut and run. He was advised to go inside, close the doors and windows, and keep calm. He had started to pack his car when one of his sons arrived and said they had to leave quickly. About 15 minutes had elapsed between speaking with the firefighter and leaving the house. As they left, an official vehicle drove along Eucumbene Drive announcing through a loudhailer that

people should evacuate immediately. Sir Peter, a very experienced retired public servant, a man who has held most senior postings, told the inquiry:

> If, some hours earlier, there had been an official vehicle with a loud-hailer travelling up and down Eucumbene Drive and other streets announcing "Be ready to evacuate" lives might have been saved and we and others would have been in a position to save at least some of our valued and valuable personal possessions.

Coroner Doogan concluded:

> Contrary to the submissions … to the general effect that there was no evidence that people would have acted differently if they had been warned—the evidence of the residents, whom I consider representative of the community, made it clear they would have acted quite differently had they been warned.

Members, do not ever underestimate the people of the ACT, because when proper warnings were given on 21 January and it looked like the fire might come back to north-west Belconnen people did not panic. People made their preparations and conducted themselves with very good order indeed. That, I think, backs up very much the prophetic statement made there by the coroner.

The Chief Minister may try to worm out of it, but at the end of the day he cannot. Even if he was somewhat confused and did not appreciate the risk, it still does not explain the inexplicable. Why didn't he warn us? After all, proper warnings had been issued only a short 13 months ago by his government and its agencies in relation to the December 2001 fires. Why not on this occasion? Anyone in the street could have told him that warnings had to be given, yet he and his government did not do so. Why on earth not?

He was the face of the government during this crisis. Despite his absence on the 17th and the early hours of the 18th, he was the man at the relevant meetings, including the cabinet meeting on the 16th. He was the man who only three days later said, "If you want to blame someone, blame me." We do, Chief Minister. It has been disappointing in the months since January 2003 to see the Chief Minister try to distance himself from what was a noble statement at the time. It is disappointing to see him now not accept the responsibility. The buck stops with you, Chief Minister.

I put it to members of the government that they have a duty and a responsibility to hold the Chief Minister accountable. This is a situation in which our Westminster system of democracy demands that the Chief Minister must go. On his own definition of ministerial responsibility, it demands that he must go. If the Chief Minister is not accountable, then who is? Who was in charge during those fateful days? Who was making the decisions, or perhaps who was not making the decisions that should have been made? Was the territory in limbo? What was going on?

Members, these are not my findings or the findings of anyone else in this Assembly, and this is not one politician throwing mud at another in the cesspit of politics. This is a respected judicial arbitrator finding fact after a mammoth inquiry which

unnecessarily lasted four years, which had hearings that went for over 90 days and which has made these damning findings of fact in relation to the Chief Minister and his government and agencies.

Let me repeat what I said earlier, Mr Speaker, in the simplest terms: the Chief Minister, Jon Stanhope, was negligent in his duty. He took advice and he acquired knowledge that he should have passed on to the people of Canberra. He failed to do so. He therefore failed the people of Canberra. He was negligent in his duty. And he failed his own test of leadership. He invited us to blame him. It is an invitation that, sadly, for those who lost their lives, who were injured and who lost their possessions, we accept. The matter, colleagues, is in your hands. And there is only one proper course of action you can take.

MR STANHOPE (Ginninderra—Chief Minister, Treasurer, Minister for Business and Economic Development, Minister for Indigenous Affairs and Minister for the Arts) (11.09): Mr Speaker, on 18 January 2003 this city and this community underwent a trauma that left very few individuals untouched or unaffected. Some individuals and families were not just touched, but transformed. Four territorians lost their lives: Mrs Dorothy McGrath, Mrs Alison Tener, Mr Peter Brooke and Mr Douglas Fraser. Hundreds were injured as they battled to save property and animals. Four hundred and eighty-seven homes were destroyed and dozens more were damaged.

The fires transformed our landscape, too, permanently. Never again will we be a city fringed by pine plantations. And it challenged our sense of identity. Never again will we be able to ponder our identity as a bush capital without reflecting upon the capacity for ugliness that is inherent in the beauty that surrounds us. For some Canberrans a spectacular sunset is still enough to bring back memories and physical sensations of a day on which the very sky itself seemed to catch fire.

I was Chief Minister of the ACT on the day those fires brought their devastation. I have been Chief Minister during the four years of recovery and rehabilitation that have followed. I know that are some of my fellow Canberrans who will always need to blame an individual for what happened on 18 January 2003. I accept that, for some of my fellow Canberrans, I will be that figure of blame. I will carry the burden of their accusations with me for the rest of my life.

But just because I shoulder that burden, just because I invited that burden in the days after the fire, does not mean that I accept personal or professional responsibility for the disaster. I have no doubt that over the course of today's debate those on the other side of this chamber will refer frequently to my plea—and we have seen it already—on 20 January 2003 that the community blame me for the fires.

Let us right now put that plea in context. The context is that, in the days immediately following the fire, I was being personally cheered and applauded throughout Canberra, in shopping centres and on the streets while firefighters—those who put their lives on the line—were being unfairly admonished and attacked.

Let us look at what I actually said—at the entirety of what I said in context, not at the two words "blame me" taken out of context. The entirety of what I said, published by the *Canberra Times,* was this*:*

> I'm concerned there is an implication, or it's implicit of some of the reporting of this horrendous disaster, that in some way our services or individuals within our services failed.
>
> I stand beside each and every member of the Emergency Services Bureau. I stand beside every member of our fire service, our police service, our volunteers, our rural service, all those NSW officers that were part and parcel of the defence of Canberra.
>
> What I am saying is don't cheer me, if you want to blame someone blame me. Cheer those people in this community who put their lives on the line for all of us, that's what I am asking.

That is what I said. I know what I did and did not do on 18 January. I know what I could and could not have done. That is why I will not and cannot accept without comment the errors of fact and mistaken conclusions of Coroner Doogan in relation to my own knowledge and my behaviour. That is why I will not resign. It is why today I must defend my reputation. I do not relish this debate. I believe it to be totally unwarranted.

Mr Speaker, a motion of no confidence in the Chief Minister is the most serious motion that can be moved in the Assembly. There have been a number of these motions in the short history of this chamber, and one might perhaps wonder why the opposition leader has dwelt in recent days, and again here today, so much on those historic events and so little on the reasons that he says have brought him to this juncture.

One might wonder, too, at his lack of self-awareness in accusing me of hypocrisy and double standards in arguing a position on ministerial responsibility diametrically opposed to the one I took in relation to Kate Carnell. Can't he see that his own position has undergone a similarly material shift—in the opposite direction? He quoted the words I uttered at the time but, notably, not his own.

I believe that most people can, without difficulty, distinguish between a disaster that was stage-managed, micromanaged and proudly, fiercely and protectively choreographed by the office of the Chief Minister and the events that led to today's motion—a cataclysm, an act of God that was decades in the making.

It is one of the unsavoury aspects of the profession to which the Leader of the Opposition and I currently belong that there is sometimes a temptation to play politics with the grief and misfortune of others. Today, the grief and misfortune of an entire community are the playthings of the opposition. But the motion has been put and it must be debated. And I am grateful to belong to a nation and to be a member of a legislature where I may debate the matters raised by my political opponents as well as take issue with the findings of the coroner.

In her 800-page, two-volume report, the coroner made 73 recommendations. On the very day the report was handed down, the government undertook to respond comprehensively to each of those recommendations. Yesterday it did so, and actions will flow from that response.

But let us not forget that four years have now passed since the firestorm—four years of investment and activity in the areas of disaster preparedness and responsiveness, four years during which funding for our emergency services has grown by more than 40 per cent and during which structural, communication and other reforms have radically altered how we guard against fire and how we respond to it.

I will go into more detail about this in a moment. Suffice it to say now that as government, as individuals, as householders, as volunteers and as a community, our capacity to prepare for and respond to natural and man-made disasters of all kinds has been utterly transformed in answer not just to the firestorm but in response, of course, to a deteriorating global security environment.

Of the 61 exhaustive recommendations made by former Commonwealth Ombudsman Ron McLeod in his thorough, sober, and forensic inquiry into the 2003 fires, fully 59 have been funded and implemented by the government. This represents a revolution in approach and an investment in resources unmatched in this city's history. It is an investment and a revolution that continues to this day as we refine our approach to fireproofing the city as far as is humanly possible. And that, I believe, is what the people of this territory have wanted to see happen over the past four years. They have wanted action. They have wanted investment. They have wanted a government prepared to learn from the past. They have got it.

The people of Canberra have wanted to see a government prepared to take expert advice, not just on what happened over the space of a few short hours on 18 January 2003 but on what happened in the decades that preceded that day, the decades during which we as a community were unwittingly creating the setting for a firestorm. They have wanted a government prepared and equipped to do whatever was necessary to turn things around. They have wanted assurance and reassurance that this would never happen again.

They have wanted a government prepared to take hard decisions, such as the decision not to restore the city's much loved and iconic pine plantations, and to take momentous decisions in relation to the revegetation of the catchment. They have wanted a visionary approach in relation to the rebuilding of the rural villages to create truly sustainable settlements. They have wanted Tidbinbilla back better than ever, the Cotter back better than ever, and Stromlo back better than ever. These are things that I and my ministers have worked strenuously to deliver. It is what we have delivered and continue to deliver.

Mr Speaker, it came as a shock late last year when I received from the coroner a section 55 notice advising me that she intended to make adverse comments about me in her report and inviting me to respond. There may be some people who will think me naive for feeling surprised in light of the fact that the government had joined an apprehended bias application against the coroner. But I was surprised to be personally singled out. And the reason I was surprised was that not once in the course of taking evidence and calling witnesses did the coroner put to me in court, in public, in a place and space where I might defend myself or cross-examine or call contrary evidence, the conclusions that she draws about me in her published report—not once.

I was not given the opportunity to challenge these mistaken conclusions or to correct some very basic errors of fact. I was not accorded my most basic and fundamental right to bring forward evidence to substantiate my own recollections of events. I was not told that there was even a possibility that adverse comments might be made against me—not once.

I was not advised that it might be in my best interests to be legally represented, and I was not. Only after the fact was I given the opportunity to make a detailed blow-by-blow response to the section 55 notice. I did so, and that response is appended to the coroner's report, although I regret that the coroner does not seem to have accorded it any weight.

It does not give me pleasure to stand here and dispute the findings of a judicial officer of this territory. But the false conclusions, erroneous suppositions, factual errors and comments that stray beyond the jurisdiction of a court cannot be allowed to stand unchallenged and to pass into history as truths.

There are a number of factual errors contained in the coroner's comments. To give just one example, the coroner states that I was the responsible minister "at all relevant times" in the period that was the subject of her inquiry, and the dates are emblazoned upon the cover of her report—from 8 January 2003 to 18 January 2003. It is simply not true that I was the responsible minister during the entire time. It is wrong on any possible analysis of the evidence.

At one level the coroner seems to have been misinformed as to the nature of executive government in the ACT. Contrary to the coroner's belief, the ACT does not have a system of junior and senior ministers where one minister is answerable to another and where one carries ultimate responsibility for the work of another. We can perhaps guess how this misunderstanding by the coroner occurred. The peculiarities of our small ministry mean that it is commonplace for one agency to answer to more than one minister. It is so in the current Assembly, by way of example, where the agency known as territory and municipal services serves two of my colleagues, Mr Hargreaves and Mr Barr. That does not mean that one is a senior minister and one a junior minister. Their roles are distinct; their lines of responsibility are clearly drawn.

There was no junior minister or senior minister at the time of the 2003 fires. The Minister for Emergency Services at that time was not, as the coroner states, subservient to or answerable to the Attorney-General, just because both happened to be served by the Department of Justice and Community Services. The Attorney-General was not a senior minister. The Minister for Emergency Services was not a junior minister. The coroner is simply misinformed in her deduction that, because I was the Attorney-General, at the time I was ministerially responsible at all relevant times for emergency services. That is not how government works in the ACT.

The coroner may not have known this, but the individuals sitting opposite me today most certainly do. The fact of the matter is that I had been the responsible minister—that is, the Acting Minister for Police and Emergency Services—for less than a day on the day the fires reached the urban fringe. I was not the minister at all relevant times. Even then, in practical and legal terms, this responsibility lasted only until I vested my

powers in those I knew were better equipped than I to fight fires. That investiture took place at the instant I declared a state of emergency.

Let us draw up a short time line of that period into which the coroner was asked to inquire, the period between 8 January and 18 January, the period for which she insists that I was exclusively the responsible minister. For almost half of that period, from 8 January to 12 January, I was on leave. My ministerial responsibilities for those days were borne by others of my colleagues.

For the next five days, until the close of business on 17 January, I resumed my normal portfolio responsibilities. From the close of business on 17 January, my colleague the Minister for Police and Emergency Services went on leave and I became the Acting Minister for Police and Emergency Services. On the afternoon of 18 January, as Chief Minister, I declared a state of emergency and appointed a territory controller. Yet, despite all these facts, the coroner has somehow determined that I was the responsible minister "at all relevant times". These numbers, these dates, these truths may be inconvenient for Mr Stefaniak and his colleagues, they may stick in the throats of those across the chamber, but they cannot be denied. These are the facts.

I regret that these were not the only mistaken or unsupported conclusions drawn by the coroner. By far the most personally distressing for me is her erroneous belief that on Thursday, 16 January 2003, two days before the fires, I and my entire cabinet, along with some of the most senior officers of the ACT Public Service, knew a potential disaster was on Canberra's doorstep and that we did nothing to ensure that the Canberra community was warned promptly and effectively. This is a grave accusation. It is unsupported by the facts and I categorically reject it.

The coroner's comments in relation to what cabinet was told during an emergency services briefing on 16 January fly in the face of evidence presented to the inquest by me and by senior public servants who were also present at the meeting, including the then head of the Chief Minister's Department, Mr Rob Tonkin, and the then head of the Department of Justice and Community Services, Mr Tim Keady. Nor do they accord with the recollections of the other three ministers present at the cabinet meeting, Mr Simon Corbell, Mr Ted Quinlan and Mr Bill Wood.

If I had had any inkling at the time I gave evidence that the coroner was unconvinced by my testimony, I would certainly have desired these other three cabinet ministers—including most particularly, of course, the minister responsible, Mr Bill Wood—to give sworn evidence. No inkling was given. No warning shot was fired. No suggestion was ever made that I might like to seek legal representation. No evidence was adduced that contradicted my own, so there was no opportunity to cross-examine. No suggestion was made that when her report finally appeared I would be the subject of serious personal criticism in relation to that meeting. There was silence.

That silence was only broken last December, when the coroner handed down a report that stated in black and white that on the morning of 16 January 2003, cabinet members, including me, were told that there was a serious potential that the fires would affect assets in the ACT. Among these assets were pine plantations, Tidbinbilla nature reserve, Tidbinbilla tracking station, rural leases and Canberra suburbs. Dunlop and Weston Creek were the areas identified as being at greatest risk.

Not a single person present at that cabinet briefing gave evidence that could support those comments to the coronial inquiry. One stand-alone sentence, to the effect that Dunlop and Weston Creek were the areas identified as being the greatest risk, seems to have been extracted without context from the notes of a single officer present at the meeting. There is no telling whether the sentence referred to words uttered at the briefing, let alone by whom they might have been uttered. There is no telling whether they reflected that officer's own thoughts or were an inference derived from the words of others and, if so, which others. This statement was not included in the cabinet briefing paper or in the notes of the briefing prepared by the director of the cabinet office, who was formally serving as cabinet note-taker. Most witnesses to the inquest could not recall any reference to those suburbs.

I personally recalled the reference to Weston Creek and Dunlop in the context of "the suburbs towards which the fires might travel in the event that they did spread". I repeated this in my evidence to the inquest. The understanding I took from the cabinet briefing on 16 January was that Dunlop and Weston Creek, as the suburbs on the urban edge most directly in line of the fires, would logically be the suburbs at greatest risk if the fires ever approached the urban area. But on 16 January 2003, on the advice made available to the cabinet, that was still a big if.

On 16 January, the risk of the fires approaching Canberra's suburbs was still presented by our officials to cabinet as a "possibility"—if stronger north-westerly winds caused the McIntyres Hut fire to spot over its containment lines. To give an indication of just how much of an if this was, the New South Wales Fire Brigade chose to locate their forward control headquarters directly in the path of the McIntyres Hut fire. No evidence—none—was presented to the inquest to suggest that a single person—

MR SPEAKER: Order! The minister's time has expired. Mr Stanhope, you may wish to seek leave to speak in the same terms as Mr Stefaniak; that is, without limitation.

MR STANHOPE: I do. I meant to do that, Mr Speaker.

Leave granted

MR STANHOPE: Mr Speaker, no evidence—none—was presented to the inquest to suggest that a single person attending that cabinet briefing on 16 January regarded or described the potential of the fires to reach the urban area of Canberra as a "serious" one.

In my evidence to the inquest I said that the nature and tone of the cabinet briefing had been that the potential for fire to reach the suburbs was not a real live possibility. That was my evidence. I certainly received no advice that led me to believe that the fire would destroy property in suburban Canberra. At no stage did I receive that advice.

The subsequent actions of others who attended that cabinet briefing support this recollection. Two of the ministers present at the meeting—including the responsible minister, the Minister for Emergency Services—had made plans to go on leave from

close of business on 17 January. They continued with those plans after the cabinet briefing. It is inconceivable that those ministers would have acted as they did had the cabinet briefing of 16 January raised in their minds and hearts any reasonable concern that Canberra's suburbs were at risk. It is inconceivable that either they or I would have sat back complacently and neglected to warn Canberrans of the approaching conflagration.

If, as the coroner claims, a clear warning was conveyed to cabinet on 16 January, why was that warning not contained in the cabinet briefing papers? Why was it not recalled by the ministers and officials present? Why was it not contained in the cabinet minutes, the formal record of the meeting? And what possible reason, what earthly reason could I and my colleagues have had for electing not to warn the city if we had been in possession of the sober warnings that the coroner believes us to have been in possession of? It defies logic, it defies human nature, it defies psychology and it defies sheer humanity to suggest that we were warned and that we simply shrugged and went about our daily lives.

In a statutory declaration made last year, former Deputy Chief Minister, Ted Quinlan, stated that the general impression he took away from that cabinet briefing on 16 January was that there was a relatively serious problem facing the territory, but one that was comparable to the impacts of the fires in December 2001. Mr Quinlan stated:

> There was certainly no hint of the devastating firestorm which struck two days later … I was sufficiently confident to undertake a planned visit to Melbourne ...

Mr Bill Wood, the Minister for Police and Emergency Services at the time of the fires, has also recorded his recollections of that cabinet briefing in a statutory declaration. He writes:

> I did not entertain the view—nor, I believe, did anyone else—that the fires could intrude into the urban areas; that it could develop so drastically. Had the tone of the briefing been different I would not have sought leave as I did.

The other minister present at the cabinet meeting, the then Minister for Health and now Attorney-General, gave his recollections to the media last December. At no time, he said, had the ACT Emergency Services Bureau suggested that a warning was required or needed. Mr Corbell then stated:

> … they said that the fires posed a significant threat to parts of the ACT but there was no immediate threat to the urban area at that time. And that was two days before the firestorm. They went on to say that they believed the day that was of most concern was Monday the 20th of January 2003, not Saturday. And they said, when questioned, that if necessary there would be mechanisms put in place to advise the public, but they did not believe that that was warranted at that time.

These recollections, from three credible, respected and upstanding members of the Canberra community, are entirely consistent with my own recollections. They are consistent also with the evidence given to the coroner by two other respected individuals—the then chief executive of the Department of Justice and Community Safety, Mr Tim Keady, and the then chief executive of the

Chief Minister's Department, Mr Robert Tonkin, two of the ACT's then most senior public servants.

Is the Leader of the Opposition suggesting that each of these individuals is afflicted by a faulty memory or, worse, that each of us is a liar, that every member of the cabinet lied, that the head of the Chief Minister's Department lied, that the head of the Department of Justice and Community Safety lied—is that what the Leader of the Opposition is suggesting?—and that the coroner, who was not at that cabinet meeting and cannot have known what was said and what was not said, is correct in her suppositions?

Interestingly, the coroner's assertions as to what cabinet must have been told on that day are strangely at odds with what, elsewhere in her report, she accepts as expert opinion on fire behaviour. On page 350 of volume I the coroner quotes expert witness Phil Cheney as stating that the central fire moved very quickly, "maintaining a rate of spread of 20 kilometres an hour, which is the fastest documented rate of spread of a forest fire anywhere to my knowledge".

The coroner goes on to record Mr Cheney as saying that the fact that the phenomenon occurred and the speed with which the resultant fire moved had been a "complete surprise" to him. Let us think about that for a minute. The coroner's own expert witness says that the firestorm took him by "complete surprise", and the coroner evidently accepts that as reasonable. Yet she simultaneously concludes that the ACT cabinet must have been forewarned of a disaster which took her expert by complete surprise.

I am no expert in firefighting, Mr Speaker. I had no reason to doubt the advice of the ACT Emergency Services Bureau, either at that cabinet briefing or afterwards. What sort of a strange, presumptuous creature would I have been to assume that I, with no professional expertise in the area, knew better than a group of professionals that had successfully fought a major fire in the recent past? It would have been absurd of me to do so, particularly in the absence of any suggestion that the approach these professionals were taking was unwise, unsafe or ineffective.

Moreover, I am sure the Leader of the Opposition, having carefully and thoughtfully followed the entire coronial process, would be aware of the statement in the court made by counsel assisting the coroner, Lex Lasry QC, that he did not submit that it was the responsibility of the cabinet to warn the people of Canberra. It seems that in this instance the coroner chose to ignore the "assistance" rendered by counsel assisting her.

I will not resort to cliches about the advantages of hindsight, but I will say that there are sometimes reasons why phrases become cliches. It is because they have the penetrating force of truth and common sense. My colleagues across the chamber today have hindsight on their side. So did the coroner. So do those who, in the four years since the fires, have come out publicly and protested that they knew that disaster was imminent, that they read the portents and that they could have done better. I did not have the luxury of hindsight in 2003 and I cannot call it to my assistance today.

There is another group that tragically lacked the advantage of hindsight—this city's heroic and hard-pressed emergency services workers, who could have benefited from a crystal ball in the weeks and days and hours preceding the firestorm. They are the very people that the Leader of the Opposition last week called the Keystone Cops.

I must take the opportunity today to put on the record my deep disappointment at another aspect of the coroner's report. It concerns the conclusions the coroner drew from some extremely selective quotations from a radio interview I gave on the day the firestorm struck. Excised from their context, the words cited by the coroner in her report create an entirely misleading impression of the broadcast. Essentially, the coroner says that I downplayed the seriousness of the situation on the afternoon of 18 January.

Again, I deeply regret that such a proposition was never put to me when I gave evidence to the inquiry. It was never raised. Had it been, I feel I might have been able to defend myself in a more appropriate forum than the one to which I must resort today. Had such a proposition been put to me, I would have pointed out that a fair and complete reading of the radio transcript shows quite clearly that I recognised the seriousness of the situation confronting Canberra and that I conveyed that seriousness to my fellow Canberrans as best I could.

This accusation is doubly unfair and misleading. It is unfair on one level because the speed of the fires meant that, even as I spoke, my words were being overtaken by events. In the 2CC interview, for example, I did not mention that Mount Stromlo and Duffy were ablaze because it was literally taking place as I spoke. I simply did not know. To suggest that my failure to mention these facts is evidence that I downplayed the seriousness of the fires is like saying that Pliny the Younger downplayed the eruption of Vesuvius in AD 79 because he did not understand that Pompeii was being buried as he watched.

The coroner suggests that because I characterised the declaration of a state of emergency as an essentially administrative measure, I deliberately downplayed the seriousness of the fires. Yes, I did characterise the declaration in those words, because they are true. That is what it was. In her highly selective excerpt, the coroner failed to include the rest of my comments. She stopped after the words "essentially an administrative matter". After I said that was essentially an administrative matter, I went on to say that it "acknowledges the seriousness of the emergency that we are facing and … allows all of the emergency services and particularly the police to take, if they need to, a whole range of emergency steps. It gives them emergency powers. It puts the Chief Police Officer in control of the emergency".

That is what I said. Read the transcript. The coroner accuses me of downplaying the seriousness of the situation by referring to the declaration of a state of emergency as an administrative matter. I am subject to adverse criticism on the basis of an incomplete reading of the transcript.

I used the word "emergency" five times in my comments. It is true that the information I had at my command as I took part in radio interviews on 18 January was

speedily being overtaken by the events. But to suggest that I was downplaying the event in the media is preposterous.

I gave another interview on the ABC at 3 pm on 18 January. This is the time identified by the coroner as the time that I was downplaying the emergency. On the ABC at 3 o'clock I said:

> Well, we're still struggling for confirmation across the board in relation to a whole range of issues that we're facing.

This is the interview for which I am criticised specifically by the coroner as downplaying the emergency. I continued:

> The advice that I have, that a minimum of 30 to 40 houses in Duffy are confirmed as being on fire. There are grave concerns that there could be two or three times that many, but those numbers haven't been confirmed to me. We're confirming those.
>
> As you can imagine, there is so much going on around the ACT. There are, as I understand it, three houses in Giralang that are burning or have burnt. There are, at this stage, as yet unconfirmed reports about houses in Chapman that are also, perhaps, already burning.
>
> We're facing a grave, there can't be a graver situation facing a community than this, as is obvious to everybody. There's a way to go yet, as is clear from the bulletins that you're broadcasting.
>
> We are concerned that the fire, as it currently flanks to the west, will become a front when the winds change to the south or the south-east in a couple of hours time.
>
> That's the basis of the revised warnings in relation to a new, or additional, numbers of suburbs that potentially will face the front when the wind changes.

This is the transcript to which the coroner refers and which she concluded proves that I downplayed the emergency. The language I used during radio interviews on 18 January was consistent with the advice that I had received, minute by minute, from the ACT Emergency Services Bureau. I accepted then, and I still accept, the bureau's legitimate desire on the day to avoid fuelling panic. I did say during those interviews that it was essential that people not panic. I asked them not to panic.

The coroner's allegation that I downplayed the seriousness of the fires is abhorrent, repugnant and unsupported by the evidence. In fact, it is contrary to all the evidence. It also flies in the face of logic. What reason could I have possibly have had to downplay the gravity of the emergency? What purpose could have been served?

Equally, I cannot imagine what purpose could have been served had I chosen to play up the significance of the facts that were in my possession, to embellish perhaps or to embroider. Is it seriously suggested by the coroner and the Leader of the Opposition that I ought to have urged hysteria rather than calm? Is it suggested that, in defiance of the advice from emergency professionals, I should have called on people to flee their homes and to choke the streets? Should I have been shrill instead of calm? Would that

have saved those 500 homes or those four lives? I struggle to comprehend the coroner's criticism of my actions in this regard. I could not have acted or spoken in any other way. I would do the same again under the same circumstances.

Mr Speaker, it was appropriate and inevitable that the issue of the adequacy of warnings be looked at by the inquest into the 2003 firestorm. There is no doubt that the absence of warnings has been the issue that has most disturbed many members of the public. They wonder what they might personally have done to better secure their property if only they had had a few days or a few hours to prepare. They cannot accept that this was a disaster so profound in its scale and so beyond the comprehension of even the most seasoned and experienced professionals that normal procedures, normal protocols, collapsed in upon themselves.

I sometimes ponder what it must have been like for those men and women of our emergency services who were the decision makers and the advice givers during the 2003 fires. Few of us, thankfully, will ever have such calls made upon our professional capacity. Few of us will ever be expected to apply our everyday understanding of how the world works to a world that suddenly conforms to none of our expectations—a world gone mad.

I and my ministers relied on the operational experience and expertise of the emergency services during the 2003 firestorm. I do not say this in order to deflect attention or apportion blame. Indeed, while no-one disputes that the process and systems in place in 2003 proved quite unequal to a disaster of the magnitude of the firestorm, the men and women who fought the fires before and after they reached our city did so according to assumptions and rules that no-one—not the government, not the members opposite me in the chamber, not the courts—had ever suggested were manifestly inadequate.

I raise the matter of the government's reliance on expert agency advice simply because that is how government works. Neither I nor my cabinet colleagues had the kind of operational experience or expertise—or indeed the responsibility—to make judgments about whether warnings should be issued or the content and timing of such warnings. Had I or any of my ministers tried to interfere in operational matters or override operational decisions made by professionals, we would rightly have been exposed to criticism. Indeed, as I am sure the Leader of the Opposition knows, this was precisely the criticism levelled against his own Liberal government by a coroner in relation to the implosion. But our having relied on expert advice, which is what we did, seems to expose us to criticism as well.

It is curious that the coroner saw fit to give us the benefit of her opinions on the Westminster model of ministerial responsibility—a concept that is entirely a political construct and which is utterly unknown to the law. Putting to one side the coroner's competence to comment on matters so unrelated to her judicial powers, it is, of course, quite appropriate that such concepts be teased out here in this forum.

Back in 1980, Sir Billy Snedden, in the course of a speech on ministerial responsibility, said:

> I continue to believe that in the matter of ministerial responsibility, in the strict sense of actions done in his name or on his behalf in his role as a Minister, his responsibility is to answer and explain to Parliament for errors or misdeeds, but there is no convention which would make him absolutely responsible so that he must answer for, that is, to be liable to censure for all actions done under his administration.

The Leader of the Opposition will be familiar with these words because he quoted them, of course approvingly, in a previous debate in the Assembly. At that time Mr Stefaniak described Sir Billy Snedden's words as a very good summary of the convention and the extent of ministerial responsibility. The commonwealth government's *Guide to key elements of ministerial responsibility* runs along much the same track. When referring to ministerial responsibility, it states:

> … does not mean that ministers bear individual responsibility or liability for all actions of their departments.

A little later it goes on:

> … would properly be held to account for matters for which they were personally responsible, or where they were aware of problems but had not acted to rectify them.

The distinguished ANU scholars Professor Richard Mulgan and Professor John Uhr note:

> Discussion—

that is, of ministerial responsibility—

> has been unduly dominated by mistaken interpretations of ministerial responsibility regularly recycled by opportunistic oppositions, ignorant journalists and politically naive constitutional lawyers: that ministers are personally responsible for all actions taken by their departmental subordinates and that they are required to resign for mistakes made by their subordinates. Such assumptions are clearly foreign to Australian understandings of ministerial responsibility … The main obligations on ministers are to "take responsibility" for their departments by providing answers to Parliament and the public, by imposing appropriate remedies when faults come to light ...

I have never—nor will I ever—shied away from a debate about ministerial responsibility. I do, however, make the point that this is not a subject upon which a judicial officer is either qualified or entitled to comment. Ministerial responsibility is not a concept known to the law, and the coroner's intrusion into the matter is gratuitous at best.

As I say, I do not shy away from a debate on ministerial responsibility. But let us have the debate in the proper and fit forum—here in the Assembly.

The distinguished public servant, the late HC "Nugget" Coombes, in the 1976 report of the Royal Commission on Australian Government Administration, observed:

> The responsibility of ministers individually to Parliament is not mere fiction ... Parliament is the correct forum, the only forum, to test or expose ministerial administrative competence or fitness to hold office.

The duties of ministers in this legislature are set out in the ACT ministerial code of conduct. The code makes it clear that ministers are accountable to the Assembly and, through it, to the people of Canberra. Similar principles are set out in various guidelines and codes in other Westminster style parliamentary systems.

In all these jurisdictions the vital element of ministerial responsibility is the requirement that each minister be prepared to answer to parliament, in the form of explanation or defence, for their actions and those of their departments. The principle was well expressed by Lord Justice Sir Richard Scott, who headed a United Kingdom inquiry into arms sales to Iraq, when he observed:

> … obligation of ministers to give information about the actions of their departments and to give information and explanations for the actions and omissions of their civil servants lies at the heart of ministerial responsibility.

Thus, when public servants make an error, the minister is expected to explain to parliament what went wrong and to undertake that the error or deficiency will be remedied and that measures will be taken to prevent its repetition. Ultimate accountability then lies with the electorate, informed by the minister's explanations and by the opposition's challenging of that defence.

In the four years since 18 January 2003, this government has gone to extraordinary lengths to identify the deficiencies and omissions in our emergency service systems that might have contributed to the severity of the 2003 fires. And we have gone to extraordinary lengths to remedy those deficiencies and omissions.

The coroner has concluded that a failure to aggressively attack the fires in the first few days after they ignited on 8 January was one factor that led to the firestorm on 18 January. We know there were other contributing factors, many of them historical, including the management of the bush and forests surrounding Canberra over many decades, and the structure and organisation of our emergency services at the time.

Over the past four years there has been a complete overhaul of the way ACT emergency services operate. New emergencies legislation has been put in place; 11 new firefighting appliances have been purchased; 170 additional full-time and volunteer firefighters have been recruited; new communications and weather monitoring systems have been put in place; and new community education and public awareness strategies have been introduced. A strategic bushfire management plan has been put in place and fuel reduction activity has been massively stepped up. Funding for our emergency services has grown by more than 40 per cent since 2003 and now totals more than $60 million a year.

These are the actions of a government that has stood in this place, acknowledged to the Assembly and the people of Canberra deficiencies in historical practices and then put its heart and soul into remedying those deficiencies. With the handing down of the coroner's report, we have another opportunity to look closely and thoughtfully at our

processes to see whether there might be yet further changes we can put in place to ensure that the events of 2003 are never repeated.

It is not unusual, when confronted with calamity, to want to apportion blame. We all feel that urge on occasion. It is natural too for those in positions of some power or authority at calamitous moments to look inward and to ask themselves if they did all within their power to avert disaster or pick up the pieces afterwards. In the four years since the 2003 fires, I have had plenty of time to ask those questions of myself. It is true that I have regrets. I regret in particular the year-long delay in the resolution of this matter caused by the challenge to the coroner. Yet again, hindsight lends an extra dimension and a new complexion to events.

Still, I am not ashamed that I supported then, as I support now, individual men and women who I felt did an extraordinary job in extraordinary times with the resources, the knowledge, the skills and the expertise at their disposal. That these resources and this knowledge were found wanting on 18 January 2003 surely says more about 18 January 2003 than it says about those men and women.

I thank the people of Canberra for the support they have shown this government over the past four years. I thank my colleagues for the support they have given me personally today, indeed every day over the past four years, as we have worked together to heal the community and to ensure, as far as ordinary men and women can ensure, that the events of 18 January 2003 never recur.

MR SPEAKER: Before I call Dr Foskey, members will recall that Mrs Burke was granted an indulgence to remain seated while speaking. Until Mrs Burke advises me that she is sufficiently recovered, I propose to continue to allow her to speak when she is seated.

Mrs Burke: Thank you, Mr Speaker.

DR FOSKEY (Molonglo) (11.57): Mr Speaker, I seek leave to speak without limitation, and I thank the manager of government business for granting me this concession.

Leave granted.

DR FOSKEY: I have an abiding fear of uncontained fire. This is because I have experienced it in various guises, beginning when I was about six, minding my brothers while watching the vacant town block next door burn, coming within a cat's whisker of our side fence. This fear was reinforced a few years later, inspecting the ruins of a neighbour's house which burned to the ground when she left the iron on, beginning for me a lifetime's worry about leaving my iron on. But these were isolated experiences such as occasionally occur within a country town or a suburb and not of the wildfire variety. These fires never left their quarter-acre blocks.

It was later, when I moved to the mountains of far east Gippsland, that I learned to dread the combination of drought and dry thunderstorms. Even so, my first bushfire experience in my first year there was, like 75 per cent of such events, man made, as the adjoining neighbour's attempt to reduce his blackberry problem got away

overnight when the wind blew up, contrary to his expectations that it would go out in a September frost.

It was one of those fire weather days when Jim hurtled down our gully in his Land Rover to tell us that the fire was just behind him. He and his wife had tried all morning to put it out and, having failed, they thought they had better tell us that our house was in danger. The fire weather wind had already blown down both our old and our new outhouses and we just had one old Peugeot 403 as transport. I grabbed nappies and my baby of six months and Fiona went to rescue the horses. We did not know what to do about the cow and the goats. The baby took priority over the animals and I thought I would drive the 11 kilometres or so down the mountain road to where Bob, my husband, was working. We had no phone, and the neighbour's phone—the neighbour whose hand had lit the match—was out. Fire winds had brought down a tree, or several, and I had to wait while a farmer with a chainsaw, fortunately on the road at the same time, cleared them off the road. When I arrived, Bob jumped into our one car, donning his Country Fire Authority hat, leaving the baby and me at the farm where he had been working—no phones, no news, plenty of fear and anxiety, but safe.

It was the old question: stay or go. I had a baby to take care of, so I went. Fiona stayed, but she had no knowledge or equipment to protect our house. We were lucky. It was September. The fire burned to the edge of the bush, several hundred metres from the old house where we lived, evening fell and it snowed: danger over for the time being. That was not the last of my bushfire experiences, but I grew wiser in the ways of bush lore.

Consequently, in the days leading up to 18 January 2003 I was on tenterhooks, both about my place down in east Gippsland, which was surrounded by fire, and about Canberra, where the south-western side would soon be engulfed by fire. I imagine that if I had been a member then I would have been on the phone to the relevant minister's adviser, annoying him, because when it comes to fire I err on the side of extreme caution.

The precautionary approach is intrinsic to Greens policy. Everything that I have heard and read, and that is now a great deal, indicates to me that the ACT government, the agency responsible for fire prevention and control and most Canberra residents, including those at the urban edges, which it had been recognised for at least a decade were at particular risk from bushfires, were, for whatever reasons, less prepared than Canberra residents expected of their government, their bureaucracies and their communities.

There had been no shortage of warnings. Several reports had indicated the potential in the ACT and its region for a widespread conflagration, and this was admitted by Gary Humphries when he was Minister for Police and Minister for Emergency Services in 1996. Perhaps prior to January 2003 the ACT was like Victoria before 75 people died and more than 2,000 homes were lost in the 1983 Ash Wednesday fires of 16 February. Nothing focuses the attention like disaster and tragedy, and fire prevention and management techniques in Victoria have had over two decades to improve. The ACT had been lucky up until 2003; but this proved disastrous for the four victims and 500 households rendered homeless by the January fires.

Written in 1994, the McBeth report has a prescient quality. I have to ask why this report was hidden by the Follett government, which commissioned it, and can only assume that the government could not bear to have the criticisms in it aired publicly. In the wake of the secret Costello report, which has in more indirect ways impacted upon people's lives, and with the hindsight we now have on the 2003 fires, I question the wisdom of that. Did people pay for the earlier ALP government's attempt to keep citizens in the dark regarding the ACT's fire risk potential with their homes and their lives?

Before the McBeth inquiry, there was a series of reports on matters related to emergency services, with a focus on fire prevention. Prior to self-government, there was the Attwood report and the associated Cohen report in 1986 and the Purdue report in 1988. After self-government, there was the Hannan report in 1991, the Purdon report in 1992, the McDonald report in 1993 and its supplementary in 1994, the McBeth report in 1994, the Glenn report in 1995 and finally, of course, the McLeod report in 2003.

I think it is unlikely that successive governments would have commissioned so many reviews if there had not been deep concerns about the services charged with the protection of Canberra, its natural and built environment and its people. Problems identified include:

- cultural differences between the services—career firefighters and volunteer firefighters and between urban and rural firefighters;

- lack of a shared ethos;

- different administrative and reporting lines; and

- uncertainty about geographical and operational boundaries.

The latest of these reports was, of course, the McLeod report, which was commissioned in response to the 18 January fires. This report seems to have had broad acceptance within the services, including among all Assembly members and within the community. The government's response was positive, agreeing to all recommendations.

Let me quote from the comment upon this report by Tim Keady, who was then the Chief Executive of the Department of Justice and Community Safety, and Peter Lucas-Smith, who was then the Director of ACT Bushfire and Emergency Services:

> All those involved in dealing with the January fires will never forget the suffering inflicted on the community we were unable fully to protect. The hurt suffered by firefighters and emergency workers in the Fire Brigade, Bushfire Service and Emergency Service because of the inability, despite their unstinting efforts, to prevent the large scale destruction of January will also take a long time to heal. Whilst the past will remain with us, our duty now is to move forward, to implement the McLeod recommendations as quickly as possible and thereby provide the community with assurance that bushfire will never again cause such damage to life and property.

As we all know, not everyone has been able to move forward, despite their best intentions at that time. In fact, some of those officials yesterday mounted an action against the comments made about them by the coroner. And, as we know, there are people affected by the fire who have given the impression that they will not be happy until retribution or compensation is exacted. Some want Mr Stanhope to resign; some just want an acknowledgment from the government of the day that mistakes were made and responsibility is accepted. The legal situation, unfortunately, makes that unlikely.

Catherine Dunlop, a lawyer who specialises in legal issues related to emergencies and emergency services, comments that Australian coroners have broad powers to investigate and hold inquests into deaths and that the role of emergency services personnel at inquests has traditionally been to assist the coroner in finding out how a disaster unfolded, why people died and in making recommendations for the future. She says:

> Whilst it may seem unlikely to an ESO that their personnel could be criminally liable, it is important that they understand the potential for action against them if they are required as a witness.

From the evidence that they gave at the coronial inquest, it was clear that the officers were entirely aware of the potential for subsequent legal action.

Today we are debating the opposition's no-confidence motion, which has been precipitated by the coroner's report handed down in December. I want to look in some detail at that report since it is the basis on which today's motion was put. As we know, this was not an uncontroversial inquiry. Maria Doogan clearly resented the delay caused by the legal challenge mounted by a small number of ACT government employees and backed by the government. I am not sure that her annoyance does not colour her response. Certainly, her remarks indicate it does.

The coroner's job is an important one: to find out how a disaster unfolded, why people died and to make recommendations for the future. Coroner Doogan felt that she could not do this without finding fault on the part of individuals. While she remarked that a coronial inquest or inquiry is not an adversarial hearing, I could not help thinking as I read her report that this one was. But I do not lay the blame for this entirely at her feet.

My other significant concern was the list of witnesses called by the coroner and the experts that she chose to help her draft her report. I wonder, for instance, why she did not call Bill Wood, who was the responsible minister on all but the most horrific day of the fires. Indeed, he was the minister for police and emergency services during the period when, theoretically at least, it might have been possible to bring the fires under control. Nor were any members of cabinet, apart from the Chief Minister, called to give evidence. I wonder also why she limited her small group of scientific advisers to a fire physicist and someone whose expertise was the behaviour of fires in terms of spotting behaviour. If there were others I have missed, my apologies.

The expertise of Messrs Cheney, Roche and Ellis was relevant, but if the coroner was going to make recommendations such as 32 to 34, she should have had a broader range of experts. Recommendation 32 calls for:

> regular and strategic burning in all areas of the ACT—including the catchment areas … and excluding only small areas of particular ecological … significance.

Recommendation 34 calls for alterations to the Namadgi management plan to allow for a fuel reduction burning regime equivalent to that used in the corridors designated as the landscape division zone in rotation to achieve an appropriately varying fire age spectrum across the entire landscape. If she was going to venture into such areas, the coroner should have sought the advice of fire ecologists and other relevant scientists. A number have indicated to me that they would have liked to have been consulted, and they have expressed concern about the lack of scientific basis to those particular recommendations.

The coroner makes no bones about her preference for the evidence of Cheney and Roche. In response to Peter Lucas-Smith's criticism of their evidence, she says:

> In contrast, I found the evidence of Mr Cheney and Mr Roche to be both credible and helpful. Their evidence is referred to throughout the report.

There is another issue of concern for me in the coroner's report. Recommendations 32 to 34 are not backed up by any discussion in the coroner's report itself. That discussion appears to be in the transcripts, but with such a limited number of expert witnesses it would be difficult to conclude that the coroner had access to the full range of evidence in making that recommendation. She seems to have accepted Mr Cheney's obviously partisan word that people like Ian Fraser, Geoff Butler, Bill Packard, Doug Tinney, Clive Hurlstone and Professor Peter Cullen, some of whose work I know and others that I first came across in Mr Cheney's evidence, "have little experience in land management issues but rather are likely to present a rather narrow view of the effect of fire on specific communities. It may be interesting to put their evidence under cross-examination and see how they justify the events of last year because it is the influence of these people that has made it difficult for successive managers to undertake practical broad-scale management".

We know that the coroner did not call these people as witnesses, and we will not know whether they might have presented a more nuanced view than she and her chief witness supposed they would. I might add here that none of these people are members of the ACT Greens, putting the lie to Mr Mulcahy's and Mr Abetz's accusation that the Greens were responsible for the 2003 fires. I take this opportunity to condemn this monstrous accusation that the Greens were responsible. It is a terrible accusation to make about anyone who is not an arsonist.

I am pleased that the government has agreed with recommendations 32 to 34 only in part, but I remain concerned that it lacks the work force to carry out scientifically based fuel reduction burns, especially with the loss of experienced park rangers following the cuts inflicted in the last budget. Fuel reduction burning should reduce the fine litter fuel loads, which means a cool burn is desirable, and this can only be achieved with adequate oversight from people experienced with the process.

If the aim of keeping fire out of national parks and wilderness is to protect biodiversity, it is essential to protect it in a way that does not destroy important elements of that biodiversity. That is why the Greens support a fuel reduction process based on scientific study, appropriate for the particular vegetation type and the topography, conducted in a time pattern that allows regeneration to occur. The coroner's recommendation suggests interest in control burns only for fire prevention purposes, with little regard for catchment values and the retention of biodiversity.

I was a bit alarmed at the Attorney-General's comments at his media conference yesterday, where, in response to a question about fire hazard reduction burns, he did not even refer to ecological considerations but dwelt purely on rural land and the benefits of grazing. I hope and expect that this was merely a misunderstanding and that the government will act on its stated commitment to a scientific approach to fire hazard reduction burns incorporating biodiversity values and evidence into the decision-making process.

I read with interest the Victorian Department of Sustainability and Environment's guidelines and procedures for ecological burning, because they suggest that there is room for asset protection measures within an ecological framework. Let us hope that the second stage of the strategic bushfire management plan, expected in July 2005 but delayed "for more detailed analysis to ensure that it is scientifically rigorous", reflects similar principles. The Victorian code of practice for fire management on public land states:

> All uses of prescribed burning within a given area must be integrated to the maximum extent practicable. The planning of prescribed burning requires the recognition and balancing of often competing objectives and must take account of … the role of fire in the maintenance of biological diversity, the responses of different ecosystems to fire, natural patterns of succession, and the risk of wildfire …

I am sure that these guidelines are not always followed to the letter, but at least they exist.

I agree with the coroner and many people in the community that the first aim of any fire service should be to attempt to extinguish the fire at the earliest opportunity, understanding that this will not always be possible. In deciding whether or not to attend or stay overnight, and especially the first night, the advice of the fire crews on the ground should be sought. I understand that there are occupational health and safety considerations, but a fire burning out of control poses risks to life and property at a level which may be greater and is certainly unpredictable. I am talking here about the precautionary approach again.

The issue of warnings has preoccupied many of those who lost loved ones and homes in the 2003 fires. I cannot know whether or not the officials realised that Canberra's urban areas were under threat from the fire before they said that they realised it, but I do believe that an informed community is likely to be a safer one. I understand that the Chief Minister wanted to avoid needless panic, but I think that next time—God forbid—we face such an event the relevant officials and ministers must take the

community with them. The colour coded escalating levels of alert give me some hope that this will be the case.

I have a final comment on this issue, with relation to the climate crisis that confronts us. First, because so many species will be affected in ways that we cannot predict, it is important to retain contiguous corridors of native vegetation appropriate to the terrain. This is likely to mean that future enlightened governments at federal, state and territory levels will require and reimburse farmers to manage parts of their holdings as wildlife corridors, and our national parks will become crucial refuges for native plants and animals, and we should not compromise that now in a knee-jerk response to perceived future danger to ourselves and our property.

Second, we need to be cognisant of the contribution of fire to our greenhouse gases load. This is not a minor matter. It is estimated that carbon dioxide emissions from the 2003 conflagration in Victoria released around 88 million tonnes of carbon dioxide into the atmosphere in a few weeks. If we add to this 12 months deficit in photosynthesis due to the denuded forests, the number increases to around 120 million tonnes of CO_2, or over twice the total CO_2 emissions from all forms of transport for the whole of Australia for a year. This means that we need to be very strategic indeed about our control fires, to ensure that they burn rather than smoke, that they are short in duration and of the minimum rather than the maximum area required to do the job of wildfire retardation. The coroner's recommendations do not address these points.

There are many matters I could raise in relation to the coroner's report, but time precludes me from referring to more than a few of them. I appreciate the day-to-day descriptions she has given of the fires and efforts to suppress them, as well as actions in government, the bureaucracies and the media to make sense of what was happening and to turn this information into public awareness, or not as the case may be. I strongly endorse her suggestion that fire access tracks be maintained so that they are accessible at all times of the year, except when they are too wet and fire is not an immediate threat, although the placement of tracks in terms of the integrity of the park should not be trivialised, and their placement obviously requires environmental expertise.

I also understand that the coroner, like many judges, magistrates and court officials, is frustrated by the administration of the courts remaining within the department of JACS and I agree with many of her concerns about the potential threat to the separation of powers. The Greens have mentioned these matters many times over the years. However, I am not sure that it was appropriate to make recommendations about these matters in a report on the January 2003 fires, although she has certainly elicited a reaction from government by doing so.

I endorse the government's stated commitment to a review of the Coroners Act 1997, something the Greens have been pushing for some years. We hope to have the opportunity to contribute to the draft terms of reference soon.

Finally, I note that the coroner made disparaging comments about several officers and the Chief Minister at various times throughout her report. I wonder about the value of these when they are not substantiated in her findings and recommendations. Of course she was frustrated at their apparent lack of memory on matters of interest to her and

the community. The legal process and the potential for prosecution, which I referred to earlier, no doubt made them annoyingly cautious.

By contrast to the reaction to the McIntyres Hut fire over the border in New South Wales, where it appears similar accusations of inadequate early response were made, we have had a full and relatively frank discussion here in the ACT. There, the coronial inquest made a finding that there was no evidence to suggest that firefighters had not done their best to preserve life and property, a finding in contrast to McLeod's conclusion that a more aggressive early attack might have put that fire out. I know that this finding is upsetting to those landholders and fire experts who saw what they termed negligence in early efforts to quell the New South Wales fire.

Hindsight is a very powerful lens, and I have no doubt that the officers and politicians alike would have handled matters differently if they had had their time over again. I have asked victims what they believe would have made them feel less bitter about events around that fateful period, and most say that they want to hear a word similar to the one that John Howard has refused to utter: sorry. I have no doubt that people do feel sorry, and that it may be an indictment of our legal system that they do not feel free to utter that word or to admit that mistakes were made.

On the basis of the coroner's report and on the basis of all that I have seen, read and heard, I cannot support Mr Stefaniak's motion of no confidence. There are three main reasons for this decision, which has absorbed my mind for the last two months. I have consulted with members of my party, at least one of whom lost his house on Warragamba Drive that day, and I have come to my decision by applying Greens principles and, I think, good common sense. While it is impossible to avoid politics in a matter like this, I have tried to apply logic and compassion to the task.

There will be people who will castigate me for my decision, and there would have been people who would have been offended if I had gone the other way. Politics is like that. First, while the coroner implies that the Chief Minister should resign, citing the Westminster convention and supported by her expert witness Sir Peter Lawler, I believe that if she had wanted this—and it never became a recommendation—she should have mounted a more extensive investigation. Why was Bill Wood, who took leave for one, the worst, day, not seen to bear any responsibility? Why weren't he and other members of cabinet called? The opposition says it has no confidence in the Chief Minister. That is predictable, but the opposition's role is political while the coroner's is judicial. There is not enough in her report to justify this, and it is noteworthy that she does no more than imply it, through the words of Sir Peter Lawler.

Second, the government, and certainly not the Chief Minister, did not set in motion the train of events that led to the terrible day of 18 January. In this way, the situation is very different from earlier motions of no confidence that had, I believe, more cogency. Both the hospital implosion and the Bruce Stadium development, for example, were set in train deliberately by the government and actively promoted by the Chief Minister of the day. While the Stanhope government and its agencies failed to deal effectively with the fires, they did not light them. I suggest that this casts the notion of responsibility and liability in a different light. And, while Ms Carnell certainly did not intend to do harm, she did set in motion the train of events that ultimately caused the damage.

It is worth reflecting on the notion of strict liability here, where someone is penalised for failing to do the right thing regardless of whether or not they intended to do harm or even whether they were reckless as to whether their actions would cause harm. Situations like the one we are debating today do not attract the application of strict liability.

I do believe the ACT government under Chief Minister Stanhope was unprepared for the fires and failed to communicate effectively and in a timely manner with the people of Canberra. I do not find, in the coroner's report or elsewhere, the degree of negligence or recklessness that would lead me to support this motion.

Third, the government of the day did not set in place the conditions that led to the 2003 conflagration. It was the product of years of inaction from the period when the commonwealth—Labor and Liberal—controlled land management, as the reports I mentioned earlier attest. As Cheney and the other experts said, a fire like the January 2003 fire is the product of three things: fuel quantities and location, moisture levels and weather. Only the first of these can be affected by humans, and I believe that it took more than a year for them to reach the abundance that Cheney and others assert to be the cause of the fires.

Four, the community played its part—and here I do not want to lay blame, for whose fault was it that the community was not prepared as it ideally would have been? Governments again bear some responsibility for this, and perhaps the Stanhope government most of all, even though it had held that responsibility for little more than a year. There had been a fire in Curtin that threatened Deakin and Yarralumla only a year before. Mr McBeth, who said in 1994 that a fire like 2003 was inevitable, had some relevant comments to make about this. He noted that many Canberra people have lived only in cities, they lack the fire consciousness of rural dwellers and they believe that in cities they are safe from the natural forces of fire, flood and falling trees. As one woman said:

> Above all I was shocked by the realisation that cities burn. I knew Australia had bushfires—in the bush, or at least in the rural fringes of cities where people like to live surrounded by trees. But not that whole suburbs would be destroyed. I also expected that governments would deal with a crisis quickly and efficiently. Although I know that no one can stop extreme weather conditions … I had always taken it for granted that in an emergency there would be someone there who knew what was happening and what I should do.

Like any disaster, this one cannot be undone, but something can be salvaged if we learn the lessons it can teach us. The government tells us it has gone much of the way, but here are some questions I would like answered before I will believe that adequate measures have been introduced.

First, does the return of the Emergency Services Authority to JACS mean that our emergency services will be subject to the same bureaucratic processes which, I believe, impeded swift and appropriate responses as when it was in the department in the summer of 2003?

Second, what were the reasons, apart from budgetary, for the loss of an independent ESA, and why does the government believe that Canberra will be better served by the new/old model?

Third, have the budget cuts inflicted last year, which delivered swingeing cuts to land management agencies, including the loss of much valuable knowledge and experience among park rangers and forest managers, impeded our ability to retain the experience gained from the 2003 fire?

Fourth, will the greenhouse strategy, which is so long overdue, address the understanding that the conditions for fires will be increased in a drier and more erratic climate predicted for our region, and will it offer resources and measures to prevent and mitigate them?

Fifth, is there a need to increase the federal government's role in protecting its bush capital, rather than having to wait until the little jurisdiction of the ACT has exhausted its capabilities, or asked for the piecemeal provision of resources? Should regional cooperation be more clearly articulated so that resources can be more freely moved around, in the understanding that fire in any part of this region is the whole region's problem?

Finally, is our population better prepared to know how to react, how to ensure that no-one is left behind because they are frail, because they have not got a car or because they need help making their house and garden fire resistant, whether and when to leave, or stay and protect their homes?

In relation to this last question, we all—government and community leaders—have the responsibility to build trust between our communities and the services set up to protect them. McBeth mentions a project that was tried and abandoned called neighbourhood firewatch, which he deems may have failed due to inappropriate scoping and assessment of the project and its purpose, intent, intended goals and desired outcomes prior to being implemented.

I could find no other reference to it but I read of a similar sounding initiative in Victoria called community fireguard, a community development approach which is aimed at reducing the vulnerability of residents by empowering them to accept some responsibility for their own safety. It is based on theories of adult education and participation, a bottom-up process of the Country Fire Authority assisting people to develop their own strategies, rather than a top-down approach of telling them what to do. Communities are assisted by nine area-based paid facilitators servicing 400 groups of neighbours helping each other to reduce hazards in homes and gardens and to develop an emergency plan which ensures that no-one is left to cope on their own when they need help.

In the ACT, a regional approach to fire preparedness might work best, with the fire and community services combining forces to place facilitators in Belconnen, Weston Creek, Gungahlin and Tuggeranong, for a start. Our experience with fires on Black Mountain, Mount Ainslie and in Curtin indicates that there might be sense in

developing fire awareness in inner Canberra as well. The community building involved will benefit more than fire preparedness.

Let us see a lot more emphasis and resources put into community fire units. Let us see weekend workshops on how to fireproof our houses. Let us see building codes that ban highly flammable building materials from being used in areas where the fire risk is high, and let us see those codes enforced. Brush fences on the urban fringe are an unacceptable risk to households and their neighbours.

Perhaps households can apply for a permit to be allowed to stay and defend their houses if another fire threatens Canberra. To obtain such a permit would require a household firefighting plan and an assessment by a firefighting expert of the risk levels posed by the house and garden components. Incentives could be offered to install a bushfire protection system, which, incidentally, needs hurrying through the standard-setting process, to protect homes and gardens. It is interesting to know that the emergency centre itself was threatened by fire and had no system set in place to stop it burning, had that happened. No longer will we think we can rely on having water pressure for our hoses to fight a future fire.

Education about how to live in our bush capital should start early. In these days of talk about national curricula, there needs to be a role for place-based learning about our history, including fire history, our geography and our unique environment.

It was a wise, though late, decision not to replant the pine plantations, and after the way they burned on January 18—and before, at least twice—there will be few regrets in our community. However, the pines are regrowing; they have become weeds in our landscape. They are the responsibility of our land managers, the Department of Territory and Municipal Services. I am not the first to ask how they will be managed—removed—and I am aware that the government is so flummoxed for ideas as to how to use the land on which the plantations stood that ideas as inappropriate as a large arboretum of 100 rectangles of mostly imported trees have been suggested, instead of looking at innovative and suitable plantings of drought tolerant species such as the city of Geelong has planted at its amazing botanic gardens.

It is reassuring to hear that the government plans to report on its implementation of the McLeod recommendations. However, it needs to do more than congratulate itself on its progress. It needs to look squarely at the obstacles to progress and to set in place initiatives to address them, or give good reason for rejecting them. I await with interest the Auditor-General's report on the same matter.

The January 2003 fires happened under the Stanhope government's watch. Mistakes were made and most of us would feel better if they were admitted; but I wonder if a Stefaniak or Smyth government would have acted differently. Other jurisdictions learned from our disaster, but did we?

I move the following amendment to Mr Stefaniak's motion:

> Omit all words after "That this Assembly", substitute "expresses grave concern:

> (1) that the lessons of the failure to properly protect the people of Canberra from the January 2003 bushfires have not fully permeated government policy and procedures; and
>
> (2) that the ACT Government has not ensured appropriate and adequate systems and resources are in place.".

Esplin, Williams and Bradstock, in the *Age* of 12 February 2007, said:

> One thing is certain: playing histrionic blame games is pointless. It discourages us from gaining the understanding needed to solve a highly complex and poorly understood problem. Getting fire management right, rather, needs hard thought and informed choices about when and where to act.

Mr Speaker, in that spirit, I commend my amendment to the Assembly.

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

Sitting suspended from 12.35 to 2.30 pm.

MR PRATT (Brindabella) (2.30): We have had a long-winded, defensive Greens justification as to why they have contributed—so irresponsibly—to preventative bushfire planning here in the ACT. But we have not seen any contribution to this debate. We will be rejecting Dr Foskey's amendment. It does not go anywhere near the heart of what this debate is about. However, Dr Foskey, we invite you to bring this back next week as probably a worthwhile motion. We might like to have a talk about that.

In my capacity as both community representative and the MLA who has been the shadow minister for emergency services since late 2001, I stand here today primarily to again condemn this Chief Minister, Mr Stanhope, for his negligence around the management of the 2003 bushfire emergency; his and his ministers' negligence in 2002, paving the way for the January 2003 disaster; and his negligent actions since 2003 in failing to get to the heart of what really went wrong—in effect, going nowhere near far enough to making the ACT community safer. In these circumstances, my condemnation of his role as Chief Minister—now finally highlighted by the findings of the Doogan coronial inquiry—causes me and my community to have no confidence in Mr Stanhope continuing as Chief Minister.

The Chief Minister hangs on his own petard, his negligence exposed for all to see, and therefore no longer deserves to continue as Chief Minister of this territory. The Doogan inquiry report is the proof that drives the final nails through the Stanhope chief ministerial coffin. Chief Minister Stanhope stands here today condemned by the fact that the only really effective inquiry into the disaster, the Doogan inquiry, was finally able to report to the ACT community on 19 December 2006, three years and 11 months, and three bushfire seasons, after the disaster—much of this delay due to his deliberate obstruction of that inquiry.

The Chief Minister has never taken responsibility for his own and his government's negligence in the events leading to the 2003 disaster. Chief Minister Stanhope is as good as guilty of reckless negligence, resulting in the deaths of four people; the maiming and injury of up to 400 people; the destruction of 487 houses, commercial properties, valuable and irreplaceable scientific infrastructure, public infrastructure and hundreds of thousands of hectares of forest and bushland, much of it scorched beyond the soil surface—that terrain is deeply damaged to this day, by the way—and the wiping out of significant pockets of wildlife. That is due to Chief Minister Stanhope's poor emergency management in 2002 and to his professional choking—to the point of leadership paralysis—in the critical period, 15 to 18 January 2003.

I now intend to lay out before this place the litany of failures and downright cover-ups that have plagued this Chief Minister's tenure in office in relation to the events of January 2003. I intend to make out the case for why this Chief Minister must resign. I will call on every MLA in this place to show cause as to why, when they address the facts of the case against Mr Stanhope, they should not vote for his resignation.

I now want to address the negligence of this government in 2002. It was on Mr Stanhope's watch that the drought and bushfire conditions affecting the territory and the severely neglected New South Wales forest areas immediately adjacent to the ACT, and dangerous to the ACT, deteriorated more dramatically than they had in 2001—or, for that matter, ever before. The bushfire index in the second half of 2002 and early 2003 was 104, the highest recorded. When this factor is combined with both the extreme drought index and the fuel hazard loadings, believed to be about 10 metric tonnes per hectare, or six to 10 times the size of acceptable loads in better conditions, the ACT was ripe for an explosion sometime in 2002-03.

In November 2002, the opposition asked what education and information programs about this threat had been launched. I recall that there was little in place in the way of substantial programs. I note too that, in her inquiry report, Coroner Doogan found that in 2002 the ESB failed to maintain fire trails, bridges and other infrastructure needed to allow rapid response. This, we now know, hindered firefighters during the disaster. During the Christmas Eve 2001 fire, I recall ABC radio struggling, but doing their best, to put out warnings and ongoing information about where the fire was located. If ever there was a wake-up call about our warning and information systems, that was it, but we saw the same mistakes repeated 12½ months later.

Let us now look at Mr Stanhope's negligence in the period of the actual January 2003 fires, 8 to 18 January 2003. Here we had lightning strikes starting first three fires and then another fire—in, as I described earlier, the most extreme bushfire threat season seen for many decades. Yet this government moved at snail-like pace to tackle these fires and contain them. I refer to the coroner's damning findings. The first key finding is that there existed a "failure by the ACT Emergency Services Bureau to attack the Bendora, Stockyard Spur and Mount Gingera fires in the first few days."

What we knew very quickly in February 2003 was that Mr Stanhope and his government simply did not have the political will or sense of urgency to tackle the threats head on. During the week after 9 January, it became well known that there was widespread dismay amongst firefighters and expert observers about the lack of

urgency on the part of the ESB and other government departments in tackling these outbreaks.

The orders given to the parks and environment firefighters to disengage from the fire front on the night of 8 January at Bendora and report back to town—leaving a fire of approximately 50 square metres, and one that was rather tame in nature, to continue burning—was an example of extreme negligence. Further, within 24 hours, with the Stockyard Spur fire, we again saw a fire still capable of being contained if it had been vigorously attacked. We saw environmental authorities impede the incident controller there from inserting a bulldozed fire break—for ecological reasons.

Both of these examples illustrate that the parks and environment firefighting authorities—usually the first respondents at fires because they are paid firefighters—were extremely reluctant to attack the fires; were reluctant to environmentally damage the bush in their dealings with the fires; and were poorly resourced to the point where bureaucratic decisions around overtime payments and poorly judged, so-called safety imperatives dramatically reduced their firefighting capabilities and, clearly, their will. This culture is sheeted home to Mr Stanhope's government, which you can bet was swayed by environmental management needs, the irresponsible Greens lobby and bureaucratic imperatives before it bothered to listen to or take note of the bushfire professionals who even then were anticipating very serious problems.

The Doogan inquiry report has been highly critical of the poor state of the ESB and the poor professional attitudes of the senior officers of the ESB. The coroner said:

> My overall impression is that senior personnel at the Emergency Services Bureau lacked competence and professionalism and that the bureau was disorganised and was functioning in a chaotic, unco-ordinated fashion, particularly during the most critical period of the fires.

Yet, in this period when the ESB was running around headless, we saw Mr Stanhope allowing ministers, including his emergency services minister, to travel out of the territory or take time off at home. We saw a headless ESB apparently struck by paralysis, unable to urgently push the Chief Minister into declaring a state of emergency, unable to warn the community and unable to quickly provide Mr Stanhope, as Chief Minister, and his ministers with the potentially worst-case scenarios that they should have received. We saw his ministers incapable of monitoring what the hell was going on, where the threat was and just how well the ESB was functioning.

This Chief Minister and his ministers simply did not bother to go looking for trouble. The Chief Minister could not exercise leadership or check the most vitally important challenge facing his government and the community. His government, his ESB and the Department of JACS at this time were absolute showers. This directly reflects on a Chief Minister who was negligent in not getting to the heart of what was in essence going on at a time of critical importance for this territory.

Now we get to the greatest negligence of all, leading to the failure to act in time to save lives and property. I refer to Mr Stanhope's failure to adequately warn the community of the impending fire impact on the urban edge. Coroner Doogan said that

the ACT government had contributed by failing to warn the community when it was well aware a potential disaster was on its doorstep. This is a damning indictment of the Chief Minister, his ministers and his emergency agencies.

Elsewhere in her report, the coroner damns the ESB for its role in not warning the community and also ties ministerial responsibility to that failure. This is hotly contested by Mr Stanhope. It is what he essentially spent $10 million of taxpayers' money trying to fight, seeking to stop Doogan getting right to the heart of this crucial matter.

In her report, Doogan said:

> The Emergency Services Bureau should have warned the people of the ACT of the potential for disaster by fire ... Instead of warning the community they served, they said nothing until it was too late to do anything in any real or practical sense. Furthermore, there is a strong argument that, in accordance with the Westminster tradition and the convention of ministerial responsibility, direct action should have been taken by the responsible Minister.

That was Mr Stanhope. A further damnation is the coroner's findings, which surely confirm many of the reports I have received over the years from insiders. She says:

> … two days before the firestorm hit the suburbs, the Cabinet generally, including Mr Stanhope, knew a potential disaster was on Canberra's doorstep but did nothing to ensure that the Canberra community was warned promptly and effectively.

It is inconceivable that cabinet briefings and meetings, and other ministerial, ESB meetings or telephone briefings, did not discuss the potential for disaster on the urban edge, at least by Thursday, 16 January 2003. There has been information from volunteers, professional officers and others who are adamant that the general feeling around the services, the ESB and the government was that, in the minds of many who bothered to analyse logically and dispassionately what was unfolding, the situation was grim.

By 16 January, the fire intelligence, combined with a long-range weather forecast indicating a freshening north-westerly wind change, spelt potential disaster. Either the ESB has entirely lost its memory, or it genuinely froze under pressure and took the risky, but far too typically, departmental approach to withhold that information from the community in order not to alarm it.

Many people would have been very happy to be alarmed. They would have been very happy to be alarmed even if it was a false alarm. Either way Mr Stanhope stands condemned, for the reasons I outlined earlier. He should have instructed his ministers. He himself should have gone looking for trouble. A fundamental element of leadership is that one must have a constantly inquiring mind and keep subordinates on their feet. In this regard Mr Stanhope was comprehensively negligent. This negligence led to his failure to warn the community on time. Even if we take the charitable view that nothing could have stopped the fires—and that is a reasonable argument, Mr Speaker—Mr Stanhope had a duty of care to warn his community in time to allow residents to make the appropriate decisions for themselves and their families. It would

not have mattered if Mr Stanhope had falsely alarmed the community. It is better to be safe than sorry. This was his greatest failure.

We stand here today condemning the role of this Chief Minister and his negligent acts which led to so many failures. My colleagues will talk later about the ongoing failures since 2003—to the point where we now stand. We have seen here a massive failure of governance, leading to destruction and lives lost. That is why Jon Stanhope cannot continue as Chief Minister.

MR CORBELL (Molonglo–Attorney-General, Minister for Police and Emergency Services and Minister for Planning) (2.46): Today I will be standing in support of the Chief Minister to reject this no-confidence motion. The Chief Minister has outlined in detail why the conclusions reached by the coroner are not substantiated by the evidence presented to her inquiry. Those arguments are compelling and need to be given good consideration by members. As the only other member of this place who was present at that cabinet meeting on the Thursday before the fire, I want to put on the record my position in this matter.

I can again indicate, as I have publicly, that at no time did the officials of the Emergency Services Bureau, including the chief fire control officer, the chief executive of the Department of Justice and Community Safety, and the director of the Emergency Services Bureau, say to the cabinet that warning needed to be given to the ACT community. Nor did they say, or in any way indicate, that there was any immediate threat to the urban area of the ACT.

I can recall very clearly asking Mr Castle and Mr Lucas-Smith what would occur if warning was required—in the event that warnings were required, what steps would be taken. They said, and I recall this clearly also, that normal steps would be taken to utilise the police and the State Emergency Service to advise residents should there be any risk to a suburban area. They drew the example of what occurred at Christmas 2001, when residents of Duffy were warned of the prospect of a fire potentially impacting on their neighbourhood.

When the Chief Minister, other ministers and I say that we were not advised or warned that steps needed to be taken, we do so in that context. It distresses me when I read the coroner's report and see not only that it draws conclusions about a meeting at which neither she nor members opposite were present, but also that the official statements and the sworn evidence of the people who gave evidence about that meeting consistently reject the assertions and allegations, and the conclusions the coroner drew. They are in complete contradiction to the conclusion the coroner has drawn.

The Chief Minister at all times acted appropriately and on the full advice of his officials. When the coroner suggests that the Chief Minister downplayed the significance of the situation on the afternoon of Saturday the 18th, she does so from a position where there is selective quoting from the information provided—from the information that she has available to her. The transcripts of those interviews were read by the Chief Minister in the debate earlier today. They say very clearly that at no time did the Chief Minister downplay the significance or the seriousness of the event that was then overtaking our neighbourhoods. At no time did he suggest that there was

nothing to worry about. What he did seek to do, as any responsible leader would, was acknowledge the problem—acknowledge the scale of the emergency—but also seek to ensure that people did not panic. That is what a responsible leader should do. I join with the Chief Minister in saying that that particular assertion by the coroner is an abhorrent one and is totally unreasonable.

Let us go back to this whole issue of ministerial accountability. In his speech, the Chief Minister talked about the issues around ministerial accountability and what the accepted convention and understanding are. Ministerial accountability means that ministers explain the actions of their departments and provide information on the actions of their departments. Unless ministers themselves are directly involved in causing or, by omission, allowing to be caused an incident which has an impact on the community or an impact in some adverse way, it is completely unreasonable to suggest that the minister should resign.

Are those opposite saying that the actions of every single public servant, whether they are known to the minister or not, should lead to the minister having to resign if something goes wrong? That is exactly what they are saying, Mr Speaker. What I find most disconcerting from the comments of those opposite, particularly Mr Pratt, is this. Mr Pratt seems to believe that ministers should put themselves in the shoes of emergency services officials and second-guess their expertise and their judgment.

No member of the cabinet had knowledge of fire, of managing fire or of issues to do with ameliorating fire. No member of the cabinet had that knowledge at that time. It is not appropriate for a minister to say, "Well, I am going to second-guess my emergency services officials. They are saying to me there is no need for warning. They are saying to me that the situation is being managed—that it is serious but it is being managed—but I do not trust them; I do not believe them; I am going to become the emergency services professional." It is a bit like saying that the minister for health is going to start becoming the doctor or the minister for education is going to decide the best way to teach our kids.

We employ professionals for a reason. We employ them because they have the expertise and the skills needed to advise government on what should be done to protect our community. At all times—at all times—the government followed the advice of its professional firefighters and its professional emergency managers. That is what a responsible government should do: accept that advice.

I want to relate to members a story of my experience on the morning of 18 January. I want to do this to highlight the absurdity of the claim that the cabinet knew and did nothing. On the morning of 18 January, I returned to my home in Holder at about 11 am, having spent the previous night with my volunteer fire brigade colleagues in the Tidbinbilla Valley area. I returned to my home; I said hello to my children and my partner; and I went to bed, because I had been awake all night. I was woken at about 1 pm by my partner telling me that there was some disturbing news coming over on the radio.

At home I had two young children, both under the age of 5, as well as my partner. How could I, as a father, have taken the decision to be in that situation if I had some prior knowledge that the fire was going to come down on top of my suburb and the

suburbs around me? That is what I think about when I hear claims such as those made by those opposite. How is it conceivable that I as a father would have done that? If I had known, surely I would have said, "Well, I need to get my family out of harm's way." But I did not. I had no more knowledge of what was going to occur that afternoon, Saturday the 18th, than anyone else in my neighbourhood—than anyone else in my neighbourhood.

That is what particularly disturbs me about the conspiracy theory built up by those opposite and others in the community—this suggestion, without any evidence, and there still is no evidence, that the cabinet knew and did nothing. There is nothing to back that claim. You would have to go against every element of human nature to believe that somebody having the knowledge that some people claim I, Mr Stanhope and others had would deliberately decide to stay at home. I stood on the roof of my house and saw houses burn. They were less than 100 metres away from my property. I saw them burn; I heard the flames; I smelt the smoke; I lost the power. My family ran away too.

So do not come into this place and say that I had some knowledge and that I put my family in that situation, let alone that I deliberately withheld such information from the rest of the ACT community. It is an outrageous claim. I am disappointed that I was not given the opportunity to give this evidence to the coroner. If this was such a significant matter for the coroner, why did she not ask the minister responsible? Why did she not ask the other ministers who were present at the cabinet meeting? The claim does not stack up. It is untrue. For those reasons alone, there is no reason for the Chief Minister to resign.

In the time I have remaining, I want to turn to the issues around the government's response and the lessons that have been learnt since 2003. The lessons were significant, but they have significantly been learnt. There is more work to be done, but much has already been achieved.

Since 2003, we have spent over $100 million in community recovery and emergency preparedness. Since 2003, we have completely revamped the legislative framework. We have developed new plans to manage chemical, biological, radiological and nuclear attack. We have done pandemic planning and evacuation planning as well as bushfire planning. We have purchased a whole series of new vehicles for our emergency services, including for the fire brigade, the Rural Fire Service and the ambulance service. We have put in place new communication systems that enable us to talk to the services in New South Wales and others that may come here at the time of emergency.

We have provided more support to rural lessees to manage their properties against fire, including the provision of firefighting equipment that is kept on rural lessees' properties but owned by the Rural Fire Service. We have put in place more firefighters, both paid and volunteer. And we have put in place the community fire units program, with 28 units across the suburbs and over 750 registered volunteer members fully trained to protect areas on the urban edge.

We participate in the national aerial firefighting agreement, which gives us the resources for medium and heavy helicopter resources to assist with firefighting. We

have put in place new mapping. We have upgraded fire trails. We have agreements with New South Wales. We have undertaken community education through the bushfire wise and the farm fire wise programs. We have distributed public information. We have implemented a standard early warning system for the territory. We have put in place full-time media communication and liaison so that information is distributed quickly and promptly. We have established a new incident control centre at the RFS headquarters at Fairbairn. We have developed the bushfire operational plan and the strategic bushfire management plan. All of these things have been done since 2003. They are significant achievements and they have made a significant difference.

When you look at the government's response, it is easy to pick out the issue about what the administrative arrangements for the ESA should be. But look at the heart of the matter. Look at the issues that really matter. Look at the coroner's recommendations about preventing this sort of situation from occurring again. Those recommendations concern fire fuel management, communications, incident management, coordination and early warning. All those recommendations were agreed—and agreed unequivocally—by the government and, almost to a point, implemented fully by the government.

That is the government's approach. That is our commitment. That is the way we will continue to tackle this issue into the future.

MR SESELJA (Molonglo) (3.01): Mr Speaker, we all remember these words: "If you want to blame somebody, blame me." We remember them well. At the time, like many Canberrans, even though I was not in this place at the time, I was impressed that at the height of one of Canberra's darkest days we had our leader taking responsibility—so it seemed.

And did not Jon Stanhope do well out of this apparent acceptance of responsibility? In many areas he was feted as a hero by the newspapers. In the *Daily Telegraph*, he became Mr 84 Per Cent. When I was with family and friends, many would speak positively about the Chief Minister because he had taken responsibility. I remember that the article about Mr 84 Per Cent said that ALP sources said that his heroic efforts in helping to save the life of a drowning helicopter pilot and his strength during the bushfire crisis, coupled with his straight-up leadership style, had wooed voters. He did well out of this.

It is a pity he did not really mean it. It is a pity it was all just empty rhetoric. We are now told by the Chief Minister, Jon Stanhope, that when he said "Blame me", what he actually meant was "Do not blame me." In his statement in response to the coroner's report, the Chief Minister said that these words were not an acknowledgment of either personal or governmental shortcomings in response to the fires. Really? What were they then?

Ordinarily, when I hear someone take the blame for something, I understand it to mean that they acknowledge that in one way or another they have failed to do what they were supposed to do, that they have demonstrated some shortcomings. This is what the community thought at the time. They were misled, Mr Speaker—misled by this empty rhetoric.

What the Chief Minister is now apparently saying is that "Blame me" was really just a distraction designed to win him approval at the time. His actions since this statement bear this out. This is the standard which Jon Stanhope held Kate Carnell to:

> Words, of course, are empty without action to back them, and what has the Chief Minister done to discharge the responsibility that she says she accepts, the acceptance she has repeated like a mantra? The answer is that she has done nothing. That failure to act is central to the motion that we are debating today. The Chief Minister says that she accepts responsibility, but she has done nothing. In contemporary political life, arrogance and politicians are often linked. But the Chief Minister, in her failure to discharge the responsibility that she says she bears, has displayed an arrogance that almost defies description.

Chief Minister, what have you done to take responsibility? The Chief Minister's words in 2003 were all about taking responsibility; since then his actions have been about avoiding it. Despite what Mr Stanhope now says, the coroner agrees that he did fail to do what was required of him. The coroner says that he is to blame.

This government came to office on the promise of open and accountable government. This, coupled with the Chief Minister's statement at the time of the bushfires—to blame him—should have given the community confidence that the government would be open to thorough investigation into this matter. The opposite is true.

When things started to get a bit tough, when the coroner's inquest did not appear to be going as the government would have liked, the government tried to get rid of the coroner. After announcing the inquest in 2003, the Chief Minister said that there would be "no stone unturned in examining the actions of all agencies and emergency services management". He said:

> There will be a close and uncompromising inquiry into every decision or action taken by everyone involved with the fire.

What happened when the Chief Minister did not like what was found? He attempted to shut the inquiry down. And this despite the assurances given by the Chief Minister himself when answering a question from Mr Stefaniak: he said, "The government intends to fully cooperate with the inquiry." Perhaps the answer should have been: "The government intends to fully cooperate with the inquiry until it produces information we do not like, until it does not suit us to support it any further."

The government, without any factual justification, claimed that the coroner was biased. It impugned her integrity. We still have not seen the legal advice which led to this action. The Attorney-General launched an unprecedented legal action to remove his own coroner and essentially kill the inquest off, or significantly delay it. The conflict between the Chief Minister as a witness and his role as Attorney-General was obvious to all. The attempt was comprehensively rejected by the Supreme Court. It was found to be without merit. We need to ask ourselves what would have happened if the action to remove the coroner had been successful. It is most likely that victims of the bushfires would still be waiting for closure. That seems to have been the intention.

Make no mistake: the attempt by Jon Stanhope to shut down the inquest led to community sentiment turning against the government. Before this, Canberrans had been prepared to give Mr Stanhope the benefit of the doubt. When he tried to shut the inquest down, they smelled a rat. They said, "What does he have to hide?"

Chief Minister, here is a snapshot of just what the community thought of you and your efforts to shut down the inquiry. Mr B Cooper of Flynn, in a letter to *The Canberra Times*, said:

> Reading that the bushfire inquiry has been put on hold … I feel totally disgusted. To see elected representatives … ducking and weaving to avoid blame makes one realise that this has become the standard operational procedure. Where was the buck supposed to stop, Mr Stanhope?

Mr Peter Clack wrote in the *City News*:

> To seek to squash the free and open inquiry by attacking the character of the coroner, and her expert officials and expert witnesses, does no credit to the public officials the solicitors are representing. And the timing, just days from the ACT elections, suggests an underlying motive of preventing any more public revelations as voters go to the polls.

Mr Speaker, these comments sum up some of the broader feeling in the community. This government went after the messenger. It went after Coroner Doogan and tried to make her the issue. Instead of the issues being why we were not warned and how we could try to learn the lessons from the mistakes of 2003, this government set out to attack Coroner Doogan, to undermine her credibility, so that, at the end of it all, they could say, "Well, really, she was just biased. Really, she just had it in for us. This does not stack up. Really, believe us; don't believe her."

The government still has not put forward a motive for why this coroner would be biased in the way that it claims. As counsel said during the action, the action was launched whilst conspicuously failing to identify any sort of agenda which might sway the coroner from an even-handed approach. Why would the coroner not have been even-handed, Mr Speaker? That question has never been answered. It has never been answered by this government.

It is clear why this action was undertaken by the Chief Minister. It was undertaken to avoid responsibility, to delay and frustrate the inquiry. It was taken in the hope of getting a coroner who would not be as thorough. The action made a lie of the Chief Minister's acceptance of responsibility. There was a betrayal of those waiting for justice. It was a disgraceful attack on a respected member of the judiciary.

After all of this, the question still remains: why were we not warned? Why was the community not warned? The first and most important duty of any government, and any head of government, is the safety and security of the community which they lead. The coroner, after exhaustive investigation of the matter, found that Jon Stanhope failed in his most basic duty. When the pressure was on, when it mattered most, he failed.

How did he fail? Even though, two days before it happened, he knew that it was very likely that the fires would reach the urban edge of Canberra, he failed to tell the community about it. He failed generally in his duty to the community, he failed in his duty to those who lost homes, and he failed in his duty to those who died. There should have been a timely warning, and there simply was not.

Two days before the fire, the cabinet was briefed. The coroner says that Mr Stanhope knew then that there was a potential disaster on the city's doorstep, but did nothing to ensure that the community was promptly and effectively warned. Has there ever been a more serious finding against a minister in the ACT? There was a potential disaster on the city's doorstep, but the Chief Minister did nothing to ensure that the community was warned.

How does Mr Stanhope respond to this? He said in evidence:

> I had not at that stage developed, if I might call it, a mindset or an understanding of the nature of the fire that left me with any serious sense of alarm … I don't think that it had occurred to me at that stage there was any possibility that the fire would cause damage within the suburbs of Canberra. I simply had not reached that state of understanding. I did not have that mindset.

What an unbelievable statement. The Chief Minister's alibi is that he simply did not understand what was going on, that he could not comprehend the advice that was coming to him—he did not understand it; he was not up to it. He did not think to ask simple questions like "What is the worst-case scenario?", "When might we need to warn people?" or "How could this turn out?" He was the people's representative in those meetings and he was not up to the task.

That is despite what Mr Corbell told us today about this new doctrine of ministerial responsibility: leave it to the experts; leave it to the others; do not ask questions. Do not ask questions? You may as well go on holiday.

After an exhaustive investigation, the coroner found that the cabinet was aware of the likelihood that the fires would reach the suburbs. Based on this finding and the Chief Minister's defence, we can only conclude one of two things: he was not up to it because he simply did not understand the advice coming to him, or he was not up to it because he understood the advice but chose to do nothing about it. Either way, he was not up to it.

The coroner backs this assessment, finding that Mr Stanhope "either misunderstood or deliberately downplayed the seriousness of the situation". Essentially the coroner concludes that he was either incompetent or deceitful. The Chief Minister claims that the coroner is wrong, but who are we to believe here? We have a Chief Minister who has had a very selective memory during this process—a very up-and-down memory. He is a man who can not remember anything that happened on the morning of the bushfires. He cannot remember a six-minute phone call. He cannot remember this phone call. Using his own self-diagnosis, he claims that even under hypnosis he probably would not be able to remember this phone call. Yet he seems to have a detailed recollection of the cabinet briefing on the 16th. We have got a man with a

selective memory versus a coroner who is there to try to get to the bottom of the matter.

We still have not heard what motive Coroner Maria Doogan would have had to play with the facts, to go after people just for the sake of it, to make stuff up, to selectively quote information. There is no motive. What we have had is a cabinet which has an interest—

Mr Stanhope: Have you read the AHA report yet? Is that made up too?

MR SPEAKER: Order!

Mr Mulcahy: Are you getting desperate?

Mr Stanhope: No, I am not. I am waiting for your speech, Mr Mulcahy.

MR SESELJA: —which has a strong interest—

Mr Pratt interjecting—

MR SPEAKER: Order! Resume your seat.

Mr Mulcahy: I've been waiting for it.

MR SPEAKER: Resume your seat.

Mr Stanhope: We are waiting for your speech, Mr Mulcahy, with great interest.

MR SPEAKER: Order!

Mr Mulcahy: You will be disappointed.

MR SPEAKER: Order! Mr Seselja has the floor.

MR SESELJA: Thank you, Mr Speaker. Who do we believe? Do we believe the Chief Minister, who has a very direct interest in this and who, through this inquiry, has shown himself to have at best a memory that is unreliable—a memory that is not really reliable—or a coroner who, after an exhaustive investigation, found that he actually was wrong. Who are the people going to believe?

The central part of the government's argument and defence is that somehow the coroner was biased or was not up to it. Yet we see where the motives are. We have the politician who has everything to lose, with a selective memory, versus a coroner who has never been impugned before, as far as I am aware, who is there as an objective finder of fact and who, through an exhaustive inquiry, has made findings. If you doubt that the coroner is not biased, let me say that they tested it in the courts. They tried to say she was biased. They put it to the Supreme Court that she was biased or that there was an apprehension of bias. The court rejected the idea that there would even be an apprehension of bias, let alone real bias. They rejected it. It was thrown out.

Who are you going to believe? The coroner's objectivity has been upheld by the courts, but Mr Stanhope, Mr Corbell and the government would have us believe them—believe their word, when they have a strong interest and a selective memory—versus the findings of a coronial inquest when they have not been able to in any way demonstrate why the coroner would be going after them or why the coroner would be biased.

We have a Chief Minister who failed to warn the community, despite the strong advice that he had. He then downplayed the threat when warnings finally were issued. He made himself a martyr by saying, "Blame me." But since that time he has done everything in his power to try and avoid being blamed for his actions.

Let us consider this. In saying, "Blame me", the Chief Minister has conveniently forgotten potentially incriminating discussions while claiming to remember exculpatory discussions; delayed the inquest by a year with a spurious bias claim; and attacked the coroner when she found against him—we saw that again today. As a final insult, he now claims that, when he said "Blame me", it did not really mean what people thought it meant. Never before has a coroner issued such damning findings against the Chief Minister. Never before has a Chief Minister tried so hard to avoid responsibility. That is why Jon Stanhope should go, and that is why this motion should be supported.

MS GALLAGHER (Molonglo—Minister for Health, Minister for Disability and Community Services and Minister for Women) (3.15): Today we act as a deliberative body, debating one of the most important motions that can be brought before this parliament, that of a want of confidence in the Chief Minister. Through this no-confidence motion brought by the opposition, the Assembly is being asked to consider two very simple but serious questions. Firstly, it is being asked to consider what the appropriate standards are for a minister, a Chief Minister or a government in fulfilling their duties to the ACT community and to this parliament. Secondly, it is being asked to decide whether this Chief Minister has lived up to these standards in acquitting his responsibilities during the lead-up to the 2003 Canberra bushfires.

The answer to the first question, concerning ministerial standards, is that ministers and governments should observe the highest standards of propriety, probity and responsibility at all times, always exercising their powers and undertaking their duties in the public interest. The answer to the second question—as to whether, in acquitting his role, the Chief Minister has lived up to these standards—is unequivocally yes, beyond a doubt.

We will hear from those opposite—we have already heard—some more specific claims about the performance of the government and the Chief Minister. Some of these claims are so far fetched, defying so many basic elements of commonsense and reason, that, were it not for the seriousness of this motion, they would be deserving of only the scantiest flicker of attention by this parliament.

On 18 January 2003, Canberra experienced the worst natural disaster in its history. The scale of and damage wrought by the firestorm which hit the capital that day was far beyond anything imagined or conceived by emergency services personnel, by the

bureaucracy or by politicians of any colour. It was an unprecedented event, defying prediction and placing those charged with responding to and managing the disaster in completely uncharted territory.

Against this background, the opposition now tries to put the charge that this government, this Chief Minister, is guilty of something approaching wilful negligence. Their central claim is that this government, this Chief Minister, knew about the danger posed by the fires burning outside the urban fringes of Canberra; that two days prior, at the meeting of 16 January, we, the cabinet, had been warned about the direction and magnitude of the potential firestorm; that we knew the western suburbs were in imminent peril; and that this government simply chose to do nothing.

If the Assembly is to believe the opposition, we just sat on our collective hands and waited for Canberra to burn—a ridiculous proposition, completely unsupported by fact or evidence. This government, this Chief Minister, has never shied away from responsibility or accountability in relation to the bushfires. In fact, it is the opposite. We have examined the response to the bushfires of 2003 in detail. We have changed structures; we have reformed the emergency services. We now have in place enhanced processes and procedures and new technology to address decades of deficiency, particularly in relation to financial resources. The government is acutely conscious of the human toll wrought by the events of 18 January 2003 and the lasting financial, emotional and psychological impacts that still affect so many in our community.

An honest appraisal of the issues will show that, while there were areas of the emergency response that could have been handled better, overwhelmingly this Chief Minister acquitted his responsibilities diligently and with the welfare of the Canberra community firmly at the front of his mind. The opposition is trying to argue today that Mr Stanhope is somehow responsible for the operational decisions taken leading up to and during the bushfires.

Under what standards should ministers be judged? In the coronial inquest into Katie Bender's death, Coroner Madden suggested that Kate Carnell should not have got involved in the manner she did and that she should have left the regulatory and operational arms of the public service to do their job. When talking about the role of the Chief Minister's office in micro-managing the implosion, Coroner Madden said:

> If the relevant branches of the regulatory agencies had been appropriately engaged at the outset, in whole or in part, and allowed to discharge their functions to their fullest capacity then it is possible the tragedy would have been averted.

In short, the message from this inquest is that in certain situations politicians should get out of the way and let professionals in the public service do their job. If we apply the comment from Coroner Madden to the role of Mr Stanhope and his cabinet during the bushfires, then that is exactly what happened.

In Auditor-General's report No 2 of 2001, entitled *Enhancing professionalism and accountability*, the Auditor-General suggested that, at its narrowest, ministers would be responsible only for acting improperly or misleading the Assembly and that, at its broadest, ministerial responsibility would be in accordance with the views expressed

in *House of Representatives Practice*—that is, that ministers are accountable to parliament if "the action which stands condemned was theirs, or taken on their direction, or was action with which they obviously ought to have been concerned". In reaching this conclusion, the Auditor-General drew from a legislative debate in 1999 concerning the Bender coronial inquiry. During that debate, the then Chief Minister, Kate Carnell, said:

> The bases of ministerial responsibility are quite clear … If a Minister ignores advice ... the Minister should be out.

Just as telling is what Mr Stefaniak said in the debate I just referred to. He quite clearly put on the record his interpretation of ministerial responsibility. He said:

> Indeed, Mr Speaker, when I was last in private practice, I represented the family of someone who died tragically at a hospital because of inattention and some negligence problems that occurred there over the course of a night. Of course Mr Berry should not be held responsible for that, nor should my colleague Mr Moore if a similar situation occurs; and, tragically, they do occur from time to time. Should my colleague the Minister for Urban Services have to resign over a road death caused by the negligence of an ACTION bus driver or the negligence of a Totalcare work crew … Of course not.

He has also said:

> At no time in the past 10 years has a Minister had to resign because of the actions of departmental staff. It has been when Ministers have acted improperly or have misled the Assembly that Ministers have been forced to resign or governments have fallen. … Precedent is important, and at no time over the last 10 years has a Minister had to resign because of the actions of departmental staff. It has been when a Minister has acted improperly or has misled the Assembly. Those are the two classic situations where Ministers, governments, Chief Ministers, Premiers or Prime Ministers have been forced to resign …

Traditionally, no minister has had to resign because of the actions of departmental staff. That is simply a fundamental part of the Westminster system. Mr Stefaniak has performed a remarkable about-face in this regard. He now argues that ministers should act contrary to the advice provided to them: that they should second-guess expert advice or, in the extreme, ignore advice and simply rely on—well, I don't know: instinct or maybe a sixth sense.

In short, ministers, particularly those responsible for regulatory agencies, must make sure that those agencies have the necessary policies and resources to do their job. Then the politicians must get out of the way and let them do it. A key component of the Westminster system is that undue political influence is not imposed on the public service, which ensures that the advice provided to ministers is frank and fearless. In return, ministers must take heed of advice provided. That is most critical in the area of emergency services, where experts must be free from interference in fulfilling their vital operational roles in the community.

Mr Stanhope has been criticised over his comments in the days following the fire—to blame him—and over the decision by the government to join the apprehended bias application along with nine others. In the days following the fire, as everyone

struggled to come to terms with what had happened to our community, the Chief Minister was being publicly cheered for his rescue of the helicopter pilot amidst growing community anger being levelled at emergency services and other operational authorities. The full quote from the Chief Minister in which he sought that blame be apportioned to him was as follows:

> I stand beside each and every member of the Emergency Services Bureau, I stand beside every member of our Fire Service, our Police Service, our volunteers, our Rural Service, all those New South Wales officers that were part and parcel of the defence of Canberra … What I am saying is do not cheer me, if you want to blame someone, blame me. Cheer those people in this community who put their lives on the line for all of us, that is what I am asking.

See that in the context in which it was said. What he was saying was "Don't you dare cheer me" when this city's shell-shocked firefighters were being lambasted in some quarters. How disgusting that those words and sentiments and that moral conviction are turned against him as justification for seeking his resignation.

How easy would it have been for a politician, a leader, to bask in widespread community applause and not defend those to whom the anger was being directed? It seems that the real reason the Chief Minister faces this motion is that the opposition cannot understand that there are some politicians who are willing to stand up for their officials rather than throw them to the lions in order to escape personal pain or potential political damage.

The members of the opposition cannot get inside the head of someone who refuses to cut loyal public servants loose at the first whiff of danger—who stands by the individuals who did their best in the circumstances even if their best finally proved unequal to the occasion. It was principle that made the Chief Minister attempt to draw criticism away from firefighters in the days immediately after the catastrophe, when he himself was being hailed as a hero for saving a man's life. Look at the context in which the words were spoken and understand what he was trying to do at the time.

It was principle that led the Chief Minister to support the right of officials to pursue all legal avenues at their disposal at the time the apprehended bias application was made. The application has been totally misconstrued as an attempt to shield the government from criticism. Nothing could be further from the truth.

In addition, the suggestion that the government should meet the costs of these individuals, as ACT government employees at the time, grossly offended the opposition, who were not backwards in coming forward with their criticism. How bizarre that a politician would stand by his officials or by the principles of natural justice! How unnatural is a concept of so staunchly supporting those who work for the public, for the ACT community! The concepts are clearly foreign to those opposite.

The opposition are fond of the notion that the Chief Minister did not warn the community earlier about the impending firestorm. What we are being asked to believe is that, two days prior to the firestorm hitting the urban areas of Canberra, cabinet was told about the potential risks to the urban fringe and did nothing. To accept this scenario simply defies logic.

Here we have a Chief Minister, in the lead-up to the firestorm, returning from leave, taking briefings on the status of the fire and flying over the fires to get a good picture of the situation on the ground. At considerable personal risk, he and others save a man's life. He then calls an unscheduled cabinet meeting to discuss the fire situation and get a detailed briefing on it.

After all of this, the opposition want us to believe that the Chief Minister and his entire cabinet simply ignored supposed advice about the size, speed and likely devastation of the fires and did nothing. Under the opposition's scenario, not only does the Chief Minister ignore this urgent warning and do nothing, but three other ministers do nothing as well. At the end of that meeting, two ministers go on leave. I was on leave at the time. One minister goes to fight the fires. But no-one—not one of them—tells anyone of the alleged dire warning that was meant to have been given at that meeting. It is simply unbelievable. It is incongruent with the facts—the evidence given before the coroner—and it defies commonsense and human decency. Cabinet was not warned, and perhaps that is the real issue here. Maybe cabinet should have been warned at this meeting, and with the benefit of hindsight that is clearly the case.

What purpose would be served by this government, in a most serious conspiracy against its citizens and its community, not warning the community in the event that cabinet itself had been warned? It defies logic and commonsense. It would constitute behaviour comply abhorrent to this Chief Minister and this government. The claim is completely unsupported by evidence.

In relation to the allegation that the Chief Minister at best failed to understand or at worse deliberately downplayed the seriousness of the calling of a state of emergency, one only needs to listen to the full interview broadcast on 666 or 2CC. Throughout that interview it is clear that the Chief Minister was answering questions about the current situation with the seriousness it deserved.

At the time of the broadcast the Chief Minister was aware that some houses in Duffy were already on fire and that there were concerns for houses in Giralang and Chapman. In addition, several other suburbs were flagged by him as potentially at risk. The words "emergency" and "grave" were used, along with the sentence "There can't be a graver situation facing a community than this …".

The Chief Minister is criticised for downplaying the event by using the term "administrative matter" in an earlier broadcast. The Chief Minister made the reference to an administrative matter to explain the process of what was occurring. It was an administrative matter. Documents need to be signed by the relevant minister, relinquishing powers from ministerial control to the relevant official. Mr Stanhope is to be criticised for explaining this?

If one takes the time to review press conferences after the declaration of a state of emergency in any jurisdiction, they will see that, while explaining the current or developing situation, all heads of government always urge the community to stay calm. What is the alternative? To say nothing? To leave it up to people to make up their own minds? To urge panic but in a controlled way?

We have learned the lessons from the phenomenal events of 2003. Stromlo, Cotter, Tidbinbilla, Birrigai and Namadgi—all precious areas of our community—have been destroyed and rebuilt again. They will never be the same to those of us who knew them before, who grew up amongst the safety and beauty of our bush city. Canberra will never be the same. The events of 2003 will be etched into the memories of all of us for ever.

MR SPEAKER: Before we proceed, I acknowledge the presence in the gallery of the former minister and member Mr Bill Wood.

MR MULCAHY (Molonglo) (3.30): Mr Speaker, I want to begin today by reflecting on the enormous amount of damage that was caused by the 2003 bushfires. As Mr Stefaniak led with this morning, not only were there four tragic deaths, 435 people injured and 487 homes lost but an environmental impact that we are still feeling and will continue to feel as regeneration impacts on water inflows.

Indeed, it must be noted that the impact on the territory's water supply may not even have begun to be felt. Bushfires burned all of the Cotter catchment and significant parts of the Bendora subcatchment and the Corin subcatchment. The 2004 Actew paper "Options for the next ACT water source" estimated, using preliminary data, that it is likely that over the coming years the regeneration process will begin to significantly impact on the flow of water from catchment areas into reservoirs.

It is probably not possible to quantify the number of species destroyed or lost when the fire swept through the bushlands.

At this point I want to comment only briefly on some of Dr Foskey's remarks. It would appear that the Greens have taken exception to any suggestion that their policy in relation to bushfire hazard reduction burns may, if implemented, aid the spread of bushfires. I stand by my public statement on this issue that, if the clearing of forest litter, including native vegetation, will slow an advancing bushfire and prevent loss of life, damage to property and disruption to residents' lives, then it should be done. Any other policy, even if designed to protect ecosystems, is irresponsible and not in the public interest.

How did the bushfires happen? Who is responsible? Well, the Chief Minister said after the fires, and we have heard this discounted, reversed, and spun today, "If you want to blame someone, blame me." I recall hearing that television appearance before I was in this place and I, along with the rest of the community, took him at his word. He said again in the Assembly, in August 2003, "Ultimate responsibility rests with the government." But, of course, today we are hearing that that really meant "don't blame me; you know, this is really defending other people".

> Words, of course, are empty without action to back them, and what has the Chief Minister done to discharge the responsibility that she says she accepts …

These are words that will be coming back to his memory, I am sure.

> The answer is that she has done nothing. That failure to act is central to the motion that we are debating today. The Chief Minister says that she accepts responsibility, but she has done nothing. In contemporary political life, arrogance and politicians are often linked. But the Chief Minister, in her failure to discharge the responsibility that she says she bears, has displayed an arrogance that almost defies description.

Of course, those familiar words were uttered in this place on 24 November 1999 by the current Chief Minister. That was a set of ground rules that he was happy to apply to Ms Carnell when she was Chief Minister, but of course he is not willing to stand by those today—different rules apply when you are sitting in the job. On that day, Mr Stanhope, then Leader of the Opposition, was lecturing the government of the day on the importance of ministerial responsibility—something we have also heard diluted today through ingenious descriptions of what really amounts to, if you accept the government's perspective, all care and no responsibility. That was a lecture that he seems to have forgotten.

Indeed, given today's debate, in addition to being able to draw the Chief Minister's own conclusion of arrogance, a charge of hypocrisy has to be levelled. When in opposition, Mr Stanhope believed strongly that "at the end of the day the minister is responsible". He is a great advocate of Harry S Truman's "the buck stops here" when it suits him, when it suits the spin for television; but when the accountability is really back on his table, suddenly it is everybody else's fault.

Was the Chief Minister responsible, and how did he fulfil his responsibility? It would appear that the Chief Minister is now saying that he, the minister in charge on 18 January, was not in fact responsible for the failure to warn the people of Canberra of an impending disaster. This morning the Chief Minister has claimed that he was not really the minister in charge for the whole period stated in the coronial report. But, by his own admission, he was in charge by close of business on the 17th. Whichever version of facts is accepted, he did hold responsibility. Of course he quietly glosses over the fact that, at the end of the day, he is head of the government. And one not unreasonably assumes that as Chief Minister he is not just one of the troops, as he would almost have us believe.

He relied this morning on a sort of technical defence and dwelled on technical issues about some error about junior and senior ministers. He was very anxious to pick a time to say, "Well, I was not the minister then; it is not my problem. I think it was probably our guest here today or somebody else that should be responsible. I am simply saying I took over at this time, and I wash my hands of earlier periods."

In terms of the announcements to the media that he has again attempted to defend, he said, "I just used the words 'administrative matter' but that didn't downplay it." But what does it mean when you hear a Chief Minister say, "This is an administrative matter." Of course the people of Canberra are going to say, "Well, that is some procedural formality," instead of it being very clear that a drama was about to descend on a large number of our community.

We are told that there was nothing in the briefing that gave him cause for concern, but

if you turn to page 58 of volume II in the briefing paper that was presented there were such highlights as:

> The weather forecast for the coming five days was alarming.
>
> The weather and fire risk situations were described as a one-in-40-year event and a one-in-20-year event respectively.
>
> There was discussion of the procedures for declaring a state of emergency and the situation in which this would need to be done.
>
> The likelihood of a state emergency needing to be declared was assessed as between 40 and 60 per cent.
>
> There was discussion of 'major infrastructure loss'.

Yet we are told today: "Well, you know, I didn't really have cause for alarm. We were all very relaxed about it and didn't realise how serious things were." Certainly the people of Canberra, as do I and my colleagues, struggle to accept the veracity of that defence and the cursory way in which the Chief Minister is attempting to step around the adverse findings that are contained in Coroner Doogan's report.

The ministerial code of conduct has been cited by my colleagues; I think Mr Pratt made reference to it. This code, introduced in February 2004, says:

> Ministers have responsibility for the operations and performance of their departments and agencies in accordance with the provisions of the Public Sector Management Act and the Financial Management Act.

The current code of conduct does not detail exactly when a minister should be held accountable for the mistakes of their departments or agencies, but fortunately the Chief Minister has placed on record his exact views on the subject. He has said clearly in this place that the test for ministerial responsibility is proximity. It is appropriate that we apply Mr Stanhope's proximity test to the period encompassing the Canberra bushfires. We must ask the Chief Minister how proximate he was to the events leading up to and on 18 January 2003.

The coroner has found that on the evidence Mr Stanhope, along with the rest of his cabinet, was told on the morning of 16 January that there was serious potential that the fires would affect assets in the ACT, including potentially Canberra's suburbs. I draw your attention to page 62 of volume II. She also found that no specific warnings or even general information about the serious risk facing parts of the ACT were issued. This shows a remarkable disdain for the people of Canberra. A serious risk existed but no effort was made to communicate this to the people.

Indeed, later in the report the coroner refers to expert testimony from Sir Peter Lawler on the principle of ministerial responsibility—and I suppose he will be dismissed too, as the coroner was, on the basis that he has got no business knowing about these things, despite a distinguished public service career. But I am going to stick with what Sir Peter says in his testimony, because I believe he sums up ministerial requirements very well when he says:

> Ministers are appointed to administer Departments and associated agencies. They are required to be pro-active and to accept responsibility.

Doubtless in 1999 Mr Stanhope would have agreed with this definition—extolled it—and certainly the code of conduct under the Carnell government indicated this requirement. At page 59 of volume II of the coronial report Mr Stanhope is quoted as saying that there was no discussion during the cabinet meeting of a threat to the urban area in terms of "real possibility". He said such discussion was in terms of nothing more than a "theoretical possibility". But a theoretical possibility, when you can see and smell fires, beggars belief.

The coroner has stated clearly on page 159 that the senior personnel at the ESB knew that a potential threat existed before 17 January. It is clear from the report that over the course of the 17th the situation deteriorated rapidly and that by the evening the fires were likely to impact on Canberra within the next 24 hours. Under the convention of ministerial responsibility a capable minister, one serving the people of the ACT with the required level of diligence, even in a temporary role, would have gone out of their way to be informed of this danger and to be in a position to make an informed decision. They would have pressed the issue of a theoretical possibility in the cabinet meeting and subsequently to ensure that there was a capability to react to and respond to this possibility. In the words of Sir Peter Lawler, the minister in the charge at the time of the fires should have acted proactively.

What action was taken to ensure that the decisions were the correct ones? How did the Chief Minister ensure that he could make an informed decision that was the best possible for the people of Canberra? The Chief Minister was in charge of the ESB on those dates in question, 17 and 18 January. It is clear from the coroner's findings that at the same time the senior personnel in the ESB knew of the imminent danger to Canberra's suburbs and Mr Stanhope knew from the cabinet briefing on the 16th that at the least, and by his own admission, the threat to urban areas was a theoretical possibility.

The minister in charge, the man most proximate to the situation, Mr Stanhope, had a responsibility to be aware of this danger and to act on it—and he chose not to. He failed to fulfil his responsibility to the people of Canberra and as a direct result residents did not receive a timely warning of the impending disaster. By the time the Chief Minister eventually decided to act, at 3.00 pm on 18 January, houses in Duffy were already burning.

The coroner has also criticised Mr Stanhope's actions at 3.00 pm on the 18th, saying that he either misinterpreted or downplayed the seriousness of the situation—again he failed in his responsibility. The Chief Minister said live on radio at about 3.00 pm on 18 January:

> I hope that people won't be too anxious about this. People certainly have no need to be unduly alarmed …

We were told here today that he mentioned the word "emergency" four or five times so we should all understand what he means. But anyone hearing that message would

have had good cause to reduce their concern and would understandably have failed to appreciate the gravity of the circumstances that were looming.

I do not for a minute suggest that the Chief Minister deliberately misled people about the severity of the threat. However, under the code of ministerial responsibility he, as the most proximate minister, should have ensured through proactive involvement that he was in a position to provide a warning appropriate to the severity of the situation.

Given limited time, I will make brief mention of the cost. If you draw from the budget papers of 2004-05, the direct territory government costs associated with the event of the bushfires was then estimated at $122.6 million—a significant impact on this economy. And the coroner's report mentions, and Mr Stefaniak cited, that property losses are estimated at anywhere from $600 million to $1 billion. We will never know the true cost, because so much of this is never going to be quantified.

I raise one final point in the time I have available. One of the main issues that people have raised with me—and indeed they have been critical of my own party, as have I—that stretched credibility in the minds of the ACT community was the extraordinary loss of memory. This is referred to in the coronial report as the apparent loss of corporate memory—some thousand instances of people forgetting things. I draw the Assembly's attention to page 236 in volume I. Time and time again this Chief Minister, who has a remarkable command for fact and detail, did not remember. The report states:

> … Mr Stanhope had no specific recollection of particular words used ...
>
> Mr Stanhope gave evidence that he did not specifically remember reading the sentence in the briefing paper that referred to the potential for the McIntyres Hut fire spotting over containment lines, with "potential serious impact to the ACT forests pines and subsequently the urban area" …

He did not recall discussions relating to the urban periphery and urban firefighters, as reflected in the notes:

> Although Mr Stanhope remembered a reference during the Cabinet briefing to Uriarra forest as an asset under threat, he could not remember the threat being quantified as 70 per cent, as recorded in the Tonkin note, and had no memory of numbers such as percentage of assessment of risk being used at all during the briefing.
>
> … Mr Stanhope did not remember a specific discussion around suburbs being at particular risk …
>
> Mr Stanhope was asked whether it was a significant concern to him that one of the things that he was being briefed about was the possibility of a declaration of a state of emergency. His evidence was that it wasn't a particular concern to him, even though he was unaware of any prior declaration of a state of emergency in the ACT.

That is the summary from the coroner. It is even more galling to go through and read the transcript of evidence.

I believe that the motion that Mr Stefaniak has brought forward today is appropriate—the minister sadly stands condemned for his poor performance in these matters—and I have much pleasure in supporting it.

MR BARR (Molonglo—Minister for Education and Training, Minister for Tourism, Sport and Recreation and Minister for Industrial Relations) (3.45): I was not a member of the Assembly on 18 January 2003 but, like all Canberrans, I know of the extraordinary journey of healing and recovery that has taken place across the city over the past four years. I have had the opportunity to witness first hand some of our school settings—Duffy primary and Stromlo high, for example—on that journey of recovery.

Many wounds have healed over those four years—wounds, it would appear from today, that the opposition would prefer stay open and raw. Much has been done to secure the city against the possibility of a future disaster—again, work that the opposition talks down at every opportunity. Canberra has moved on over the course of the past four years. The opposition has not and seemingly cannot.

I have, like most Canberrans, followed with interest the various reports and inquiries into the fires and witnessed the complete revolution that has taken place in bushfire and disaster preparedness in this city over the past four years. I have also followed with interest the progress of the coronial inquiry. I have seen the coroner's remarks concerning the Chief Minister and I have read his response to the section 55 notice. I believe, objectively and on the evidence, that the coroner's conclusions in relation to the Chief Minister are marred by inaccuracies and that some of her comments are unsustained—and are unsustainable on the evidence.

We all deserve natural justice, even politicians—even the Chief Minister. And we all, even leaders of the opposition, should insist on natural justice on behalf of others, even if they are our political opponents. The Leader of the Opposition, a former lawyer and a former prosecutor, of all people, ought to understand the importance of natural justice. Yet here today he is trying to make political mileage out of comments by the coroner that were never even put to the Chief Minister in the course of the inquest. Here today he is taking advantage of the fact that the Chief Minister was never given the opportunity to challenge those comments through cross-examination or through the calling of contrary evidence.

As numerous speakers have highlighted, there are a number of factual errors contained in the coroner's comments. The coroner asserts that on Thursday, 16 January 2003 cabinet generally, and the Chief Minister in particular, "knew a potential disaster was on Canberra's doorstep and did nothing to ensure that the Canberra community was warned promptly and effectively". This comment is entirely unsupported by the facts or any reasonable analysis of the evidence. It is a conclusion that is quite at odds with the recollections of not just the Chief Minister but, as we have heard, every other cabinet minister present at that meeting. It is also at odds with the evidence of this territory's most senior public servants.

Let us take to its logical conclusion the comment to which the opposition give such credence. Essentially, they choose to believe that, having been warned of impending disaster, the city's most senior politicians and most senior bureaucrats simply walked

out of that cabinet room and went on with their daily lives. The opposition choose to believe that two ministers—neither of whom was accorded the luxury of giving their version of events to the coroner—left that room, with dire warnings ringing in their ears, and persisted with prearranged plans to go on holidays. So desperate is he to believe the unbelievable that the opposition leader, who has in fact sat in cabinet rooms and been a party to cabinet meetings, chooses to believe that the dire warnings the coroner says must have been delivered in that room were in fact delivered, even though the official cabinet minutes do not record them and even though not a single minister or agency head can recall them. That truly is desperation on the opposition leader's part.

There are a number of other serious problems with the comments made by the coroner about the Chief Minister. As we have heard, she evidently misunderstands the administrative arrangements here in the ACT, assuming that we have a system of junior and senior ministers when we clearly do not. One can perhaps imagine how the coroner might labour under such a misapprehension but it is simply impossible that those opposite could share it. They know better and it is disgraceful that they stand here today and make use of the coroner's misapprehension.

The coroner has also, for unknown reasons, quoted extremely selectively from a radio broadcast from the afternoon of 18 January to back up her assertion that the Chief Minister downplayed the seriousness of the fires, even as they were reaching into the suburbs. We have heard the full transcript; I think in fact the ABC had the courtesy to play it on air.

The frustrating thing is that the Chief Minister was not given the opportunity to answer these assertions from the coroner. If he had been given the chance to answer her suppositions in relation to a number of matters at the time of the inquiry, the weight of the contrary evidence would have been compelling. It would have been so compelling that we perhaps would not be here today engaging in this debate.

This is not the first no-confidence motion in an ACT chief minister, but it is clearly the most unwarranted. The current Leader of the Opposition has sought to call the Labor Party hypocritical for supposedly demanding different standards of ministerial responsibility of former Chief Minister Ms Carnell in relation to the hospital implosion and Mr Stanhope in relation to the firestorm.

In fact, the standard to which Labor holds today is identical to the one it upheld in that earlier debate. It goes to questions of proximity, personal responsibility and knowledge. It goes to the issue of taking expert advice or ignoring expert advice. There were no radio competitions involved in the firestorm. The coroner's comments about ministerial responsibility appear to stem from a fundamental misreading of political and parliamentary conventions. The question of ministerial responsibility has nothing to do with the issues before the coroner and nothing to do with the Coroners Act.

That said, it is entirely appropriate that the issues of ministerial responsibility are debated—and that place is here. That place is not a courtroom; it is here, where our Westminster traditions have some resonance. We have heard earlier in the debate one formula to describe ministerial responsibility—that put forward by Sir Billy Snedden

and articulated so persuasively in a previous debate by the current Leader of the Opposition, yet to which he seemingly no longer subscribes. Another, of course, is found in the commonwealth government's guide to key elements of ministerial responsibility, which states:

> This does not mean that ministers bear individual liability for all actions of their departments …
>
> … They would properly be held to account for matters for which they were personally responsible, or where they were aware of problems but had not acted to rectify them.

No-one, surely, is suggesting that the Chief Minister take personal responsibility for the fighting of fires; he is clearly not a firefighter. Nor, to my knowledge, has anyone suggested that the Chief Minister was made aware of problems with the manner in which those fires were being fought but failed to act to rectify those problems; nor is it seriously suggested by anyone who understands these things that the Chief Minister ought, off his own bat and in defiance of the expert advice provided to him, have rushed out and warned the people of Canberra of an impending disaster that did not even exist in his own imagination.

Just yesterday the Stanhope Labor government continued its journey in fireproofing this territory when it responded to the coroner's recommendations. In looking forward, the strategies and initiatives that will flow from this response will build on the four years of intensive work and investment that we have seen since 2003. Over those four years, in response to a number of rigorous inquiries, our approach to fire preparedness and fire management has been revolutionised. A total rethink of communication and warning systems has occurred. As previous speakers have noted, we now spend 40 per cent more on emergency services every year than we did prior to the fires. Householders are now much better informed about how to secure their own properties.

We are now embarking on a fresh round of improvements, in response to the coroner's recommendations. It is a journey that we will continue to take as a community. Those opposite have the option of joining that journey and making a constructive, positive contribution. It appears they will instead decide to engage in a series of political stunts. They are a policy-free zone and they invite nothing but condemnation.

MRS BURKE (Molonglo) (3.55): At the heart of this motion today is how the Chief Minister saw, heard, remembered or not and/or perceived events and his subsequent leadership on the days leading up to and including the day of the 2003 bushfires, as opposed to the reality of the anger, angst and level of dissatisfaction felt in the community regarding the Chief Minister and his complacency and/or total lack of understanding of the information provided to him.

Today I had intended to outline the enormous loss; the devastation; the pain; the suffering; those valiant volunteers, both men and women, who found themselves in overwhelming situations; and those in the community who did their utmost to protect life during the 2003 bushfires, despite their lack of early warnings. But instead I have been drawn to recent comments made by the Chief Minister which I firmly believe

attack the heart of our community. I was staggered, full of disbelief and outrage by what he had to say in the *Canberra Times* on Sunday, 21 January 2007:

> I'm surprised that four years later we're still churning on questions of whether or not the government's response was appropriate or sufficiently generous. I believe it was.

Therefore the community is supposed to accept this from a Chief Minister who disappeared when it mattered most; from a Chief Minister who appeared to have lost his memory when it mattered most, yet others who suffered far greater trauma can recall every sordid detail of that horror; from a Chief Minister who said on 20 January 2003, "If you want to blame someone, blame me," despite the Chief Minister today now wanting this to be portrayed as meaning something completely different.

Let us take a closer look at part of his statement: "still churning". How insensitive and cruel for the Chief Minister to make these comments about a community who are still reeling from the effects of the bushfires. This approach shows utter contempt for the people of Canberra and indeed utter contempt for the coronial inquest and its findings. Whether he likes it or not, the Chief Minister cannot expect people to just wipe the event from their memories—unlike how he seemed to wipe out much of the information from his memory. As much as he would like them to forget and move on, for some it will never ever happen.

I am stunned that our Chief Minister fails to accept just how anxious the community was and how much that still hurts. He continues to be affronted by the very fact that people continue to dare mention that somebody has to be held accountable—namely him. So out of touch is this Chief Minister that he thought the 2007 anniversary should just pass without a special memorial. In his opinion the community did not want a memorial every year; the community was not willing to remember those who lost their lives and those who suffered untold loss and trauma. Obviously, as the Chief Minister, he does not want to be reminded of the event on that fateful day and his inability to take full control and full accountability when it mattered most.

He very conveniently misses the point: the issue for the community is his inability and unwillingness to do the right thing and resign. This debate today must go right to the heart of ministerial responsibility and a want of confidence in Jon Stanhope to remain in this place, in this city, as Chief Minister.

The Chief Minister is incensed by the very fact that we dare ask questions of him, like: where were you when it counted? What were you doing on the Friday night and Saturday morning? What were you thinking? Why didn't you warn people? What caused the cabinet to have an urgent meeting on 16 January 2003? Seventeen major issues were discussed at this specially convened cabinet meeting, attended by not junior bureaucrats but senior officials and the full cabinet. Did you ever ask any of the people, Mr Stanhope, giving you advice: "Are you sure?" or "Is there more I need to know about?"

For those in the community who only saw glimpses of the horror, the coroner's report gives clarity to the facts, and that is what they are: facts presented to her in great detail on the magnitude of the firestorm, the losses suffered and, very frighteningly, how

close the firestorm came to entirely overwhelming Canberra. The coroner has recorded the facts as presented to her, and released the findings; yet we still have the Chief Minister saying the coroner is wrong, tantamount to lying—a dangerous place to be, living in denial.

For the families of the deceased the pain and uncertainty are reopened daily. Laying loved ones to rest should have been a form of closure to commence their healing, but the raucous and outrageous denials, hypocrisy, blame shifting and empty platitudes are still echoing four years on. How can these courageous people accept that their territory government, and more importantly their elected ministers, and in particular the Chief Minister, have learned from the sacrifices and now have the wisdom to act properly when the next tragedy looms large, God forbid?

There were 435 people injured. Let us think about that for a moment. Let us put this into perspective. Imagine every single student and staff member of, say, a large primary school, like Wanniassa Hills, filing past you, carried on stretchers or shuffling as walking burned or wounded fleeing a disaster zone. The faces of the injured are etched into our minds and we respect the courage that their physical healing has required.

What are the immeasurable inner scars that remain? There is the panic we fight to quell when we all smell forest smoke; the schoolchildren who today still carry their precious things to school every day, hidden in their backpacks, just to be sure they will not be lost again. The destruction of 487 homes meant that at least 487 families lost their roots. If you visited the affected suburbs just after the tragedy, like I and probably many of us did, you will share my utter bewilderment at the senseless devastation.

Two hundred and thirty-eight other premises, including those owned by business and government, and many situated in my electorate of Molonglo, the electorate that was given a front-up, heads-up warning that a disaster may strike, were destroyed or damaged: the RSPCA, ACT Forests work sites, a service station, Actew infrastructure, a local church complex, one of the biggest in Canberra—the list of vital services affected goes on and on and on.

It was not just buildings, not just bricks and mortar, something that we can flick away as a statistic, that were destroyed; it was people's livelihoods. It was the very fabric of our community that was destroyed and rent apart through the inaction and inability to cope. This Chief Minister was simply not up to the task.

Let us reflect on some of the words and some of the sentences of some of the survivors as recorded in the coroner's report. One spoke of how "a great blizzard of embers" invaded his property and how he was overcome with exhaustion and became disoriented in his attempts to control the flames. He had gone back inside for more belongings when police officers arrived and said to him, "You've got to get out. If you don't get out you're going to die". He left with his wife and son, seeing their house and others consumed as they drove away. Another said, "We never saw a fire truck, the only people that anyone saw were the three households who spoke to the police officer. I just want to know why we were not forewarned and why we had no help."

Yes, some families have worked valiantly to restore their lives and loves. They have now earned the right to expect improved safety and security in Canberra—and I would add to that ministerial accountability, particularly from the Chief Minister. There are families for whom personal tragedy was too much to bear, driving them to move away from Canberra to try to build new lives. Who gives a thought about them? How can we, and why should we, accept this whitewash of the current circumstances of these families—the same people the Chief Minister rubbed shoulders with every day?

Such callous disregard for our community is un-Australian and it reflects abjectly poor and failed leadership. Weasel words do nothing to compensate a community—particularly but not exclusively the residents of the suburbs of Weston Creek, who lost so much and who expect their leaders to show the courage to stand up and be counted. Does the Chief Minister seriously and selfishly expect them to accept and forget the living legacy of 18 and 19 January 2003?

Today—I think I have said this before in this place, and it saddens me greatly—we have reached another unacceptable low in ACT politics: one rule for one and one for another. The gagging and tawdry denial of proper scrutiny has made this community feel betrayed and valueless. Our citizens were there on the front line: they saw the chaos, felt the hot embers and they still carry the scars. The people of Canberra have every right to feel let down, angry and appalled at Jon Stanhope's lack of leadership as Chief Minister during the dreadful disaster. His refusal to resign over the matter just serves to confirm all that they feel.

On 24 November 1999 Jon Stanhope said, "At the end of the day the minister is responsible." What has happened in this place? What has happened to that? Just as he set the ministerial standard for Kate Carnell then, so should he live by that same standard right now, today. At the time the Chief Minister said he was to blame, and I believe he meant that. But now, in the cold light of day and four years after the event, he displays a total lack of empathy, a total lack of understanding of what is right and an inability to accept his responsibility. What leadership is that?

Despite his tawdry protestations, the facts are plain: he was the Chief Minister at the time and it happened on his watch. Denial, gagging, empty platitudes and hypocrisy are the profile of the vanquished, not the victors; the profile of leaders without connection to their community, not the profile of a Chief Minister and his administration—not a Chief Minister worthy to lead the Canberra community.

Today, Labor members, you have an opportunity to do the right thing by and for the community. How many of you have mentioned the responsibility we have to the community? How many of you have mentioned the responsibility as Chief Minister to the community? This is not about watching our own backs, securing our own jobs. You have a chance to elect another Chief Minister from within your ranks. You do not have to continue to carry the burden of the indefensible.

Mr Speaker, despite what the Chief Minister may think, he has not won in this place today. It requires a bigger man to stand up and be counted.

MR HARGREAVES (Brindabella—Minister for the Territory and Municipal Services, Minister for Housing and Minister for Multicultural Affairs) (4.08): I welcome the opportunity to speak against the motion of no confidence in the Chief Minister. The Leader of the Opposition is asking for a vote of no confidence in the Chief Minister who, 18 months after fighting the bushfires, fought an election and won majority government from the electors of the ACT, the same Chief Minister who has set new benchmarks for a member of this place in personal bravery and for moral and political courage.

We remember, Mr Speaker, the Chief Minister's role in the desperate rescue of a crashed helicopter pilot. We remember the leadership that earned widespread acclaim in the immediate aftermath of the fires. We remember also his moral and political courage in driving a law reform package that resulted in guaranteed rights for all and the removal of all legislative discrimination against same sex couples and the tort law reform push that required him to stand up to the Prime Minister and other first ministers, as well as stare down the AMA. His political courage was shown in the 2006 budget, which forced the electors to face up to the fact that the ACT had been living beyond its means under all the minority governments that had been in place since 1989.

This no-confidence motion has been moved as a matter of politics by a person whose own undistinguished career cannot be advanced except by pulling the Chief Minister down to his level. The Liberal leader and his party have no hope of reaching the level of leadership and unity set by Mr Stanhope. The only thing left for them is to criticise in an effort to tear him down. Of course, like all critics, they lack accurate information or feasible alternatives and refuse to acknowledge their own past misjudgments. For example, two members opposite were cabinet members in the Bruce Stadium affair. Mr Stefaniak no doubt thinks he can pander to the ACT public with this stunt. In doing that, he leaves himself exposed as someone who will indulge in futile, posturing rhetoric while avoiding the reality of hard, important issues such as unifying his party and presenting them as a credible alternative government.

Mr Speaker, we are united in our sorrow for what happened on 18 January 2003. I was devastated when I got the news—I was away from Canberra at the time—and was extremely sorry that four people lost their lives and so many others were injured. Many of those injured will carry the physical scars forever. But those not directly involved, and the coroner, have spoken. They want the territory to move on. That was the message of the 2004 election, now more than two years behind us, when the government increased its vote in the areas most directly affected. The coroner's report contains recommendations that will allow us to put this matter behind us once and for all.

My analysis of the coroner's recommendations is that there are a number of key themes: administration of the coronial process and courts, which is unrelated to the fires and is a matter for future consideration by the Attorney-General; administration of emergency services, where great changes have been put in place since 2003 by a succession of ministers, including me; strategic bushfire prevention; and operational and tactical bushfire response.

In relation to the last two points, members will be aware through statements to the Assembly and answers to questions in this place that much has been done. The strategic bushfire management plan has been in place for more than two years and is currently being reviewed. That plan requires all agencies to have a bushfire operations plan.

As an example of the robustness of that process, in just the past month staff of my department assisted with fires in Kosciusko national park which burnt more than 20,000 hectares approximately 15 kilometres west of the ACT. The help included personnel in the incident management teams at Cooma and Tumut and firefighters. In particular, remote area firefighters contained a number of fires sparked by lightning strikes. Staff also planned and implemented a number of activities in Namadgi national park in case the fires escaped the control lines in New South Wales, as they did in 2003, and entered the ACT. We are much better prepared than we were in 2003.

Over the past couple of years, experienced firefighting officers have left the public service and need to be replaced. Agencies are providing training to national standards where they exist. This requires skills maintenance through experience or ongoing refresher training. Non-national training is provided to locally developed skill programs. Nationally recognised competency-based training has been introduced for most bushfire operational activities.

Of the 73 recommendations in the report, approximately half have already been implemented through annual and ongoing commitments. Many others have been partially implemented already. This Government did not sit around waiting for the coroner to make what were obvious recommendations arising from a combination of exceptional circumstances. We need to keep in mind, Mr Speaker, that the coroner did not just make recommendations. In her letter to the Attorney-General, she said:

> … once the four fires had combined to produce the firestorm … containment and control were impossible, despite the best efforts of the firefighters.

In the foreword to her report, she said that the people at the fire front "gave their all, working unstintingly in the face of fires that by 18 January had grown beyond control". She said at page 3 of volume I:

> Once the McIntyres Hut fire in NSW gathered momentum … it became inevitable that the resultant firestorm would deliver its fury to both rural and urban areas of the ACT, turning some areas into an inferno that firefighters had no way of controlling

The coroner said at page 46 of volume I:

> … I do not question the integrity or honesty of any of the senior officers of the Emergency Services Bureau. Rather, I highlight poor judgment, insufficient knowledge and experience, and an inadequate response to the fires—

by those officers. Mr Speaker, it must be noted that there was nothing the Chief Minister could do about any of those matters. The decision making about how

to fight the fire and what information to make public was remote from the Chief Minister.

In the days that the fires burned before reaching Canberra, the Chief Minister was not the responsible minister; nor did he have any responsibility for taking operational decisions in the various firefighting activities that occurred and nor did he play any role in deciding what information to release to the public. It is true that he was the Attorney-General and, at that time, the Emergency Services Bureau reported to the head of the Department of Justice and Community Safety. But that does not, of itself, make him the responsible minister. Ministerial responsibility is set out in the Administrative Arrangements Orders; it is not determined by bureaucratic reporting lines.

The coroner made much of having an expert witness on ministerial responsibility giving evidence before her. Sir Peter Lawler was not called as an expert witness. He was called as a householder who had suffered grievous loss in the fires and was able to explain how that occurred in his case. His evidence about ministerial responsibility was fortuitous. How much reliance can be placed on Sir Peter's summation of the doctrine of ministerial responsibility? His grounding in this area was obtained under the tutelage of Sir Robert Menzies, Harold Holt, Sir John Gorton and Sir William McMahon, long before the present era of Prime Minister John Howard and his present day version of ministerial responsibility.

Howard sacked six ministers in his first term for various misdemeanours, but has clung to Phil Ruddock despite his handling of the immigration portfolio and the Hicks matter. Amanda Vanstone was not dismissed for mismanagement of immigration or wrongly deporting Australians. The Prime Minister squibbed it and simply did not include her in his reshuffled ministry. He did not say, "Amanda, things have gone wrong on your watch and you must go." He changed his view of ministerial responsibility and preferred to avoid calling his minister to account for things that went badly wrong under her direct control. Yet the local Liberals want to show their toughness and vote the Chief Minister out for matters that were beyond his control. How can we take this seriously?

When Ms Carnell was Chief Minister, she faced a no-confidence motion based on the degree of her complicity in breaking the law in relation to expenditure on Bruce Stadium. She faced a second no-confidence motion based on the degree of her complicity in the decision making that led to the hospital implosion being made a public spectacle, with tragic results. The current no-confidence motion against Mr Stanhope involves no breach of the law and no suggestion that he was in any way involved in the decision making about how to fight the bushfires.

Why are we having this debate? It is solely to give the present Leader of the Opposition something to distract the voters with; something that he can use as a smokescreen to obscure his own problems with his party. It is pure politics unrelated to the Chief Minister's performance then or now. The Leader of the Opposition thinks he can use this matter as a vote winner, but it is interesting to note that the Liberal Prime Minister's henchman, Senator Bill Heffernan, does not agree with him. When the coroner released her report, Senator Heffernan said on ABC radio that

"anyone in charge of that fire would have failed" and that "rubbishy arguments about politics" should be ignored.

Mr Speaker, the coroner has delivered her findings and her recommendations. In one part of her report, she makes a very serious charge, saying that the cabinet knew a disaster was about to occur. That is an absurd charge, not supported by any evidence whatever. If a clear warning had been conveyed to cabinet on 16 January, why was that warning not contained in the cabinet briefing papers? Why was it not recalled by the ministers and officials present? Why would ministers go on leave if they had that information? What possible reason could there be for ignoring such advice if it had been given?

Despite making the charge I have outlined, nowhere in chapter 10, the chapter headed "Findings and recommendations", does the coroner say that the Chief Minister is in any way culpable or responsible for the fires. Her summary in relation to warnings that could have been issued takes no notice of the briefings given daily, sometimes twice a day, to the media and the subsequent media reports. Even though she says the matter of warnings was one for the senior officers of emergency services, those opposite want to lay the blame on the Chief Minister.

The Chief Minister said in evidence before the coroner that his officials did not say anything to alarm him about the state of the fires. That evidence was not contested or questioned. In fact, his cabinet colleagues of that time support his view. Nowhere in the record of cabinet proceedings laid before the coroner is there anything that says that the officials told cabinet of an impending disaster.

I must say, Mr Speaker, that this government simply handed over all records to the coroner, unlike former governments that held back documents that might have helped in previous coronial inquiries. Further, upon his retirement, Mr Phil Koperberg stated that one of the few regrets he had was in allowing the McIntyres Hut fire to escape him and burn down Canberra. I repeat: Mr Koperberg accepts that it was his fire that caused the damage and it is one of the few regrets he has from a lifetime of firefighting that that occurred. In fact, the coroner glosses over much of the McIntyres Hut fire contribution to the disaster and says that it was not within her jurisdiction. It seems odd that New South Wales coroners can have jurisdiction over a death in another country, yet our coroner cannot have any jurisdiction over an event that commenced in New South Wales and finished in the ACT.

In particular, I refer members to page 91 of volume 11 of the report. There the coroner refers to reports at about 2.00 pm on 18 January "of problems with the McIntyres Hut fire burn-out block, where aerial ignition of an unburnt patch was causing vigorous burning". That indicates to me that some genius from New South Wales was dropping aerial incendiaries on Saturday, 18 January 2003 to commence burnouts, yet the coroner hardly mentions it. It is not within her jurisdiction, she says. What if the McIntyres Hut breakout was not caused by spotting but by aerial incendiaries dropped in the wrong place? Is that still outside her jurisdiction and still the Chief Minister's fault?

If one examines the images or maps the coroner has printed at pages B.4 to B.8 and at page B.16 of volume I, it is quite clear that the McIntyres Hut fire is the one that hit

Duffy. Those images were prepared by the coroner's expert, Mr Cheney. Why, then, are we debating whether the Chief Minister of the ACT should be held responsible for something that the coroner's report shows came from New South Wales, the New South Wales fire commissioner admits was his responsibility and the coroner and the federal Liberal Party say no one could have controlled? It is a bit tough to expect the Chief Minister to resign because he was in charge for a period of less than 36 hours of a situation that the coroner and Senator Heffernan, a leading Liberal, say no one could have controlled.

I said that I am deeply sorry for those that lost their lives, suffered injury and lost property. We all are. But to put the whole weight of that on the Chief Minister, who took no part in the operational decision making that led to the tragic situation, is completely wrong. Mr Speaker, this motion should be dismissed. Finally, Mr Speaker, if you look at the number of people who have been in the gallery today, you can see exactly what kind of interest the community has got and what interest the community has in supporting this ridiculous motion.

MRS DUNNE (Ginninderra) (4.22): Mr Speaker, we are here today because of a failure of the Chief Minister's will—he does not even have the will to stay in the chamber when he is under censure—his failure to keep his word, and the failure of his leadership. We have seen over the past four years a pattern of systematic inaction in the lead-up to the fires, culpable indecisiveness and inaction in the midst of the crisis itself, and, despite bravura posturing to the contrary, a systematic refusal to accept responsibility subsequently, even to the extent of the now standard attack of political amnesia.

On 20 January 2003 the people of the ACT heard an emotional Chief Minister rush to the defence of the emergency services personnel with the impassioned cry, "If you're going to blame somebody, blame me." We have had a lot of talk here today about context, and both the Chief Minister and the Deputy Chief Minister put that in context. But, when you talk about context, what the Chief Minister seemed to be saying that day was that he was a man of principle who might see things right, that he would accept the blame.

That forthright shouldering of blame, combined with the earlier heroics of attempting to pull a drowning man from the Bendora dam, put this Chief Minister in a position where it seemed that at last the pattern of inaction and indecision could end and we would have a clear examination of what had gone wrong and why. Sadly, far from accepting actual blame, the Chief Minister set out to save his own bacon. We are here today because Jon Stanhope, the Chief Minister of the Australian Capital Territory, did not live up to the promise that he made on 20 January, nor did he keep the faith placed in him by those member of this Assembly who made him the Chief Minister.

In December 2001 we in the ACT received a wake-up call. On Christmas Eve and Christmas Day 2001 parts of Canberra were burning, burning with a startling ferocity seeing that it was not a high-risk day. Flames lapped at our back doors, even at the back door of the emergency services headquarters. Fire had not come so close for many decades. What should we have learned from these fires was how ill-equipped we were, how ferocious fires could be, even in relatively mild days with low wind. We were told that there were problems with fire trails and there were problems with

fuel loads, which Mr McLeod later said were in excess of 40 tonnes per hectare in places.

After that frightening warning, what happened? Lots of people in the community started to thump the tub about our lack of bushfire preparedness. As a new member of this place, I was briefed extensively by volunteers on that lack of preparedness, especially about the threat from the perilous build-up of fuel. I received briefings from men, any one of whom had more firefighting experience than all of us in this place put together, and they highlighted dangers across the territory from the southern reaches of Namadgi to Gossen Hill and Black Mountain.

I immediately took these issues up with emergency and environmental agencies and they clearly, patiently and patronisingly told me that my concerns were wrong, exaggerated or already being addressed. Mr Pratt, with characteristic gusto, took up the issues as well. I remember him being pooh-poohed in this place on countless occasions for being alarmist. I also vividly remember a day in November 2002 when Mr Pratt and I received a briefing from the head of the bushfire and emergency services about the preparedness for the 2002-03 bushfire season. We were told that they had never been better prepared for a coming season and they had never done more hazard reduction. History and the inquiries of Mr McLeod and the coroner have certainly put paid to those claims.

In fact, the government had learnt nothing. The only benefit from the earlier fires was that there had been some hazard reduction, and what looked like a disaster in 2001 created some protection in 2003. Despite the assurances, four fires broke out on 8 January 2003 and, 10 days later, those fires came to town. It is no thanks to the Chief Minister that we were not counting suburbs rather than houses lost. Mr Speaker, why did those fires come to town, killing, injuring and destroying? One of the reasons was the failure to manage our environment, to take account of the fact that people live in proximity to bushland and therefore the bushland must be managed to protect the people. The people must be protected. Contrary to the statements made by Dr Foskey this morning, it is the contention of members on this side that when it comes to hazard reduction people come first.

For years we had lived with the illusion that we could just leave the bush and everything would be all right. We had gone so far as to say that we did not even need to maintain fire trails. In his report, Mr McLeod dwelt on the ACT's approach to fuel reduction, saying that it had always failed in the past and had led to catastrophic events. December 2001 pointed in that direction, and the subsequent review pointed to the need to tackle hazard reduction, but little or nothing was done in the next 13 months.

The former head of the bushfire and emergency services told the coroner that our failure to respond to the recommendations of the analysis post-Christmas 2001 was a little disappointing. That was a massive understatement. Clearly, things were so far gone that hazard reduction would have been difficult, but I cannot believe that we were not able to do anything in the year following the 2001 fires. To say "We cannot burn off this week" would sound plausible, but to say "You cannot burn off this year" is a line that few people would swallow.

Mr Speaker, if you did believe that the fuel build-up was to a point that prevention was not possible, what would you do? Surely you would redouble your efforts in preparation to fight fires, maintain fire trails, ensure warning systems were working, ensure equipment was available and working, and ensure that the people—individuals, the chain of command and the communications systems—were ready to fight the fires when they broke out.

Jon Stanhope presided over a government that created the conditions in which a disastrous fire was a major risk and then did not extinguish those fires when it was possible to do so in the early days of 8 and 9 January. As my colleagues have demonstrated, it is not good enough to say, "I was just acting on advice." The advice was bad, and he is responsible for the bad advice as well.

I have seen the videos and photographic evidence tendered to the coroner about the extent of the fires on 8 January. We also know that, given the heavy dew fall and the low winds overnight, some of those fires went out, only to be rekindled the next day as the temperature and the wind rose. We can see from the photograph on page 23 of the McLeod report that the Stockyard Spur fire on 9 January was nothing more than a wisp of smoke.

These fires were not as the Chief Minister portrayed them. This morning he said that they were simply an act of God. The lightning strikes were an act of God, but the management after that was not an act of God. These fires had stalked us for over a week and our Chief Minister, who was the minister for the environment, should have known what was happening, and he should have told us.

In January 2003, Jon Stanhope was the minister for the environment, one of two ministers in this government responsible for bushfire fuel management. This process of bushfire fuel management was a matter of long standing. It had been operating in various forms for at least five years before then. Yet in August 2003 the Chief Minister told this place that he had never really thought about the levels of fuel and it had never really crossed his mind that these fires could come to town.

I think, Mr Speaker, that you can only say that this comes straight from the Alan Bond school of evasion and memory loss. I have had approaches from the community as to what Jon Stanhope was doing at the time. Was he too busy to talk to the same men that I took time to talk to? Did he cocoon himself from inconvenient truths? How could he say, with a straight face, that it had never crossed his mind that these fires could come to our suburbs? Either Jon Stanhope knew more about the progress of the fire than he has ever let on or he did nothing to find out what was going on. Either Jon Stanhope was asleep on his watch or he turned a blind eye. We can see that from the coroner's account on page 233 of volume I, which reads:

> Although Mr Lucas-Smith said that the members of the ACT Cabinet were "very interested" in the threat the fires posed—

this is about the cabinet briefing—

> he did not recall a great deal of questioning during the briefing.

As Mr Pratt has said here today, they did not have the intellectual curiosity to find out, or could it be plausible deniability? An old Kipling poem that has been going through my head for weeks now contains the words, "Them that ask no questions isn't told a lie." That is what it was about for Jon Stanhope and his cabinet: they did not ask for fear that they would find out an inconvenient truth.

I have been astonished and appalled by the claims that "I wasn't the responsible minister on the day". It is clear that the question here is not simply about what happened on the day, but a pattern of inaction and indecision that reached back for many years. As for attempts to deflect the blame onto others, I am sorry: the buck stops with Jon Stanhope. If others were in charge, who put them there, or who kept them in their positions?

Jon Stanhope has shown himself to be either a knave or a fool. As Mr Seselja has already said, it does not matter which it is. It shows that he is not fit to lead the ACT and that he must resign. Jon Stanhope must resign because he was the minister responsible for the preservation of our environment and on his watch we saw the almost complete destruction of the environment of the Namadgi national park and the Tidbinbilla nature reserve, as well as the economic loss inflicted on ACT forests and the compromising of our water supply catchments.

On Jon Stanhope's watch, the warnings were ignored and Canberra burnt. As the minister for the environment and one of the ministers responsible for fuel reduction in the territory, did he ask questions about our preparedness? Did he ever ask questions about how to protect the very fragile elements of our park, such as the mountain ashes and sphagnum bogs which were the primary source of Canberra's once uniquely high-quality water supply and an essential breeding habitat for endangered species such as the northern corroboree frog?

Did he ever inquire about the security of the Tidbinbilla nature reserve which he bleats about all the time? Did he ever ask? The answer, clearly, is no. In his own words, it had never crossed his mind. If it had never crossed his mind, Mr Speaker, that is a failing. What did cross the Chief Minister's mind? Did the minister for the environment and the minister responsible for the parks brigade ever ask why that brigade came home from Bendora on 8 January before the fire was put out? Did he ever satisfy himself that the reasons given were correct and valid?

Mr Speaker, 8 January 2003 was a crucial day. If we had acted differently on that day, we may not have got to the emergency of 18 January. If the crews that were tasked to those fires had stayed, we would almost certainly have had a different outcome. The crew sent to Stockyard Spur were called home even before they rolled out a hose or a knapsack. Volunteers deployed to that fire believe that they had a real chance of putting it out on 8 January. Volunteers at Stockyard Spur were angry at their recall. They speculate that they were pulled out only because the Bendora crew had come home.

Why did the Bendora crew come home? Was it lack of overtime money, was it about OH&S or was it, as rumour has it, because of a birthday party in town? What did the Chief Minister know about the operation of the fires in those early days that he has

never told anyone? Mr Speaker, the real problem is that even if he knew nothing, that simply is not good enough. When you are the Chief Minister, you lead by taking control, knowing what is going on, being across your brief and ensuring that when things go wrong you find out why.

This is how the Westminster system works, especially the way it worked when Jon Stanhope led the opposition. You are responsible for what you know and what you ought to know. The reason is obvious: it is too easy for ministers to avoid asking questions if they do not want to know or simply lie to accept ignorance as an excuse. If Jon Stanhope had lived up to his word, we would not be here today. If Jon Stanhope's priorities were with Canberra and not with saving his bacon, we would not have waited nearly four years for the coroner's verdict. If Jon Stanhope was as good as his word, he would have realised that, as the man at the big desk, the buck stops with him and that the failures of January 2003 were his failures.

Yes, the price is high, Mr Speaker, but we appoint chief ministers to make hard decisions and we expect much of them. As we have seen in the past, when they do the wrong thing, we expect them to go. This Chief Minister has done the wrong thing for too long, and it is time for him to go.

MS PORTER (Ginninderra) (4.36): Mr Speaker, today is a day of great contrasts. On the one hand, it is a chance for me to stand in this place and support the Chief Minister and to celebrate and recognise his great achievements. I am very pleased to be able to do this. However, it is also a day of some anger, frustration and sadness. I am very frustrated to have taxpayers' money, our time and the business of government used by Mr Stefaniak, the Leader of the Opposition, for this self-seeking, spurious but nonetheless serious motion.

We have heard from a number of my colleagues about the errors of fact contained in the coroner's report. It contains serious inaccuracies and a number of unsustained and unsustainable comments, comments relating to the actions and responsibilities of cabinet and the Chief Minister. We have heard that many of the comments made in relation to the government were never put to the Chief Minister or other ministers during the inquest. Therefore, there was no opportunity at all to challenge those comments through cross-examination or to bring forward contrary evidence. What are we supposed to think about that?

In relation to the cabinet meeting on 16 January 2003, the assertions contained in the report stretch one's imagination beyond its bounds. But I do not intend to labour the point. Many who have spoken before me have pointed out these obvious discrepancies and I fail to understand how anyone who has listened to the Chief Minister and Mr Corbell today can continue with this farce of a motion.

It is a great pity that Mr Stefaniak and those opposite are continuing this destructive strategy which has the potential to undermine the lives of more than one person. No-one is denying that the firestorm that descended on Canberra in January 2003 was a terrible event. This event is, of course, well remembered by all of us who were directly or indirectly affected in any way.

I was CEO of Volunteering ACT at the time, and early on Sunday the 19th I was involved in responding to many hundreds of people who were contacting my office, Canberra Connect, the radio stations and emergency services to offer themselves as spontaneous volunteers. A week later Volunteering ACT was able to arrange a clean-up in the Belconnen area utilising many of these volunteers. Mr Stefaniak and Mr Pratt and his son were among the many volunteers who assisted on the day. The volunteers worked tirelessly all weekend, clearing gutters and backyards for the elderly, people with disabilities and those who for whatever reason were not able to do this for themselves.

I am well aware that loss and trauma, which may have been directly or indirectly experienced by people in 2003, can elicit a grief response that finds its expression through anger and blame. This is a natural response. There is no one road to recovery. All of us deal with loss and trauma in our own way. However, no matter what our grief or our loss, taking revenge, I suggest, will not ultimately bring a sense of resolution or a sense of healing. Some would suggest that, in itself, this feeling of revenge actually eats away at the person, causing further hurt. This is why I am particularly sad today.

Mr Stefaniak could have acted like a statesman and realised that, whilst it would score cheap political advantage to go down this path of no confidence in the Chief Minister, it would have been more circumspect and less destructive to wait for the government's response to the coroner's recommendations, which indeed the government has now released. If Mr Stefaniak had behaved like a statesman and waited for the government's response, he and his colleagues would have avoided the harm that this motion potentially will cause to all those who were involved in or affected by the firestorm. Instead, Mr Stefaniak could not help himself.

As I have said, many speakers before me have outlined the numerous reasons why this motion is a nonsense. I do not think I have to say much more. Unlike those opposite, I am not one to stand here and take up air space unnecessarily. However, I would invite one last reflection. How will history recall the efforts and achievements of these two men—Jon Stanhope, Chief Minister, visionary, social reformer, pioneer of so much that is so good, a man who puts the interests of Canberra's people now and into the future at the top of every list; and Bill Stefaniak, erstwhile Leader of the Opposition, who scavenges around in the dirt, looking for something to throw at his opponent, rather like you do, I suppose, if you are not playing the game quite cleanly.

History's pages will tell it how it is and will record the proud achievements of the Stanhope Labor government under Mr Stanhope's fine leadership, which shows real vision and does not preoccupy itself with endless, petty political point scoring, as demonstrated by those opposite today.

Instead of moving a motion of no confidence today, Mr Stefaniak could have chosen to wait, as I said, until he had read the government's response to the coroner's report. Then he might well have come into this place and moved a motion of confidence in the Chief Minister. There is a thought! But I know who should be hanging his head in shame today: Mr Stefaniak, along with his colleagues. Shame, Mr Stefaniak, shame!

MR GENTLEMAN (Brindabella) (4.42): Today I would like to speak in support of the Chief Minister in his handling of the 2003 bushfire event. I will not be supporting the motion or the amendment.

Those devastating fires were one of the worst natural disasters this country has ever seen. They resulted in the death of four Canberra citizens, as well as significant losses to both private and public property and infrastructure, including the loss of 500 homes. Given this level of devastation to the health and safety of Canberrans, it was appropriate that Coroner Maria Doogan carried out a full investigation into this horrific natural disaster.

However, I regret to say that there have been some serious inaccuracies and unsubstantiated comments relating to the actions and responsibilities of cabinet and Chief Minister Jon Stanhope. Many of the coroner's comments in the report were never put to the Chief Minister or other ministers during the inquest. This meant that the Chief Minister was not able to rebut those comments and provide evidence to the contrary.

There are some misinformed comments in the report, most notably comments relating to the briefing of Thursday, 16 January that cabinet generally, and the Chief Minister in particular, knew that a potential disaster was on Canberra's doorstep but did nothing to ensure that the Canberra community were warned promptly and effectively. That statement, we have heard, is a gross misinterpretation of what was said. The Chief Minister has denied this was the case and I wholeheartedly believe that to be the truth.

The fact that two other ministers who were present at the 16 January meeting went on leave on 17 January is evidence that the advice provided by the Emergency Services Bureau did not provide information foreseeing the potential danger that the fires caused on 18 January. It is nonsensical to suggest that if the ministers knew of the potential danger they would have taken leave at this crucial time. This morning we heard from Minister Corbell his personal account of the morning of the 18th. No-one would believe that any father would leave their family in that situation if they had that knowledge.

Further, the cabinet briefing papers of 16 January did not contain a warning that the fires would engulf Canberra suburbs. Clearly, not even the ESB knew of the extent of the potential disaster that took place on 18 January 2003. They were engaged in doing their best to fight the fires. However, they did not foresee what followed. If the Chief Minister and ministers had been given such advice, I have utter confidence that they would have acted appropriately on that information and averted, as much as they possibly could have, the disaster that resulted.

The coroner's selective use of evidence given in the inquiry gives the wrong impression of what exactly the Chief Minister knew and when he was informed. This is exemplified by the use of the radio interview transcript from which the coroner quoted in the report. The report states that the Chief Minister played down the severity of the situation. The quotation from the ABC interview gives the erroneous impression that the Chief Minister misled the public about the seriousness of the fires.

This is simply wrong. It is completely nonsensical to believe that the Chief Minister would not have warned the Canberra citizens of the potential of the firestorm had he been aware of such information. Unfortunately, a selective quotation has been employed here, which has not given the Chief Minister a fair representation.

We have heard today, as we did on 18 January 2003, from Chief Minister Stanhope that when he declared a state of emergency he left us in no doubt of the severity of the situation. In the radio interview on 2CC the Chief Minister said that "it acknowledges the seriousness of the emergency that we are facing and it allows all of our emergency authorities and in particular the police to take action if they need to, to take a whole range of emergency steps. It gives them emergency powers. It puts the Chief Police Officer John Murray as notionally head of, or in control of the emergency". Clearly, these comments by Jon Stanhope demonstrate that when he became informed of the severity of the firestorm he wanted to inform all Canberrans and take the necessary steps to deal with the emergency.

Further, today the opposition has raised the issue of the Westminster convention of individual ministerial responsibility and has called for the resignation of the Chief Minister. At the time of the conflagration on 18 January 2003, Jon Stanhope was the Acting Minister for Emergency Services. However, neither the Chief Minister nor other ministers had the relevant operational experience, expertise or, indeed, the responsibility to make judgments to decide whether warnings should be given or the content or timing of any warnings. The Chief Minister followed the advice of the Emergency Services Bureau at all times.

Today the opposition has quoted from the coroner's report in relation to the convention of ministerial responsibility. However, the coroner quotes from only one source in relation to this contentious and much debated convention and that is senior public servant Sir Peter Lawler. Sir Peter stated that there had been a convention that if things go seriously wrong in their departments ministers may feel compelled to resign. Sir Peter's comments about ministerial responsibility are misleading of the convention. It is now a commonly held belief that individual ministerial responsibility does not require resignation as a result of problems that occur at a departmental level that the minister is not informed of.

What is required is that the minister must explain these departmental mishaps in parliament. A minister is expected to resign if he or she has done something grossly unethical. For example, if a minister is involved in financial impropriety, conflict of interest or misleading parliament, a resignation may be legitimated. However, this was not the case with Chief Minister Stanhope.

Today in the chamber we have heard many interpretations of what exactly is meant by individual ministerial responsibility and that resignation is mandatory for mishaps which occur under a minister's area of responsibility. In fact, as one knows, resignation at both state and federal level is rare. As I have stated, resignation is only required for unethical, corrupt, personal conduct. This was not the case with Jon Stanhope in 2003.

In fact, resignation is generally only necessary for collective ministerial responsibility; that is, if a minister cannot publicly support a cabinet decision or the general direction

of government policies, they resign. However, individual ministerial responsibility does not require resignation. All that individual ministerial responsibility implies is that ministers behave with propriety and are answerable to parliament for policy matters. Jon Stanhope at no time has misled this Assembly. He has at all times behaved with integrity.

Under the Westminster convention a government must have the confidence of the lower house to retain office. The ultimate test of people's confidence in government is at the ballot box. Since the devastating firestorm of 2003, we have had an election. Labor was elected; it not only holds majority government but Jon Stanhope achieved the highest personal vote of any MLA. Clearly, the Canberra public prefer Jon Stanhope as their leader and have utter confidence in his ability to lead our capital territory with their best interests in mind. On this matter Canberrans have spoken. The Canberra community are behind Jon Stanhope. Clearly today we will see again that the Chief Minister retains the confidence of this house.

Mr Stanhope always acts with integrity and professionalism and genuinely cares for the citizens of Canberra whom he represents. The concern that the Chief Minister has for his fellow citizens is demonstrated by the fact that he risked his own life to rescue a helicopter pilot. This demonstration of bravery by the Chief Minister in the most catastrophic situation that faced Canberra confirms that Jon Stanhope is a man of compassion and concern for all people. At no time did the Chief Minister deliberately downplay or mislead the public about the seriousness of the fires.

I would like to highlight that the Stanhope government is committed to ensuring the safety and welfare of all Canberrans. In the four years since the terrible events of 18 January 2003, this government has done everything possible to review the causes of the disaster and to identify any and all deficiencies and omissions in the performance of our emergency service organisations. I declare my complete support for the way the Chief Minister handled the 2003 bushfires and I commend him on his bravery and hard work during the most difficult and distressing time in the territory's history.

MS MacDONALD (Brindabella) (4.52): Mr Deputy Speaker, I will not be supporting this motion and I know that will not be a surprise to anyone. Quite frankly, I found Mr Stefaniak's calls for me and my backbench colleagues to cross the floor on this motion to be quite ludicrous.

The Chief Minister and the Attorney-General have already given excellent speeches on some of the flaws in some of the recommendations of the coroner's report. Dr Foskey and Ms Gallagher, as well as the Chief Minister and Attorney-General, made many pertinent points, and I thought their points on ministerial responsibility were particularly telling.

I will not repeat the many salient points made by others, but I will make two points to explain why I do not support this motion. Firstly, and most importantly, I believe this report has been devalued by its comments that step over the political line, comments that take a partisan view based on unsubstantiated matters. I think that is unfortunate, because the report contains a number of points and recommendations that the government has taken on board and agreed to. Of course, the government also agreed

to the recommendations in the McLeod report in their entirety. As I said, those comments have already been made by others, so I will not repeat them. But I think it is particularly unfortunate that the coroner's report has crossed that political boundary and thereby devalued itself.

Secondly, it is my understanding that cabinet was briefed on the fires on 16 January 2003. I do not know that from personal experience because I am not a member of cabinet so I was not party to it. But I think it is beyond belief that cabinet was briefed on this matter, told that there was a likelihood that the fires would burn into the suburbs and then walked away from that briefing and did nothing about it.

What actually happened was that that briefing occurred. Ms Gallagher was on leave. Mr Stanhope as Chief Minister, Mr Quinlan as Deputy Chief Minister, Mr Corbell and Mr Wood were all at that briefing. Then Mr Wood, who was at that stage the emergency services minister, went on leave. He was so concerned about it that he went on leave. Mr Corbell, after fighting the fires on the night of 17 January, then went home, went to bed and left his children playing in the backyard. We are supposed to believe that Mr Corbell had so little care for his children that he would allow them to be in the way of the firestorm front. I cannot believe that. That is why I cannot support this motion.

Comments have also been made along the lines of: why, if this was a concern, were these questions not asked of the Chief Minister when he appeared before the coronial inquest? Why wasn't Mr Wood called, why wasn't Mr Corbell called and why wasn't Mr Quinlan called as to their recollections? None of them was called. So there is a big question mark over some of the report, and, as I said, that is unfortunate.

There was one further point I wished to make, Mr Deputy Speaker. I am sorry; it has just gone out of my mind.

Mr Mulcahy: Another memory loss. That is 1,151. Sorry.

MS MacDONALD: That is okay. You can continue to be juvenile, if you so desire. That is your choice, Mr Mulcahy.

There was one other point. As members would be aware, Mr Wood was here earlier. He and I had a conversation about how long he was emergency services minister. He had been in the position for only a couple of months. Before him, Mr Quinlan had been the minister. My office went through some of the information for me in preparation for today. Mr Wood had been minister for maybe a month, maybe two months, when this situation occurred, but he was not called. Mr Quinlan had been the Minister for Emergency Services for about 10 months before that. The Stanhope Labor government had been in office for one year, two months and six days before the fire hit.

Yes, there were many things that we needed to learn from this. I believe that we have learnt from the experience and we are continuing to try to act on that to ensure that this situation will never happen again. But how many years, months and days were the Carnell and Humphries governments in office before that and how much responsibility do they bear for this as well? I do not support the motion.

MR SMYTH (Brindabella) (5.00): If I can paraphrase what the government seem to be putting forward as their defence today, it seems to be that it is unbelievable that they would not have done anything; therefore they were not told. That is what they are resting on: "We did not do anything, so it is quite clear that we weren't told." The second defence is that what the coroner and the opposition have said is littered with inaccuracies. Yet, if we look at Ms Gallagher's speech and the speeches of government members today, they are the ones that are inaccurate.

Let us go to the heart of this. The defence seems to be that the cabinet meeting did not discuss these issues. I have to ask: how many special, unscheduled cabinet meetings have you participated in, Deputy Chief Minister? None. You were on leave. You missed that one. You were lucky. The answer is that very, very rarely will cabinet come together out of schedule, and only on very important issues. So all of the ministers that were in town, whether they were on leave or not, on the Thursday morning attended a meeting that had been called because somebody thought it was important enough to have an unscheduled cabinet meeting.

Then we are told they did not discuss anything of import. That is unbelievable and the most unlikely thing to have ever happened. To quote Mark Twain: truth is stranger than fiction. The truth here is that the cabinet was told. The truth is that the cabinet did not have the wherewithal to do anything with what it was told. The truth is that the government went on leave. The truth is that they all thought it would happen on Monday, because that was to be the 40-year event: "Monday is the day, so we can actually have the weekend off." That was the indifferent attitude of the government.

The truth is that Jon Stanhope was indifferent to the people of Canberra and went AWOL for 15 hours. He was absent without leave, just as he is absent without leave now. It is traditional that people who are the subject of these motions sit through them—and he has been absent for most of the afternoon.

How do we know that the meeting was important? Because we had the evidence given by the head of JACS. Mr Keady generally had a poor recollection of the details, but he said in his evidence it was his idea to brief cabinet because:

> … we were already aware that we had a very serious situation on our hands. It was certainly the worst that had occurred in my time in Canberra and it seemed as bad or worse than anyone else could recall. To the extent that the suggestion has been made here that the situation is very serious and likely to get worse, I think we were already aware of that.

Why was there a cabinet meeting? It was because the situation was serious, the worst in living memory. No-one could believe that anything worse had ever happened or that the potential for anything worse had ever happened, but when the Chief Minister agreed to a cabinet meeting these matters were not discussed. I am not sure what they did; they might have played tiddlywinks or cards or talked about the weather: "We did not discuss the flames you could see on the hill or the smoke in the air or the reports in the papers. We had a special cabinet meeting to discuss nothing."

Mr Keady said that the purpose of the briefing paper prepared for the cabinet meeting that apparently did not tell the government anything, and the discussion that followed,

was to provide cabinet with an assessment not only of what was occurring—to bring them up to date—but of the range of possibilities beyond that, including the possibility of a serious impact on the ACT suburban area.

You were told, but you did not have the courage, the wherewithal or the strength to do anything with it. Instead, you hung on to the slim hope that it would happen on Monday so that you could have a weekend off. How do we know this? We are talking about stat decs. Mr Quinlan said of the meeting that he left the meeting thinking, yes, we have a problem. *Hansard* of 3 March 2003 quotes him as saying:

> The briefing alerted us to the fact that we could have a problem. Members might remember that during the 2001 bushfires some spotting occurred in suburban areas. We thought that the 2003 bushfires might involve some spotting, or that they might be a bit worse than the 2001 bushfires.

What did he do? He went to Melbourne. In *Hansard* he is quoted as saying:

> I recall being told at that briefing that the Monday would be a 40-year weather event.

He recalled thinking:

> … I, as minister, should be there.

So he made arrangements for a return flight to Canberra so that he could be there on Monday. He said:

> Because of subsequent events I specifically remember the tenor of the briefing that I received. At the briefing I was told that there was some concern about the bushfires.

He then said that he was "aware that the following week would be pretty tough". That is the problem: the government all thought it was going to happen the following week. It was not meant to happen on Sunday. Didn't they tell the fire that they are a nine-to-five government? That is the problem.

That leads to two questions: Jon Stanhope, Chief Minister, where were you when all this was happening, and what were you thinking? What led you to go AWOL for 15 hours so that you could not be contacted from late in the afternoon on Friday, 17 January 2003 when you were the only minister? You were the Chief Minister, the most senior minister, and you had all the junior minister roles as well. You had the lot and you were missing. What would have happened if that call you missed at 7.10 on the Friday night from the head of emergency services had been to request that a state of emergency be declared? On page 57 of the report it says:

> There is also reference to Cabinet being recalled if necessary to make a quick decision on priorities about assets to save—

so they were actually divvying it up: "You win, you lose. We'll save you, you'll go"—

> and there being a 40-60 per cent chance that a state of emergency would have to be declared.

Who is the only person in the government who can declare a state of emergency? The Chief Minister. Where was he? No-one knows. Could he take a phone call? No, he could not. Did he miss phone calls? Yes, he did. Did he have phone conversations? Yes, he also did. Can he remember what they were about? No, he can't. So, Jon Stanhope, what was going through your head when you goofed off on the Friday night and left the ESA and all of the departments to their own devices?

I can assure you, Mr Deputy Speaker, that in my time as a minister no department or official would have started locking down the assets, ordering extra telegraph poles, setting up emergency evacuation centres and preparing for a disaster without having told their minister. The truth is that the cabinet knew, the government knew, Jon Stanhope knew—and he did not have the wherewithal to do anything about it because he thought it was coming on Monday; that it was a Monday fire and that was next week's problem. This is the problem.

What is the government's additional offence? They attacked the coroner. It is interesting that Ms Gallagher said throughout her speech that the coroner's report is littered with inconsistencies. She said, "We stood by our public servants; we were loyal to them." But they are all gone, Ms Gallagher; you got rid of the lot. The head of the Chief Minister's Department, the head of emergency services, the head of the bureau, the head of JACS, the head of the police—all of them loyal public servants—are gone, gone, gone, gone.

Mrs Dunne: They are all gone. Where are they? Where have they gone?

Members interjecting—

MR SMYTH: The Deputy Chief Minister said the Chief Minister called the cabinet meeting.

Mr DEPUTY SPEAKER: Order! Members of the opposition, members of the government, let the member speak, and please direct comments through me.

MR SMYTH: Thank you, Mr Deputy Speaker. Ms Gallagher then went on to say that the meeting was called at the initiative of the Chief Minister. But it was not; he was prodded by Mr Tim Keady. He did not even have the wherewithal to call the meeting. So the opposition are telling the truth here. The government are making the fabrications.

Then we had the performance from Mr Corbell. I have a great deal of respect for Mr Corbell on this issue because, unlike with the Chief Minister, I know where Simon Corbell was on the night before—and I know where he was on the day—because, on the night before, his unit was with my unit at Tidbinbilla putting out the fires. I have a great deal of respect for him because he can stand in this place and truthfully say where he was. After all of the questions that we have put to our Chief Minister, the Chief Minister of the ACT, he will not tell people where he was on that

night. If you were at home watching the tennis, like the majority of people were, just say it. But you don't.

People have a right to know where the only person in the ACT who could declare a state of emergency before that fateful day was. But nobody knows where he was. Mr Corbell did say, though, "It is unbelievable that I, as a father, would leave my kids in the path of the fire." Well, if he had listened to the cabinet briefing, when he went to bed he would have been expecting the fire on Monday. I got home at about the same time as he did. But before I came off the fire ground at Tidbinbilla, the senior officer of Parks 5 left in the Tidbinbilla area at that time said to those of us who had been out all night and had seen extraordinary things that you would never believe, "The choice today is to stay on this side of the river and defend farms or go back to the city and defend suburbs." They knew.

Maybe Mick Castles rang the Chief Minister to read this progress report from the night before, which on page 2 says:

> There is a potential for fire to reach Uriarra by midday tomorrow—

that was midday on the 18th—

> the Cotter Pub and Reserve at 16:00—

that is, 4 o'clock in the afternoon—

> and Mt Stromlo and potentially Narrabundah Hill by 2000 hours …

They are the minutes from the planning meeting at 6 o'clock on Friday night. If the people of Duffy and Rivett and Chapman and Kambah and Curtin and Torrens had known at 6 o'clock on the Saturday night, they may well have been able to save themselves, their houses and their possessions—and they would not have had to have put their loved ones in the path of the fire—because they could have made a decision based on fact.

It is an appalling abuse by the Chief Minister to stand here and say, "The coroner has misrepresented me. How dare she not give me a warning." Well, how dare you not give the people of Canberra a warning. The definition of a warning is to tell somebody before it happens. At 3 o'clock, on the radio, when the Cotter had gone, when Uriarra had gone, when Stromlo had gone and when most of Duffy and Chapman had gone, it was not a warning; it was a bloody commentary!

It was like watching a football game: "The score now in Chapman is 28. Duffy's catching up; they've got 44." That was not a warning; it was a commentary—and if you do not understand that you do not understand ministerial responsibility. The Chief Minister quoted this morning: "once you are told you are responsible". And you were told; you only have to read the report properly and stop misrepresenting it for your own devices.

And you in the Labor Party who will vote with him—"It's party lines; go for your life"—need to look at yourselves, you need to read the report if you have not read it,

and you need to understand what ministerial responsibility is truly about, because today all of you, when you vote, will abrogate your responsibility to protect the people of Canberra, which is what you were elected to do.

Indeed, in some of the no-confidence motions moved by Jon Stanhope when he was Leader of the Opposition he talked about protecting the community. But when it is his turn to protect the community, like now, he is absent. He cannot tell us where he was. Then he had selective memory index; he had this memory index problem. He said earlier today, "I can remember everything I did on the day. I did what I did and did not do on 18 January. I know what I could and could not have done." Well, come and tell us what you did. Where were you the night before? Where were you until midday when you moseyed across to ESB to find out what was going on? Tell us what Tim Keady said in that phone call that you suddenly now can remember.

Mr Speaker, it comes down to two key points in this debate: Chief Minister, where were you? Where were you physically that you could not be contacted if we had to declare a state of emergency that night? If it had to be declared, nobody could find you. And what were you thinking? What was going through your mind that, in the words of Tim Keady, the reason that he prepared the brief and called for the cabinet meeting was that this was as bad as or worse than anyone else could recall? And it was; it was a very, very bad day, I can assure you.

Chief Minister, Allan Bates and Matt Luther, who were in Southern 20, who took the left flank of the fire as it came over the gully that led up to the scenic lookout at Tidbinbilla, know where they were—but they do not know were you were. Robert Flint, who was the commander of Tidbinbilla, who stood there and said, "We'll stop it here, gentlemen; otherwise it is going to go there," wants to know where you were on the day. The crew of the Molonglo tanker that stood by those two men: they want to know where you were. Anura Samara, who was driving the light unit from Guises Creek: he wants to know where you were. Val Jeffery, who put in the back-burn that saved Tharwa because you could not be found: he wants to know where you were. The guys from Rivers, Simon Corbell's colleagues, the guys who were out with him—Pat Barling, Simon Katz and Anthony Williamson: they want to know where you were. They want to know what was going through your head—and they want to know why you are still sitting in that chair when you do not have a right to be there because you abrogated your responsibilities to the people of the ACT that day when you goofed off and you allowed your ministers to go on leave.

Mr DEPUTY SPEAKER: The question is that the amendment to the motion be agreed to.

Mr Smyth: Mr Deputy Speaker, I was under the impression the Chief Minister was coming to speak again. I am quite happy to speak a second time to the amendment. I have a lot more to say. The Chief Minister is not speaking? Well, let the record show that the Chief Minster is not coming down to answer any of the questions that have been put to him.

MR STEFANIAK (Ginninderra—Leader of the Opposition) (5.16): I think this is a rather amazing but somewhat typical debate today and I am going to start by just going through a number of issues raised by other members in this place.

First up is the question of ministerial responsibility, which Mr Corbell and, I think, Ms Gallagher mentioned. Ms Gallagher quoted things I had said in a previous debate, as I quoted statements from Mr Stanhope that we say he should adhere to today. Yes, Ms Gallagher, ministers should not be responsible for errors made by members of their department, especially if they are down the chain and the minister does not have any direct actual responsibility. I have no problems with that.

I am not for a moment saying, for example, that this Chief Minister should resign because of errors made on 8 January 2003 and 9 January 2003. Gross as they may be in terms of not putting out fires, which experienced firefighters will tell you could have been put out, he would not have the requisite knowledge for that. No-one would expect him necessarily to go against advice there. But by God they would expect him to do the right thing in relation to what occurred at the cabinet meeting on 16 January 2003.

Why was that meeting called? I think my colleague Mr Smyth went into that in some detail in his speech. How often are these emergency cabinet meetings called? Not very often. I can recall one we had in relation to some crisis with TransACT in the seven years of government. I cannot even recall a cabinet meeting in relation to a crisis in government over the budget when we looked like having our budget knocked off, as a minority government, over the shooting galleries. I recall being rung up in Wollongong at about 7.30 on the Sunday night by Chief Minister Kate Carnell about that one. But we did not have an emergency cabinet meeting.

Emergency cabinet meetings are there for crises—and this was a crisis. You attacked the coroner. I think Mr Seselja has summarised this very, very well in terms of the debate generally. He says the Chief Minster has conveniently forgotten potentially incriminating discussions while claiming to remember exculpatory discussions. And that is exactly what has occurred in relation to the cabinet meeting. We are talking about witness credibility here. The Chief Minister, all of a sudden, has these amazing memory recurrences as to what happened. He recalls that he did not say that, and this did or did not occur in cabinet, and that there was no way that cabinet was given this impression.

The coroner sits there as the finder of fact. Her job, every day of the week as a magistrate, is to go through and sift through the evidence. She is there to find on the evidence what is fact and what is not, and no-one opposite has expressed today any notion of why the coroner would improperly find fact. Why would she exercise the bias that you still seem to be suggesting that she did? You delayed the inquest for a year with spurious claims of bias, which were thrown out by the Supreme Court. You have now attacked the coroner when you found that she finds against you and makes these damming statements of the Chief Minister and these damming statements of the government.

We have heard evidence here today, again from the report, that strangely no-one in government asked too many questions. "Oh, that was interesting; there is a bit of a threat here." But very few questions were asked about that. That is where you failed. No-one expects you to have the knowledge of a firefighter. No one expects the Chief Minister necessarily to be able to say, "Why don't you put those fires out—go on, go

and do it." He might be right in saying that, but no-one expects him to do that. But you expect him to ask those questions. You expect him to be able to ask intelligent questions in relation to facts put before him, scenarios put before him. Even today we got some evidence out of the Chief Minister here. It was quite interesting that, in his prevarication and his defence of himself, he actually came out and said, "Oh, yes, there was some warning; it was an if—if it had the potential to reach the urban edge". He said it was a big if.

It might have been be a big if, but it was a pretty substantial series of warnings he got there: a 40 to 60 per cent chance of a state of emergency, 70 per cent chance of it getting into Uriarra forest—not very far away, ladies and gentlemen, from Duffy, Dunlop and the suburbs of Weston Creek mentioned as being at greatest risk. There were references to the urban periphery and urban firefighters—all those pointers are there that would have caused any responsible government worth its salt to ask questions. But did you? No.

Another interesting comment from today's proceedings was about Ted Quinlan—a telling stat dec that one. He compared this with the fires of 2001. I think the quote was "no worse than that". That was his comment and his recollection as at 16 January 2006, that cabinet meeting in the morning.

What happened in December 2001? There were letterbox drops. The police went and warned people; they actually went up and warned people at Uriarra forest. I will come to the evidence in relation to some people there, where an 83-year-old woman died because she was waiting for warnings. We had evidence that in that year the police went around. Officials were going up and down with megaphones, warning people—good policy; well done by the government on that occasion. That happened in December 2001 and that caused Ted Quinlan to think that this fire was probably no worse than that. Well, if you warned them then, why on earth didn't you have the nous to ask the relevant questions to ensure that warnings went out again? And, Mr Smyth, I will make some telling comments too that maybe the Chief Minister's absence for a while had something to do with it.

You only have to look at the evidence. You only have to look at the maps of this fire getting worse. You only have to look at the forecast that the fire was growing in size; that the next five days were going to be alarming. A lot of people thought it might be Monday, but it was pretty obvious that this fire was going to be threatening the ACT and that if the weather did not change—and there was nothing to indicate that it would—there was every likelihood this would come. Why, even if you did not warn on the 16th, didn't you warn on the 17th?

Why didn't you declare a state of emergency earlier? Let us even put the warnings to one side now. Mandy Newton, Commander Newton, in the coroner's evidence, wanted a state of emergency declared. And I suspect that if the police had been given proper warnings too, had been given proper briefings on 16 January, they might have liked a state of emergency even earlier than that. And if a state of emergency had been declared then a lot of things could have flowed from that. But even if it was not a state of emergency, even if it was just warnings given at the midday conference, actions could have been taken. Lives could have potentially been saved. Treasured mementos

could have been saved. Perhaps some more houses could have been saved. Assets could have been deployed better than they were.

Why didn't you do it? The salient date is 16 January 2003. But it is more than that. A lot could have happened since then, and a sensible, competent government and sensible competent ministers surely would have done that. You had done that in December 2001 and you did not do it this time, in a situation even on 16 January when Ted Quinlan felt it was at least as bad—maybe not any more—and it sure as hell got a hell of a lot worse after that. So I think those are some very damming comments. The Chief Minister tried to wriggle out of it, but he could not quite manage to wriggle out of that at all in relation to that.

Comments were made as to why Mr Corbell was not called before the coroner. Mr Corbell, I was not called before the coroner in relation to the hospital implosion. Mr Madden only called the Chief Minister. Coroner Doogan only called the Chief Minister here. It seems to be fairly normal practice and it is perhaps because they are the chief minister. In an inquest like that there are people representing all sorts of parties and they ask all sorts of questions and it does not necessarily mean, Mr Corbell, that the magistrate has to get in there and ask questions. So that is a particularly spurious point; in fact, I think you made a whole series of spurious points today.

Last Sunday morning I read the *Canberra Sunday Times* and saw an interesting article by Ian Warden, who talked about "the elephant in the room", which he said referred to occasions when almost anyone present is aware of it and thinking about it but for some reason can't talk about such an enormous issue. Maybe that is one of the reasons for this memory lapse, these different accounts of what actually occurred, the fact that there did seem to be a paralysis from 16 January in relation to certain things. It might be simply that nothing was actually said at all, and it seems that is probably the case from what we see in the evidence, that very few questions were asked; people sat around staring, unable to talk, because of this elephant, this enormous issue that was the Canberra firestorm.

So we might be indebted to Mr Warden for his unintended explanation. But he goes on to say that an elephant, like a skeleton, cannot be hidden in the closet; it is too big. He says it is so enormous, so alive and smelly and trumpeting and so dramatically incontinent, that the pretence that it is not there requires a degree of extreme pretence not required in the ignoring of a shy, tight-lipped skeleton; in other words, it is a rebuttal of the age-old myth that if you ignore it it will go away.

And the firestorm did not go away; it killed four people; it destroyed nearly 500 homes. And, despite what the government and the Chief Minister might want to do, they cannot put this enormous issue back in the closet. It will not go away. It will certainly not go away for the families of the four people who died, for the people who lost their homes or indeed for the whole community of Canberra, because we are all affected in some way. Everyone will forever remember that day—where they were, what they did, who they were with, what they saw—

Mrs Burke: Most people will.

MR STEFANIAK: Most people, indeed—what they tasted, what they smelt.

Mr Stanhope cannot recall his meetings and phone calls about an event that was to become the most disastrous event in the history of Canberra. He cannot remember what he was told about an issue so enormous, so alive and smelly that it would touch every human sense. Really, is he so cynical and arrogant that he would think the people of Canberra would believe that he cannot remember meetings and phone calls about such an enormous issue? What about those briefings and those media conferences and the media reports of 16, 17 and 18 January in the morning? Why wouldn't they raise doubts? Surely they would raise doubts in the minds of the Chief Minister and his other ministers. They certainly raised doubts in the minds of a lot of people in the community.

I think it is a no-brainer that any Chief Minister worth his salt would be asking questions—and not questions that pussyfoot around that elephant, that huge issue, but to-the-point questions, questions that go to the heart of the matter. And clearly they were not asked.

In those incredible days after 18 January, again the Chief Minister said, "If you want to blame someone, blame me". I have already said that was a courageous statement. That was written up by Megan Doherty on 1 February 2003. The Chief Minister read out about the context of it. She quoted the Chief Minister as saying, "If somebody wants your neck, if somebody thinks you've got to go down, I'll go with you. We'll go together." They were noble statements.

Fast forward to 1 April 2004. Under the *Canberra Times* headline of "Stanhope backs away from blame", Megan Doherty said Jon Stanhope "has refused to repeat his promise to resign if an independent authority found any individual should accept responsibility". But in the same article she quoted him as saying:

> If the Coroner comes out and insists that it was all my fault, then, of course, I'll consider my position seriously.

"I will consider my position seriously." What does that mean? I think it is a far cry from "blame me" or "I'll go with you". Now it has turned into a case of blame the coroner, someone who is just doing her job and doing her job most competently. Clearly, Mr Stanhope's call to blame him must have been a cynical time-buyer, because he has engaged in vigorous ducking and weaving ever since and especially during the coroner's inquest. There are things like—and I am paraphrasing—"I had declared a state of emergency, so I was no longer responsible" or "I wasn't the minister responsible at the time" or, and here I quote from the report, "I had not received advice that led me to believe that this fire would destroy property within the suburbs of Canberra."

At the end of the day, Mr Speaker, the buck stops with him. The Chief Minister is ultimately responsible and he was right when he said, "Blame me." He was responsible for the safety and security of the people of the ACT and he can duck and weave all he likes but he cannot escape that fact or its consequences. This was the worst disaster in Canberra's history. It and the bungling and obfuscation that followed it will go down in history as one of those events that will still have heads shaking in amazement for many years to come.

Contrast that with something like Bruce Stadium, when those opposite wanted Kate Carnell's head. There might have been some process problems there, but at the end of the day that was building something—a great stadium that people enjoy and which continues to grow in value. But, no, the then opposition could not see the wood for the trees. They were after blood, and they got it. She knew as Chief Minister she was ultimately responsible. She took the blame; she went—passing Jon Stanhope's test of leadership.

In the case of this firestorm, though, there is no wood, there are no trees; they are all gone. The case is as clear as Stromlo forest now is. The Chief Minister should resign, and not to do so makes him a failure against his own test of leadership. The Chief Minister says it was not his fault. He says that he was acting on the best advice he had and that people were doing their best. That was addressed by the coroner, who quoted the opinion of Sir Peter Lawler, who wrote:

> In my opinion, simply to wave the issue away by saying that those involved did their best and, without proper analysis of the failure, rush to set up a new emergency services agency risks perpetuating failure.

(Extension of time granted.)

Sir Peter continued:

> If responsible officers in the relevant departments and agencies of the ACT Government did their best, then in this case their level of competence proved unequal to the demands of their office ... Their integrity and honesty are not necessarily in question.
>
> Responsibility might properly fall on those who appointed them or those within administration or governance responsible for their supervision, direction and support.

He went on to say:

> During the January 2003 bushfires, residents living on the suburban fringe of Canberra had a right to expect, and to rely on, a process by which they would be warned of an impending risk from bushfires. The ACT Government and its authorities had a public duty of good governance to provide it. They failed to do so. In the event four lives were lost. Serious injuries and trauma occurred. There were large property and financial losses both for citizens and the public purse. In my opinion, the omission involved a gross failure in a public duty of care by the ACT Government through its responsible Ministers and authorities.

Mr Speaker, as representatives of the community, we have a responsibility and a duty to share knowledge, to share information with the community. But not so, it seems, with this government and Chief Minister. For reasons today still beyond me, he chose not to share that information. On 18 January and the days before it, the Chief Minister and the government—and he is the one ultimately responsible—failed to share knowledge.

Just for a moment let us look at the evidence and comments of witnesses to the inquest. Michael Boyle said that "given warnings, we could have done a lot". Michael Connell said, "You just got the feeling there was no planning, no nothing, which is strange when you knew it had been going on for approximately two weeks and everybody was aware of that." Alan Evans said, "People are capable of acting in an orderly manner if they are given sufficient information and notice." Jill Hardy said, "I would have liked to know what was coming. I would like to have some tangible evidence on my personal history. I don't have that … I wasn't given the choice." And Michael Lecocguen said, "I just want to know why we weren't forewarned and why we had no help."

People testified, too, that they heard from friends interstate in Sydney and Melbourne by telephone on 18 January that there was a threat to Canberra, but they did not know it themselves because no-one in authority had let them in on the secret. Even after the first warning on radio about 3.00 pm, a recorded warning gave misinformation telling people to stay with their homes and to fill the bath with water but without specifying for what purpose. And this was as burning embers were raining down on Duffy, shortly before the firestorm arrived.

Four people died and, while the coroner could not say for certain whether they would have lived if they had been warned, there are some facts that suggest that to be the case, for two women in particular, whom I have mentioned already. Dorothy McGrath, who lived at Stromlo forest, had actually packed her car. She had indicated that to a friend, who said, "You should leave." She took the car back in and her friend had indicated to her that she was waiting to be told what was about to happen, and that apparently never came. Alison Tener, a mother of three, aged 38, was alone at home in Duffy on the 18th. Her car was in the carport and the boot contained personal items, including photo albums. She was last seen by another neighbour closing windows and pulling down the blinds. She had been asked and offered lifts to get out of the area by people who were leaving. The coroner said:

> On the evidence before me, I am satisfied on the balance of probabilities that the Canberra community was not adequately warned and was not warned in a timely manner of the danger of the approaching fires. I am also satisfied that the SEWS—

state of emergency warning signal—

> messages were issued too late, and were inadequate, even misleading, in their content.

In relation to that lady's death, she was found in a bathtub filled with water and may well have misinterpreted what was actually being told there.

No-one received any warnings until it was too late, and then perhaps they were confused. Who would ignore the community value of sharing knowledge? Why is the Chief Minister so arrogant and so cynical as to say, "Blame me" and then duck and weave to avoid responsibility? It is the sort of Chief Minister who has tried to put this elephant back in the closet. It is the one who has convenient memory lapses. It is the

one who refuses to take responsibility, and it is the one who is negligent in his duty to live by the community value of sharing knowledge.

One other thing Mr Stanhope said in his speech referred to Coroner Doogan getting into the issue of ministerial responsibility, which is, I think, at page 8 in the report. He says that the coroner was not listening to him; he was trying to explain, she took no notice of him and she should have done so. The coroner sent him, under section 55, some preliminary comments. I think this is worthy of quoting. She talks about the junior ministerial role and then says that in accordance with the conventions of the Westminster model he must accept responsibility for the mistakes of the ESB. Then she says publicly and acknowledges he said "Blame me". Something he said must have actually registered with the coroner because she did not make that finding in the body of her report. She actually said there that he was the minister responsible for justice and community safety, which organisationally housed the ACT Emergency Services Bureau, and commented that he was acting as the Minister for Emergency Services on 18 January and on the previous day.

Mrs Dunne: So he verballed the coroner.

MR STEFANIAK: So it looks like he has verballed the coroner there, and next time, Mr Stanhope—

Mr Stanhope: Did she admit the mistake?

MR STEFANIAK: Well, obviously, because she has got it in there, mate; she has got it in there.

Mr Stanhope: Did she admit that she didn't understand?

MR STEFANIAK: She has got it in there. Here we go: he is shooting the messenger once again.

Unfortunately, after four years, or maybe building up over four years, this Chief Minister and this government are in denial. You started off making those noble statements—"blame me"—and I think people would have accepted that if you had said not long after it, "We made mistakes. We made a lot of mistakes and, all right, we are sorry for those. There are things we could have learnt, and, yes, in that respect I should have warned you." I think people could have accepted that. It would have been a carry-on from the noble statements you initially made.

But then we got the obfuscation, starting back in 2004, when the ducking and weaving started. Now you are shooting the messenger and now you are just attacking the coroner. What possible reason has the coroner got to put in all these spurious things that you say she should not have put in, these things that you say are not there in the evidence? You say that, on the basis that there are a lot of things you cannot remember because that is there in the evidence, you had very little recollection on certain points. That might be quite understandable, an obvious human trait: when you tend to look back on things you tend to put a light favourable to it, maybe subconsciously, when you are looking back, that is not actually right. She is sitting

there, independently, sifting through the evidence—her job. She finds fact, and that I think is what people out there would believe.

Mr Speaker, the debate is in the hands of the Assembly. The Chief Minister will not, obviously, accept responsibility for this. Obviously it is a matter for numbers, but it should really be a matter for responsibility and accountability. We are elected to represent this community and stand up for the community when it is required. Obviously, I do not think that is going to happen today. This debate will be on party lines, and I think that is a shame.

Amendment negatived.

Question put:

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

The Assembly voted—

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

Question so resolved in the negative.

Petition

The following petition was lodged for presentation, by **Mr Berry**, *from 24 residents:*

Belconnen golf course

> **To the Speaker and Members of the Legislative Assembly for the Australian Capital Territory.**
>
> This petition of certain residents of the Australian Capital Territory draws to the attention of the Assembly that: a developer proposes to significantly expand the residential area of the housing estate on the present golf course site and further that the 1993 preliminary assessment proposed no future housing.
>
> Your petitioners therefore request the Assembly to: oppose any further residential expansion at the Belconnen Golf Course.

The Clerk having announced that the terms of the petition would be recorded in Hansard and a copy referred to the appropriate minister, the petition was received.

Legal Affairs—Standing Committee
Scrutiny report 38

MR SESELJA (Molonglo): I present the following report:

> Legal Affairs—Standing Committee (performing the duties of a Scrutiny of Bills and Subordinate Legislation Committee)—scrutiny report 38, dated 26 February 2007, together with the relevant minutes of proceedings.

I seek leave to make a brief statement.

Leave granted.

MR SESELJA: Scrutiny report 38 contains the committee's comments on one bill, 73 pieces of subordinate legislation, two government responses and one regulatory impact statement. The report was circulated to members when the Assembly was not sitting. I commend the report to the Assembly.

Auditor-General's report No 1 of 2007

Mr Speaker presented the following paper:

> Auditor-General Act—Auditor-General's report No 1/2007—*Credit card use, hospitality and sponsorship*, dated 21 February 2007.

Papers

Mr Corbell presented the following papers:

> **Subordinate legislation (including explanatory statements unless otherwise stated)**
>
> Legislation Act, pursuant to section 64—
>
> Agents Act—Agents Amendment Regulation 2007 (No 1)—Subordinate Law SL2007-3 (LR, 14 February 2007).
>
> Board of Senior Secondary Studies Act—
>
> Board of Senior Secondary Studies Appointment 2007 (No 1)—Disallowable Instrument DI2007-42 (LR, 12 February 2007).
>
> Board of Senior Secondary Studies Appointment 2007 (No 2)—Disallowable Instrument DI2007-43 (LR, 12 February 2007).
>
> Board of Senior Secondary Studies Appointment 2007 (No 3)—Disallowable Instrument DI2007-44 (LR, 12 February 2007).
>
> Board of Senior Secondary Studies Appointment 2007 (No 4)—Disallowable Instrument DI2007-45 (LR, 12 February 2007).
>
> Board of Senior Secondary Studies Appointment 2007 (No 5)—Disallowable Instrument DI2007-46 (LR, 12 February 2007).
>
> Board of Senior Secondary Studies Appointment 2007 (No 6)—Disallowable Instrument DI2007-47 (LR, 12 February 2007).
>
> Board of Senior Secondary Studies Appointment 2007 (No 7)—Disallowable Instrument DI2007-48 (LR, 12 February 2007).
>
> Board of Senior Secondary Studies Appointment 2007 (No 8)—Disallowable Instrument DI2007-49 (LR, 12 February 2007).

Court Procedures Act—Attorney General (Fees) Amendment Determination 2007—Disallowable Instrument DI2007-51 (LR, 19 February 2007).

Exhibition Park Corporation Act—Exhibition Park Corporation Board Appointment 2007 (No 1)—Disallowable Instrument DI2007-40 (LR, 8 February 2007).

Health Professionals Act—

Health Professionals (Fees) Determination 2007 (No 10)—Disallowable Instrument DI2007-41 (LR, 8 February 2007).

Health Professionals Amendment Regulation 2007 (No 1)—Subordinate Law SL2007-1 (LR, 4 January 2007).

Road Transport (General) Act—Road Transport (General) (Vehicle Registration) Exemption 2007 (No 1)—Disallowable Instrument DI2007-50 (LR, 9 February 2007).

Road Transport (Vehicle Registration) Act—Road Transport (Vehicle Registration) Amendment Regulation 2007 (No 1)—Subordinate Law SL2007-2 (LR, 24 January 2007).

Standing orders—suspension

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

> That so much of the standing orders be suspended as would prevent order of the day No 1, executive business, relating to the Land (Planning and Environment) Legislation Amendment Bill 2007, being called on forthwith.

MR SESELJA (Molonglo) (5.43): Without taking up too much time, we will not be supporting this motion to suspend standing orders. There is no reason, and the government has given us no reason, as to why this bill needs to be pushed through in the manner that it is being pushed through. In particular, I would have thought that the fact that it is a retrospective piece of legislation would make it somewhat less time critical than otherwise would have been the case. I understand that at the government business meeting we were not told that it was going to come on today. We were of the understanding that private members' business was going to go ahead at this stage. For that reason, we will not support the motion.

DR FOSKEY (Molonglo) (5.44): Mr Speaker, with this legislation the government is shifting the goalposts. It says that it has to push this amendment through today because—

MR SPEAKER: Order! The question is whether standing orders should be suspended.

DR FOSKEY: I am so sorry. I will just say that I do not support the suspension of standing orders for similar reasons to those put by Mr Seselja.

MR CORBELL (Molonglo—Attorney-General, Minister for Police and Emergency Services and Minister for Planning) (5.45), in reply: Mr Speaker, this is an urgent matter and the government had previously flagged this matter with members in writing. I advised both the Leader of the Opposition and Dr Foskey, as the Greens' representative, of the government's intention to pursue this course of action. I did so last week, if I recall correctly, but it may have been earlier this week. Nevertheless, both of the non-government parties were advised of this course of action well ahead of time.

The issues of urgency around this matter are that the legislation deals with identifying and rectifying what currently is a significant level of uncertainty around the approval of approximately 30 to 40 developments in the city, the town centres and industrial areas.

This level of uncertainty as a result of a Supreme Court decision in November-December last year cannot be allowed to continue. The Assembly should deal with the matter now and reject or accept the legislation, but the existing level of uncertainty cannot be allowed to continue. To do so would be to cast a serious question mark upon and allow a serious question mark to remain over a series of developments in the city centre, the town centres and industrial land, which would act as a serious disincentive to investment in the city and impose serious potential risks for development for which, in the government's view, permission has been lawfully obtained.

That is the reason for the urgency. I have previously advised members of the government's intention. I did so in writing. I now seek the Assembly's agreement for us to proceed with the debate on the substantive item.

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

Land (Planning and Environment) Legislation Amendment Bill 2007

Debate resumed from 20 February 2007, on motion by **Mr Corbell**:

> That this bill be agreed to in principle.

MR SESELJA (Molonglo) (5.48): The Liberal opposition will not be supporting this bill as it is, mainly because we do not believe that this bill should apply retrospectively. I am on record as saying that we generally agree with the actual principle which is being put in place here, which attempts to limit third party appeals in town centres and in industrial areas. I said that when we debated a disallowance motion in this place last year. I do not agree with changing the law now in a retrospective manner which affects people's rights.

What we are faced with here is clearly a law that is designed to address a particular issue that the government has come up against in relation to the EpiCentre project and the court case that is going on concerning the appeal involving Direct Factory Outlets Canberra Pty Ltd and Capital Planners ACT Pty Ltd. Mr Speaker, I flag now that in the detail stage I will be moving an amendment which seeks to remove the retrospectivity of this bill. But, apart from the retrospective nature of it, we would generally support the principle in a prospective manner.

The background to the bill is that two companies—Director Factory Outlets Canberra Pty Ltd and Capital Planners ACT Pty Ltd, collectively DFO—obtained from the ACT Planning and Land Authority approval for a development involving the erection of a bulky goods and factory outlet retail centre at Fyshwick. Other companies—Capital Property Projects (ACT) Pty Ltd, Canberra International Airport Pty Ltd and

Brand Depot Pty Ltd—sought under section 276 of the act to have that decision reviewed by the Administrative Appeals Tribunal.

Upon a challenge to the jurisdiction of the AAT to entertain the appeal, CPP and the other companies sought from the Supreme Court a declaration that certain laws were invalid. The Supreme Court granted one of the declarations sought. The citation is Capital Property Projects (ACT) Pty Ltd v Planning and Land Authority [2006], per Gray J. The result was that the AAT could proceed to entertain the appeal by CPP, subject to any appeal from the decision of Gray J. It appears that an appeal to the Court of Appeal is on foot. The purposes of this appeal is to change the law, with retrospective effect, so that any body, including the Supreme Court or the AAT, would be obliged to find that the AAT no longer had jurisdiction to entertain the appeal by CPP.

It is clear that this particular piece of legislation is designed to address the issue or to go after one particular appellant, broadly the Capital Airport Group. It is essentially around the EpiCentre. Even though it is not designed specifically in those terms, that is what has prompted it and that is what it is targeted at. In fact, if there were any doubt about that, one would need only to read the minister's press release on the subject, which specifically identifies the Capital Airport Group.

We have a number of levels of concern. The scrutiny of bills committee has looked at this matter and raised a number of issues. One is generally the issue of retrospectivity, and it is retrospectivity which adversely impacts upon people's rights. The general principle at law is that a person should know what the law is at any given time and that retrospective laws should only be used where there is overwhelming public interest. It is in very rare circumstances that retrospective legislation which affects adversely people's rights is acceptable. It is clear that we are talking here about the erection of a shopping centre. That is not a sufficient overwhelming public interest that would justify such significant derogation from the usual principle, which is that laws apply prospectively.

Mr Speaker, in scrutiny report 12 of the Sixth Assembly, concerning the Children and Young People Amendment Bill, the committee said:

> The essential idea of a legal system is that current law should govern current activities. … Retrospective legislation "is contrary to the general principle that legislation by which the conduct of mankind is to be regulated ought, when introduced for the first time, to deal with future acts, and ought not to change the character of past transactions carried on upon the faith of the existing law".

That statement points to one way in which retrospective law is unfair; that is, that it disappoints the expectations of those who assumed that the quality of their past acts would be assessed on the basis of the law as it then stood. There have been all sorts of analyses of it. Tim O'Dwyer, in *Queensland Lawyers Weekly*, described it thus:

> The New South Wales Bar Association describes retrospective legislation as almost always unfair per se. The ACT Law Society says that in general it is opposed to retrospective legislation.

There are good reasons for that. People do need to have certainty in their actions. They do need to have certainty when they undertake a court action, as has occurred in this case, that the law as it applies at the time will apply to them and will not be subsequently changed in a way that adversely affects them. It is clear that this legislation does adversely affect some in our community.

That was one of the issues that the committee raised. The committee raised a number of other issues that were of concern to it. I want to highlight a couple of them. This does go to the concern we have, which is why we opposed the suspension of standing orders, with this bill being rushed through. The detailed report of the scrutiny of bills committee raised a number of serious issues. I have already mentioned the principle of retrospective legislation, the precedent that that sets and the concern in terms of retrospectively applying laws which adversely affect people. But other issues also were raised and I put it to the Assembly that they do require further scrutiny.

One is in relation to the question raised on page 6 of the committee's report; namely, whether the amendments are inconsistent with paragraph 25 (4) (c) of the Australian Capital Territory (Planning and Land Management) Act 1988, which is a commonwealth act. The concern raised by the committee, and I do not know the answer to this matter, is that that paragraph of this commonwealth act, the PALM act, could potentially limit this kind of legislation. Paragraph 25 (4) (c) says:

> The law shall include provision for … the procedures for just and timely review, without unnecessary formality, of appropriate classes of decisions on planning, design and development of land ...

The committee has highlighted the issue of just and timely review and whether retrospective legislation amounts to laws that provide for just and timely review, just in particular. As I said, I do not know the answer to that. I have concerns at a broader level that we are limited in this way. I wish this particular piece of legislation, this commonwealth legislation, did not exist. I do not think the territory should be limited in this way. I think we should be able to put forward our planning laws in the Assembly without this kind of interference, but the reality is that this law is in place.

The concern I would put on record is that when this bill inevitably goes through we may well see court action based on this very piece of legislation. We may see court action that challenges the validity of this law on the basis of the PALM act. I do not know whether that would be successful. As I say, I would prefer that we not have such a piece of legislation, but we are bound by it. That is another issue that the Assembly needs to consider. It is an issue the minister needs to consider as to whether he is going to be buying further litigation as a result of this amendment.

The other issue raised by the committee has raised that I want to highlight is in relation to acquisition of property on just terms. As members would be aware, there is a requirement under paragraph 23 (1) (a) of the Australian Capital Territory (Self-Government) Act that any acquisition of property be done on just terms. The question, obviously, where we have an action on foot and we have an entity which has had some success in its court action and has obviously expended money in relation to that, is whether to take away that right of appeal or to take away really the fruits of

that litigant's victory amounts to an acquisition of property. Once again, I do not know the answer to that, but certainly the members of the committee, with the expert advice that we received, thought it was sufficient to put it out there as a question for the minister. Perhaps the minister, in closing, will be able to tell us whether he has received any advice in relation to that.

The committee looked at this matter in some detail. It is a particularly tricky doctrine to apply in certain circumstances as to exactly what "acquisition of property on other than just terms" means. I am not going to pretend that I know the answer to it. I would simply raise it as an issue. It is another reason that I think this bill should not necessarily be pushed through in this way. The Assembly really does need more time to consider this matter. The report was only circulated on Monday or Tuesday after we signed off on it and there has not been any great ability for the Assembly to consider it properly and to consider some of the serious issues which have been raised.

The other thing I would say, which the committee raised as well, is that there is precedent in instances such as this of a court case having identified a flaw in legislation. There are Victorian precedents whereby the legislation that then fixed that issue actually excluded the particular litigant whose litigation identified the issue. The principle is that the person should not be robbed of the fruits of their victory and there is therefore a specific exclusion in those terms. It is clear that the government would not want to do that in this case, because it appears that this legislation is designed, at least in part, to prevent—

At 6.00 pm, in accordance with standing order 34, the debate was interrupted. The adjournment of the Assembly having been put and negatived, the debate was resumed.

MR SESELJA: I think that option is open. That is an option that the committee has put to the government in its report. I would simply say that I think the reason that they would not be doing so is that this legislation is very much targeted at killing this particular court action. It is an action inconvenient to the government. I support generally the principle that in our town centres in particular, in Civic and in other areas, we should be looking to limit third party appeals where possible—not in all circumstances, but certainly looking to limit third party appeals. I raised the issue with the minister when we discussed the disallowance motion. His response, which I think was given in his tabling speech, was that there would be further amendments in the upcoming legislative reform. I still have concerns about those, but we will debate that in the coming weeks and months.

But I would say as a general principle, and the Liberal Party very strongly supports this, that we should be able to know what the law is at a particular time. In particular, we should not have retrospective legislation that does take away people's rights. As to the issue of costs, what is going to be done in this case is an issue which may well be played out in higher courts. The issues that we have raised in relation to the PALM act and the acquisition of property are certainly relevant. I do not know how they would go, but they do go to why this bill needs to be rushed through in this way.

Mr Speaker, this bill is a retrospective piece of legislation. If it is passed in one week, two weeks or three weeks, it is still going to apply from the same date. The industry knows that and people know that, so I do not think that there is going to be any grave

problem with its being delayed by a matter of a couple of weeks. That would allow us to look at it more closely and the minister to take another look at it and actually look at some of these issues which the committee has raised which may well lead to further court action down the track and may well see it go to higher courts.

I do not know whether that will happen, but these issues certainly have been raised and no doubt the lawyers of the relevant parties will look at them. There are some significant issues here. We have raised them and the committee has raised them. I do not support retrospective legislation which impacts adversely on people's rights. That is what this bill is doing. That is why we cannot support this bill in its current form and that is why I will be moving the amendments which have been circulated in my name.

DR FOSKEY (Molonglo) (6.02): With this legislation the government is shifting the goalposts. It says it has to push this amendment through today because there have been lots of developments approved in the period since the invalid amendment was passed and they may become subject to unmeritorious appeals, but where are those appeals that have required us to fast-track this amendment?

At the moment the law is that affected third parties can lodge appeals on developments within town centres and industrial areas. Correct me if I am wrong, but I understand that not one appeal has been received. Do any of us really believe that leaving this legislation for another week would make such a big difference?

The haste with which this amendment is being driven through the house is not driven by the government's desire to ensure certainty for all the developments that have taken place since this legislation was passed. Rather, the government cannot believe its luck at being let off the hook by the Auditor-General over the EpiCentre fiasco and it is terrified that it will be caught out if the Snow appeal goes through to the AAT, which I understand is scheduled for later this week.

I did observe that the minister was beaming when he heard the news about the auditor's report, but the auditor was not examining whether the development approval process was in conformance with administrative law. It looks like the government's good fortune is about to be punctured by finally having an independent arbiter look at the sale process itself.

Students of cynicism 101 should note the enthusiasm with which oppositions, especially opposition Labor parties, espouse comments such as community consultation, freedom of information, merit review and public donation disclosures, to name just a few of the core elements of a healthy democratic government. They should also note the enthusiasm with which those same parties, once they gain power, back away from and water down such provisions.

Things like merit review become irksome and make public servants look bad. They also make them look good when their decisions are affirmed. But bad news carries more political weight than good news, so, of course, public servants advise minister to repeal the rights of what they perceive as irksome troublemakers to interfere and challenge their authority.

I opposed these amendments when they were initially introduced and I will oppose them again today. They remove appeal rights for community groups under the cloak of removing them from commercial interests who have apparently been abusing the appeals process. I accept that commercial interests use all legal avenues at their disposal to pursue their personal gain and that they will see holding up a competitor's development with unmeritorious appeals as fair game.

I have moved my anti-SLAPP bill in this Assembly because I am fully aware that corporate interests have been abusing various civil law actions in order to intimidate and divert the resources of community activists. But just because some corporate interests have been abusing the planning process, why should community groups and civic-minded individuals be barred from giving their input to the merits of various development proposals?

Earlier today, Minister Barr was talking about the importance of natural justice. Where was the natural justice in Austexx being told again and again that they would be allowed to build a massive retail development in what everyone assumed was an industrial area? Only the ACT government and its agency thought the planning laws permitted a retail development. The huge billboard that still stands next to the EpiCentre site advertises that it is for a bulky goods development. At least that is consistent with all the advertising for the sale. It clearly stated that the sale was a bulky goods opportunity. It is also consistent with the legal advice received by the parties interested in bidding for that site.

The NCA did not know the planning laws had apparently changed. We wait with interest to see whether the NCA finds that the purported planning change is consistent with the national capital plan. But the most telling fact of all, which puts paid to the government's outrageous assertions that everyone knew that massive retail development was permitted on the site, is the fact that Austexx's own legal advice from a New South Wales Bar Council barrister, Richard Lancaster, was—

Mr Corbell: I take a point of order, Mr Speaker. There is an issue of relevance in this debate. The issue of the Auditor-General's report is not the subject of debate today. Whilst the development at the Austexx site in Fyshwick is a subject affected by the proposed legislation, I do not think it is open to Dr Foskey to completely revisit that entire debate. We have had the debate about Austexx and about the sale process. This legislation has nothing to do with the sale process. It sounds to me, Mr Speaker, that Dr Foskey is unhappy that the Auditor-General found that the government acted appropriately in that sale process.

MR SPEAKER: Confine yourself to the bill which is in front of us, please, Dr Foskey.

DR FOSKEY: I think that what we are being told about the bill by the government is one thing and what the opposition and I see in this bill is another. I do feel that it is valid for us, for me in this case, to pursue these matters. I note that Mr Seselja touched on them as well in his speech, perhaps not to the same extent.

MR SPEAKER: We do not need to reflect on a previous debate, Dr Foskey.

DR FOSKEY: As to the process that I am not allowed to talk about, it would be very interesting to know what an independent tribunal or court would make of its propriety, legality and merits, but it looks like we might be denied that experience, and this legislation is being rushed through today in order to deny us that experience.

The court decision that engendered this proposed amendment was handed down on 18 December and the next opportunity to pass this bill would be next Tuesday. Does anyone believe that, after a delay of two months, the need for this bill to be passed today, not next Tuesday, is related to the need to ensure—and I quote from the Attorney-General's letter justifying this urgent debate—"the certainty and continuity required for investor confidence in the ACT property sector and other sectors"?

What really makes me uncomfortable is the fear that, under the cloak of legislation such as this bill, the ACT will become beholden to developers directing political donations at parties that are able to deliver development opportunities on time and at a good price. Part of being able to deliver development opportunities is the minimisation or removal of third party appeal rights. Let's put on the record again the basis of the Auditor-General's finding.

Why do developers fund political parties? Why are they disproportionately represented in the political donations register? Is it because they have a keen interest in the democratic process and want to ensure that public-spirited candidates get the resources to spread their messages of community beneficence? Again, students of cynicism 101 should be taking notes. My colleague Lee Rhiannon, speaking about a similar development in New South Wales, said, "The Liberal and Labor parties deny that they are influenced by the multimillion—

Mr Corbell: I take a point of order, Mr Speaker. Again, I draw your attention to the standing order relating to relevance. Dr Foskey is now launching into a diatribe about political donations policy and financial disclosure. That has absolutely nothing to do with this legislation. Again, I draw your attention to her comments and ask you to ask her to be relevant in the debate.

MR SPEAKER: The bill is about third party appeals.

Mr Corbell: It is not about political donations.

MR SPEAKER: It certainly is not about political donations, and Dr Foskey seeks to draw some sort of connection between political donations and third party appeals. I think that it is fair enough to make those accusations, but not if they impugn people in this place, Dr Foskey.

DR FOSKEY: No, and I certainly would not want to do that. I am talking about setting a general framework through changes to our planning laws, and that is the subject of the bill we are discussing today. There may well be a connection. I am not implying that there is. I would like to remind everyone that we are discussing today a bill which was handed down last week and which an hour or two ago we were not going to be discussing till later, but we are discussing now. We need to be cognisant of the fact that we have not had much time to prepare for it. I think the complaint is

that we did not need to talk about this bill today. I would much have preferred to have had a lot more time to put into this bill.

I am afraid I am suspicious when I see changes to planning laws, especially when they are rushed through like this. I believe that there are grounds for my suspicion. I will desist from going further along that line, but I do fear that we are witnessing a similar process occurring in the ACT; that is, the implementation of a planning system that is friendlier to developers, one that was rejected by the local government organisation and one that is supported by the development lobby.

The government has always said that it tells people to rely on their own legal advice. In this case, the airport group did rely on its own legal advice and it was right. So what does the government do? It changes the law and retrospectively denies them their right to a day in court. As the scrutiny of bills committee reported, there were ways to draft these amendments that would have preserved the legal actions which are on foot in the AAT and the Supreme Court. Nothing reveals what I believe is the true intent behind this legislation more than the fact that the government has chosen to breach longstanding convention and retrospectively deny the airport group their day in court.

MR SMYTH (Brindabella) (6.14): Professor LJM Cooray in his book *The Australian Achievement: from Bondage to Freedom* said:

> Retrospective legislation destroys the certainty of law, is arbitrary and is vindictive, being invariably directed against identifiable persons or groups.

So let's be clear: the group in this case is the Canberra International Airport and the identifiable person is Terry Snow. As a knowledgeable property commentator said to me recently, this can actually be characterised as the Terry Snow bitch slapping bill. This is because it is about getting even for the fact that the minister was upstaged on city hill because Mr Snow put more effort into it and came up with a better plan. It is about the minister being caught out on EpiCentre. It is about the minister being caught out in the fact that we are fixing this today because he stuffed up the legislation, as pointed out by Mr Seselja. When you add it all up, it is just about getting even.

Why today? Why late in the day? It is because this will get poor reporting in the media. It will be missed by the TV and probably not picked up by the radio because it will be hidden by the motion of no confidence. In terms of the bill, as pointed out, the Opposition agrees that we should limit third party appeals, but we very rarely will support retrospective legislation. Accordingly, we will be supporting Mr Seselja's amendment and hoping that the government will see sense and also support it.

MR CORBELL (Molonglo—Attorney-General, Minister for Police and Emergency Services and Minister for Planning) (6.15), in reply: I thank members for their comments in this debate. Mr Speaker, going on members' comments, it would appear that a few people really do not fully understand what it is we are debating today. That is disappointing because the proposal is quite a straightforward one.

First of all, I turn to the comments from Dr Foskey where she indicated that Mr Snow's legal advice was right and the government got it wrong because Mr Snow

won in court. Mr Snow's legal advice had nothing to do with this. The legal advice Dr Foskey is referring to is the legal advice Mr Snow received about land use policy at Fyshwick.

This legislation has got nothing to do with land use policy at Fyshwick, Dr Foskey. I would have thought even you would have understood that. This legislation has to do with the application of a regulation that exempts third party appeals from Civic, our town centres and industrial land areas. So the suggestion that in some way Mr Snow was right all along is simply not correct. Nor is it correct to characterise this as legislation designed to address only the issue raised by Mr Snow's company's appeal against the development approval for the DFO site at Fyshwick.

This amendment seeks to address issues raised by a recent decision of the ACT Supreme Court. The issues were raised by the court following the action brought by Capital Property Projects, Mr Snow's company. In April last year, regulations were made, as members would be aware, that sought to supplement this list by the removal of third party merit appeal in specific areas—Civic, the town centres and industrial land areas.

The Supreme Court considered the exemption in industrial areas—industrial areas only—and found the exemption to be invalid. The court concluded that the phrase "of a kind" in section 282 of the Land Act required the exemption regulation to say what kind of development is exempt. The reasons of the court had the effect of invalidating or putting in doubt the entirety of the April 2006 exemptions from third party appeal. This bill aims to restore what was intended and understood to be the legal position prior to the December decision of the Supreme Court.

The bill does this by explicitly affirming the validity of regulations put in doubt by the court and the power to make such regulations. As such, the bill does have a clear and intended retrospective effect. It both restores regulations made in the past as well as affirms the ability to make regulations of this type in the future.

It terms of the reasons for the bill and the reasons for retrospective effect, the underlying need for these exemptions from third party appeal remain as compelling now as they were back in April last year. They are part of a series of measures to improve the development assessment process within Civic, town centres and industrial areas by a reduction of delay and cost, and also by increasing the level of certainty in the decision-making process.

These regulations do not, as has been suggested in the media, have the effect of putting planning applications beyond comment and debate. Third parties will continue to be able to comment on applications. The existing rules for public notification for some applications—not all get that now, but some applications—remain.

In addition, it will still be possible to challenge interpretations of planning law by application to the Supreme Court. So issues on the interpretation of the law are still open to review by the Supreme Court under the Administrative Decisions (Judicial Review) Act 1989.

Mr Speaker, the judgment of the Supreme Court turns on a specific interpretation of a particular section of the land act, but the judgment has implications beyond that. In particular, it introduces a significant degree of uncertainty and discontinuity into the planning and development process. The judgment reverses what was the intended and understood legal position, and, I must add, understood by both sides of this chamber. The exemptions from third party appeal were intended to be, and understood to be, valid. Since early last year the development industry, community groups and individuals have made plans as well as financial policy and operational decisions based on this understanding.

Then came the court decision; certain exemptions from third party appeals were no longer valid. Any government faced with such a reversal in the law, irrespective of the subject matter, has a duty to consider the implications for the community. The government has a duty to consider whether legislative intervention is necessary to restore continuity. Community confidence in the continuity and stability of the regulatory environment is essential for forward planning and day-to-day decision making. Continuity is essential to a positive environment for investment in the territory.

There is a second level of uncertainty. The Supreme Court decision concerned the validity of exemptions in industrial areas. As with all such decisions, there is a level of uncertainty as to the extent to which other laws are in fact affected. In this case there is a level of uncertainty as to whether exemptions in Civic and town centres are also invalid. This is very likely, but it was not directly confirmed by the court decision. There is also a level of uncertainty as to whether similar regulations in connection with the exemption of control activities from land act processes would be valid.

The third level of uncertainty affects the position of individual development applications and development approvals. The December Supreme Court decision altered the process that is to apply to applications. Development applications which did not previously attract potential third party appeal may now do so. This change in process could affect development approvals granted prior to, as well as after, December. This is because it may now be open to a third party to seek leave of the AAT to appeal an approval notwithstanding that the approval was granted some time ago.

It is uncertain whether such appeals will be made, and whether they would be successful, but it does put many land owners and builders in doubt in relation to recent, current or completed projects. These multiple elements of uncertainty and discontinuity require a response, and that is why we are legislating in this way.

Mr Speaker, I would now like to turn to the issues raised by the scrutiny of bills committee report. The scrutiny of bills committee made a number of comments, and the matters raised were specific. I deal first with the issue: is there a right not to be affected adversely by retrospective law and does this bill unduly trespass on this right?

The actual principle is that in interpreting legislation a court starts with the presumption that the legislature does not intend to interfere with rights that have

accrued at the time the legislation was enacted. This is a principle of statutory interpretation. However, it is clear that the legislature has powers to retrospectively interfere with accrued rights, and the courts have recognised this power. The statutory interpretation principle does not lead to a conclusion that a person has a right not to be adversely affected by retrospective law. No such right exists.

In any case, the bill does not unduly trespass from the general principle that a legislature should be taken not to intend to interfere with accrued rights, because it is clear that under the bill it intends to do that. The intention to do so, however, arises because of a court decision that has an effect that was wholly unintended by the making of regulation 10A. The making of that regulation, which was not opposed by those on the other side of this chamber, was intended to remove the right to appeal against decisions approving development in the Civic centre area, town centre areas and industrial areas.

The regulation was made before there was any development approval or any appeal that resulted from the court decision. As the court decision showed, the amendment did not achieve its intended effect and this amendment seeks only to maintain the previous position. This issue of correction of the intended effect of the legislation is relevant to each of the other issues that I will now address. The scrutiny of bills committee also raised the issue about whether or not the amendments were inconsistent with paragraph 25 (4) (c) of the Australian Capital Territory (Planning and Land Management) Act 1988—the commonwealth act.

This paragraph of the PALM act was taken into consideration in drafting the bill, and the government has received legal advice that the amendments are not inconsistent with this paragraph. The scrutiny of bills committee also asked: would the bill, if passed, amount to an exercise of legislative power that is an interference with, or infringement of, judicial power?

This amendment is to correct the failure of the current legislation to reflect the government's policy and the legislature's intention in relation to appeals against decisions upon development in the Civic centre area, town centre areas and industrial areas. It is not directed towards a specific person or persons. The amendment has been undertaken at the first opportunity that was available after the failure of the current legislation became clear as a result of the court decision.

The next question the scrutiny of bills committee asked was: does the scheme of the bill amount to an acquisition of property, otherwise than on just terms, contrary to paragraph 23 (1A) of the Australian Capital Territory (Self-Government) Act 1988. This issue was also considered by the government and legal advice received in regard to this matter. Our advice again is that the bill does not seek to acquire property other than on just terms.

Finally, the committee asked: does the scheme of the bill derogate from the rights stated in subsection 21 (1) of the Human Rights Act and, if so, is the derogation justifiable under section 28 of the Human Rights Act? The scrutiny of bills committee itself concluded there is no derogation of rights from rights under subsection 21 (1) of the Human Rights Act.

The intent of this bill is as it has always been. It is to prevent a commercial competitor from using the powers under the planning legislation to seek review of a decision to frustrate or hinder a commercial rival. That is what the intent of this legislation is and I think the opposition and the government are agreed that it is inappropriate for the planning law to be used to frustrate a commercial rival simply to gain a commercial advantage. Let's face it, Mr Speaker: that is what is happening at the moment and that is what the case that was brought in the Supreme Court that has led to this legislation is all about.

It is about seeking to put a stop on development that is from a commercial rival. I will comment briefly on the circumstances surrounding the Austexx development at Mitchell. Currently, that development is stopped because any merits review in the AAT puts an immediate stop on the development approval. The proponent cannot proceed with the development approval whilst the matter is in the AAT.

That means costs and delay for that proponent. In this case, the cost is significant. But the government is not eliminating or removing the capacity for people to seek review on matters of law, about whether or not the law has been appropriately applied. Those matters are still open to review, through the Administrative Decisions (Judicial Review) Act in the Supreme Court. The difference is that there is no automatic stop on a development approval. If you go to the Supreme Court and you seek review, you have to seek an injunction to stop the development approval from being able to be actioned. And you have to put up some security if your application is found to have been frivolous or not worthy and there are damages to be paid to the other party. That is an appropriate course of action.

In the AAT you only have to pay maybe $100 to lodge an application, but you can stop the development indefinitely and there are no damages if your action is unsuccessful. Little wonder developers find that an attractive course of action. Little wonder developers use the AAT to try to obstruct a commercial rival. Mr Speaker, all we are saying is that that avenue should not be open to developers. That is the intent of this legislation. If they have concerns about the application of the law, they still have remedy available to them in the Supreme Court, and the proponent has the ability to seek damages should the action against them be unsuccessful. That, I think, is an appropriate discipline on all parties. I commend the bill to the Assembly.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail stage

Bill as a whole.

MR CORBELL (Molonglo—Attorney-General, Minister for Police and Emergency Services and Minister for Planning) (6.30): I move government amendment No 1 circulated in my name *[see schedule 1 at page 125]*.

It was drawn to my attention late this afternoon that because of the sitting hour it may not be possible to have this legislation properly dealt with and put into effect by the commencement date indicated on the legislation. Therefore, I am moving this minor amendment to clarify that the commencement date is as intended in the substantive bill. I commend that amendment to the Assembly.

DR FOSKEY (Molonglo) (6.30): I will not be supporting that amendment, and also I want to clarify some issues in response to some things that Mr Corbell said in his speech recently—just now in fact—about what he believed I was saying. Of course, he did not hear what I was saying—

MR SPEAKER: You have really got to confine yourself to the amendment that is before the Assembly.

DR FOSKEY: I disagree with the amendment. It just simply enables the bill as put forward by the government to be operational. I believe that I should have the right to clarify what the minister believes that I said. In fact, he has entirely the wrong impression.

MR SPEAKER: You are speaking about an amendment which has been moved by the minister. That is the motion that is before the house and you have got to remain relevant.

DR FOSKEY: Thank you.

Amendment agreed to.

MR SESELJA (Molonglo) (6.32): I seek leave to move amendment Nos 1 to 4 circulated in my name together.

Leave granted.

MR SESELJA: I move amendments Nos 1 to 4 circulated in my name together *[see schedule 2 at page 125]*.

These amendments, as I have flagged earlier, are simply designed to take away the retrospective nature of this legislation. I have already covered the reason why the opposition feels the need to put forward these amendments. But I would simply add that what we are doing here is fixing a problem which arose in a court case. The problem relates to regulations, which are now being retrospectively made valid, and which were considered last year by us. We were not, as an Assembly, considering in detail the regulation making power, and in fact it is the regulation making power in the enabling legislation which the court found was insufficient to allow a regulation of this kind.

I think the argument that we are really just putting in place what the intention of the Assembly was is still somewhat spurious, because certainly from my point of view, in terms of what we looked at last year, we looked at the regulation. It was not certainly something I considered as to whether or not this was within power. That is something

for the government to look at when it puts forward all its regulations. That is something that should have been settled at the time and was not. That is why we are in this position. But let us be clear. Law is not about good intentions. It is about precise words and the court has found that the enabling legislation simply did not allow this kind of regulation. It is up to the Assembly then to consider whether or not we want that kind of enabling legislation to allow those kinds of regulations. But the fact that we did not support disallowance to a particular regulation does not mean that really the intention of the Assembly was that such a law and the enabling legislation would have been different to allow it back last year when it was considered.

Mr Speaker, I think in relation to this issue, it is certainly a dangerous principle to pass retrospective legislation which takes away people's rights. That is clearly what this does. This amendment would fix that. This amendment would mean that people can go on from here, there can be certainty, but it certainly would not derogate from the principle that retrospective legislation should be used sparingly when it is overwhelmingly in the public interest and generally when it does not affect people's rights adversely. That is not the case here. That is why we are moving the amendment.

DR FOSKEY (Molonglo) (6.35): Mr Speaker, I will support these amendments, but I just want to make the observation that they improve legislation that I cannot agree with in the first place. Nonetheless, we are in a situation where the government has the numbers, but I suppose potentially they will not. We will see what happens when the vote is taken.

The Greens opposed the bill initially and continue to opposite it because it draws too fine a grain to its net. It not only excludes, as the government says, commercial objectors. It says that this is the only reason for the bill. We oppose it because it excludes community objectors as well, and we believe that the community groups and individuals should have the right to appeal, to make third party appeals.

I have not heard that issue addressed by the opposition and I certainly have not heard any concern about that from the government. I actually do urge the government to support Mr Seselja's amendment because they improve the legislation. I believe that they answer many of the concerns, especially about human rights implications of retrospective legislation, and I will be very interested to see whether the government is interested in fixing up that aspect, given its commitment to human rights.

MR SMYTH (Brindabella) (6.37). It is a fine amendment moved by Mr Seselja for two reasons. I think RS Gilbert summarised it in the *Canberra Times* on Monday rather well where he said that what the government does should be tested in the courts, and the government should not be afraid to go to court to defend its position.

If this amendment does not get up today, it simply shows that the minister is concerned about the strength of his case; he does not want to go back to court; he wants to avoid the court as he pointed out in his tabling speech. Again, you then have to question why we are rushing this through this evening. We will be supporting the amendment because it is a very wise thing to do.

MR CORBELL (Molonglo—Attorney-General, Minister for Police and Emergency Services and Minister for Planning) (6.37): The government is not afraid of these

matters going to court, and as I indicated in my previous comments earlier in the debate, there is ample opportunity for anyone who is dissatisfied with the application of the law to go to court and seek an administrative review of the decision.

The Administrative Decisions (Judicial Review) Act provides for that, and this legislation does not in any way remove that avenue. If someone believes the territory plan has been incorrectly interpreted—

Mr Seselja: I did not say I did.

MR CORBELL: But that is the suggestion from Mr Smyth, Mr Seselja, with all due respect. Mr Smyth said that the government does not want this to go back to court. That is not true. There are remedies available which are not being changed as a result of this legislation for people to seek review of a decision in the Supreme Court.

For example, if they believe the territory plan has not been applied correctly they can go to the Supreme Court and say, "We believe the planning authority incorrectly interpreted the territory plan and we want your review of that decision." Mr Speaker, ADJR is the appropriate remedy in these circumstances.

But it is not appropriate for a developer to use the easy avenue of the AAT to frustrate a commercial right. That is what happens. I would draw members' attention to the fact that since this regulation took effect the government has not felt, and I as minister have not felt, any need to call in an application and determine it myself. There have been no significant projects that meet the criteria that have come across my desk in that time. That says a lot to me about what was happening before then. Before then developers with significant projects of interest to the territory found themselves hindered by commercial rivals.

We saw it with the tax office buildings in the city where other commercial building owners who also had an interest in securing the tax office tenancy sought to stop the time frame for the approval and the completion of those buildings so that they could squeeze a competitor out of the race. That is what happened. Indeed, Mr Snow and his interest in the development of the industry in the tourism and resources building in the city also sought call in for similar reasons. This is not targeted at any particular individual. This is focused on ensuring that the system is not abused, and the system is, or was, being abused. Unless we provide a retrospective effect it will be abused again.

The simple principle is that the intention of the regulation should be upheld, and those decisions that have been made when the regulation is in effect should be affirmed. That is what this legislation does, and that is why we will not support Mr Seselja's amendment.

Question put:

> That amendments Nos 1 to 4 be agreed to.

The Assembly voted–

Ayes 8		Noes 9	
Mrs Burke	Mr Seselja	Mr Barr	Mr Hargreaves
Mrs Dunne	Mr Smyth	Mr Berry	Ms MacDonald
Dr Foskey	Mr Stefaniak	Mr Corbell	Ms Porter
Mr Mulcahy		Ms Gallagher	Mr Stanhope
Mr Pratt		Mr Gentleman	

Question so resolved in the negative.

Amendment negatived.

Bill, as a whole, as amended, agreed to.

Bill, as amended, agreed to.

Adjournment

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

That the Assembly do now adjourn.

Death of Aveline Rubinshteyn

DR FOSKEY (Molonglo) (6.47): When people of note pass away in this community, we have special sessions at which we talk about them and remember them. But there are people who pass away who are important to some groups, but those groups are not considered of note and those people very frequently do not get remembered.

Today I just want to talk about somebody who I believe played a very important role in Canberra but I think it is very unlikely that anyone else will mention her here. Her name was Aveline Rubinshteyn and she died at St Vincent's in Melbourne at about 10.30 on 28 January earlier this year.

Aveline had an aneurism, went into a coma and though she had surgery she did not come out of that. I never actually met Aveline but I used to see her around the university. Part of her head was shaved and she had hair that stood up in peaks. I do not know what you call that, but she was certainly someone that you noticed.

To me she was a little bit scary, I have got to be quite honest. But she used to hang around similar places to me, which was in the arts faculty buildings. She was clearly doing stuff concerned with sexuality and gender. So when I got a note from people who work at 2XX that said this person has died and she was important to us, I was very interested to find out why she was important to them, and here is why.

Aveline moved to Canberra actually to study at the ANU, which must be why I saw her there. She was someone who stood out because she had plenty of tattoos and she had piercings. She also had a vibrant personality and outspoken ways. She is someone

who got to university by dint of very hard work. She had to overcome her dyslexia. She did so and she thrived at university like a lot of mature age students do. This is because finally we grow up and we work out what we want to do. Her determination made distinctions and high distinctions a standard in her degree and she was very active in the social and political life at ANU. She was the sexuality officer at the student union and she was involved in various political groups—usually to the left.

She is possibly known to some people here through her work at ACT SWOP. She was an out-and-proud sex worker and she was passionate about sex workers' rights and the legitimacy of sex workers as part of the broader community. She liaised with national organisations, with the government, with the police and with other state-based sex worker organisations to develop resources for sex workers.

She used to represent the sex worker community at events, such as the adult industry conference in Brisbane, where she presented a paper on the use of technology within the industry. She spoke on behalf of sex workers at queer and feminist events and at places where sex workers are often not accepted to tell them who sex workers are and what they can do as a result of their sex work experiences.

Aveline did not make a lot of money doing that work and there is an appeal to help defray the funeral costs. Just for the record, I will tell people that if they wish to donate to Aveline Rubinshteyn's funeral costs, noting that any funds left over will be donated to hepatitis C research, there is a bank account at the Bendigo Bank and they can just contact me for further details.

Question resolved in the affirmative.

The Assembly adjourned at 6.51 pm until Tuesday, 6 March 2007, at 10.30 am.

Schedules of amendments

Schedule 1

Land (Planning and Environment) Legislation Amendment Bill 2007

Amendment moved by the Minister for Planning

1
Clause 2
Page 2, line 5—

omit clause 2, substitute

2 Commencement

This Act is taken to have commenced on 1 March 2007.

Schedule 2

Land (Planning and Environment) Legislation Amendment Bill 2007

Amendments moved by Mr Seselja

1
Clause 5
Page 4, line 1—

[oppose the clause]

2
Clause 7
Page 5, line 8—

[oppose the clause]

3
Clause 8
Proposed new section 288A (1) and (2)
Page 5, line 25—

omit proposed new section 288A (1) and (2), substitute

(1) This section applies in relation to the *Land (Planning and Environment) Amendment Regulation 2006 (No 2)* SL2006-13.

(2) The regulation is taken, for all purposes, to be validly made under this Act.

4
Clause 8
Proposed new section 288B
Page 6, line 10—

omit

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Answers to questions

Flora and Fauna Committee
(Question No 1406)

Dr Foskey asked the Minister for the Territory and Municipal Services, upon notice, on 21 November 2006:

(1) How many vacancies are currently on the Flora and Fauna Committee;

(2) How long have these vacancies existed;

(3) Why are these vacancies yet to be filled;

(4) When are these vacancies expected to be filled;

(5) How often does this Committee meet and what are the dates of its last three meetings.

Mr Hargreaves: The answer to the member's question is as follows:

(1) Three.

(2) One vacancy has existed since September 2004 when six members were appointed to the FFC. Two members resigned last year.

(3) The Flora and Fauna Committee is multidisciplinary, including experts on mammals, birds, reptiles, amphibians, invertebrates, aquatic environments, vegetation, ecological communication and threatening processes. It is crucial to ensure that each member's expertise complements rather than duplicates another's expertise.

(4) The proposed appointments to the vacancies are currently with the Standing Committee on Planning and Environment for comment.

(5) The frequency of meetings varies. The last three meetings were held on 1 December 2005, 22 June 2006 and 3 January 2007.

Government—contractors
(Question No 1411a)

Mr Berry asked the Deputy Chief Minister, upon notice, on 23 November 2006 *(redirected to the Minister for Disability and Community Services)*:

In relation to consultants, contractors and labour hire firms for the financial year 2005-2006, could the Minister provide for each portfolio they are responsible for the (a) number of contracts, (b) number of consultants, (c) number of contractors, (d) number of labour hire firms, (e) number of contracts containing labour hire component, (f) number of contracts with no labour hire component, (g) types of services provided, (h) number of contracts needing extension after 2006, (i) numbers of each type of contract used, for example, standard, schedule of fees, quote/lump sum, invoice and other, (j) number of services outsourced (i) whole, (ii) in part or (iii) unidentified, (k) number of contracts directing appropriate award usage, (l) number of contracts where there is subcontracting

occurring, (m) number of contracts with a permission or non permission clause for subcontracting and (n) number of contracts requiring award usage for subcontractors.

Ms Gallagher: The answer to the member's question is as follows:

a), b), c) These details can be found in the Department of Disability Housing and Community Services Annual Report for the 2005-2006 financial year pages 273-282.

d), e), f), g) h) i) j) k) l) m) n)
After careful consideration of the questions, and advice provided by my Department, I have determined that the information sought is not in an easily retrievable form, and that to collect and assemble the information sought solely for the purpose of answering the question would be a major task, requiring a considerable diversion of resources. In this instance, I do not believe that it would be appropriate to divert resources from the provisions of direct services to clients, for the purposes of answering the Member's question.

Government—contractors (Question No 1411b)

Mr Berry asked the Deputy Chief Minister, upon notice, on 23 November 2006 *(redirected to the Acting Minister for Health)*:

In relation to consultants, contractors and labour hire firms for the financial year 2005-2006, could the Minister provide for each portfolio they are responsible for the (a) number of contracts, (b) number of consultants, (c) number of contractors, (d) number of labour hire firms, (e) number of contracts containing labour hire component, (f) number of contracts with no labour hire component, (g) types of services provided, (h) number of contracts needing extension after 2006, (i) numbers of each type of contract used, for example, standard, schedule of fees, quote/lump sum, invoice and other, (j) number of services outsourced (i) whole, (ii) in part or (iii) unidentified, (k) number of contracts directing appropriate award usage, (l) number of contracts where there is subcontracting occurring, (m) number of contracts with a permission or non permission clause for subcontracting and (n) number of contracts requiring award usage for subcontractors.

Mr Stanhope: The answer to the member's question is as follows:

Details for contractors and consultants over $20,000 as required under the ACT Government annual reporting guidelines can be found in the Department of Health's Annual Report for the 2005-2006 financial year pages 250 – 257.

After careful consideration of the questions, and advice provided by ACT Health, I have determined that the information sought is not in an easily retrievable form, and that to collect and assemble the information sought solely for the purpose of answering the question would be a major task, requiring a considerable diversion of resources. In this instance, I do not believe that it would be appropriate to divert resources from the provisions of direct services to clients, for the purposes of answering the Member's question.

Government—contractors (Question No 1412)

Mr Berry asked the Attorney-General, upon notice, on 23 November 2006:

> In relation to consultants, contractors and labour hire firms for the financial year 2005-2006, could the Minister provide for each portfolio they are responsible for the (a) number of contracts, (b) number of consultants, (c) number of contractors, (d) number of labour hire firms, (e) number of contracts containing labour hire component, (f) number of contracts with no labour hire component, (g) types of services provided, (h) number of contracts needing extension after 2006, (i) numbers of each type of contract used, for example, standard, schedule of fees, quote/lump sum, invoice and other, (j) number of services outsourced (i) whole, (ii) in part or (iii) unidentified, (k) number of contracts directing appropriate award usage, (l) number of contracts where there is subcontracting occurring, (m) number of contracts with a permission or non permission clause for subcontracting and (n) number of contracts requiring award usage for subcontractors.

Mr Corbell: The answer to the member's question is as follows:

a) 163.

b) 136.

c) 115.

d) 12.

e) 18.

f) 99.

g) Recruitment
Consultancy on fact sheets
Training package production
Interpreter Services
Anti-discrimination Services
Legal Advice and Policy consultant
Service funding agreements/grants
Building and construction and maintenance services
Editorial and design and graphic and fine art services
Education and training services
Cleaning
Security
Body removal
IT support
Expert evidence
Compliance check of political parties' annual returns
Audit of changes to electronic voting and counting system (EVACS)
Enhancement for EVACS software
Assistance with corporate planning day
Audit
Document storage and security
Insurance

Office space lease
Postage
Printing
Software development and support
Technical support for the legislation register
Reception Services
Design and document ACT Prison
Quality management implementation
ACT Prison project management
Development of environmental management system for ACT prison
Home detention monitoring equipment and related services
Training
Air conditioning maintenance
IT program development and implementation
Meals for detainees
Offender intervention program delivery
Construction and commissioning of Police Station at Woden
Urinalysis testing
Maintenance support agreement for electronic matter management system
Legal investigation and legal counsel
Specialist medical advice
Project support services
Lease of premises
Provision of Firelink and Mac2 Technology
Fire tower observation services
Design, manufacture and fit-out CFU trailers
Purchase of digital radios and accessories for TRN
TRN agreement
Establishment of ESA portal
Design, manufacture and fit-out of CAFS units
Industrial relations consulting
Implementation of secure digital TRN
Identification and implementation of Australian Best Practice in AIIMS
Disposal of vehicles
IT Licences
Development of SAMP
Supply of bushfire helmets
Chaplaincy services
Advertising services
Purchase of vehicles
Design, manufacture and supply of intensive care ambulances
Supply and refurbishment of patient stretchers
Aircraft hire
Development of ESA portal
Provision of EM simulator licences
Design, manufacture and fit out hazardous material incident support appliance
Supply of patient cardiac monitor/defibrillator
Legal Services
Salary packaging services
Media monitoring
Process development
Software development
Administrative services
Supply and support of infringement issuing technology

Counting and banking of pay parking revenue
Information technology
Building and construction and maintenance services
Management and business professionals
Administrative services
Economic regulatory advice and services, financial management and accounting and legal advice
Financial consultancy services
Trust accounting software maintenance

h) 55.

i) 52 standard, 42 invoice, 5 service funding agreements/grants, 41 quote/lump sum, 81 schedule of fees, and 1 other.

j) 40 whole and 3 in part.

k) 22.

l) Nil.

m) 67.

n) 2.

Emergency Services Agency (Question No 1415)

Mr Pratt asked the Minister for Police and Emergency Services, upon notice, on 23 November 2006:

(1) How many Emergency Services Agency (ESA) staff are currently operating out of the ACT Government leased sites of (a) the new ESA Headquarters, Fairbairn, (b) 12 Moore Street, Canberra City and (c) the old ESA Headquarters, Curtin.

Mr Corbell: The answer to the member's question is as follows:

(1) (a) As explained in response to QON 1312, the only Headquarters located at Fairbairn at this date is the Rural Fire Service Headquarters. As provided in QON 1314 there are 12 staff working out of the RFS Headquarters.

(b) Nil.

(c) Approximately 87 staff work out of Curtin, some of which contribute to a 24/7 roster. In addition there are ACT Fire Brigade and ACT Ambulance Service officers working in the Communication Centre, the number of which varies as demand requires.

Health—service complaints (Question No 1421)

Mr Smyth asked the Minister for Health, upon notice, on 23 November 2006 *(redirected to the Attorney General)*:

(1) What is the reason for the increase in the number of complaints that were lodged with the Community and Health Services Complaints Commissioner during 2005-06;

(2) Is this increase in complaints consistent with trends in complaints being recorded in other jurisdictions in Australia;

(3) What action is being taken to reduce the number of complaints being lodged with the Commissioner.

Mr Corbell: The answer to the member's question is as follows:

(1) In the 2005-06 financial year, the former Community and Health Services Complaints Commissioner's office (now the Health Services Commissioner, Human Rights Commission) received 276 written complaints, which was an increase of 33 (or 13%) on the previous year.

As documented in annual reports of the Commissioner, for the past two years the office has made every effort to engage in community education. That work has taken the form of linkage forums, a regular calendar of workshops on health rights and responsibilities and health privacy, ongoing contact with advocacy groups, community forums on topical issues, eg the aged care sector, and delivery of a range of talks and seminars.

Community education and outreach produces greater awareness of the Commissioner's role and a corresponding increase in the number of people who make contact.

(2) While South Australia is a new jurisdiction, in 2005-06, there has been a decrease in the number of complaints received in Victoria, Western Australia, Tasmania and the Northern Territory. There was an increase in the number of complaints received in Queensland and New South Wales. I note that in both those States the health complaints agencies had a high community profile because of reforms and major investigations in those jurisdictions. Once again, greater awareness of the agency appears to lead to increased number of contacts by the public.

(3) Research conducted by the former Australian Council for Safety and Quality in Health Care (now the Australian Commission on Safety and Quality in Health Care) has indicated that, in instances where a person has a concern about a health service, only 4% of those concerns are brought forward as formal complaints. If complaints are regarded as opportunities for improving service, then increasing numbers of complaints can be seen in a positive light.

Health—legal settlements (Question No 1428)

Mr Smyth asked the Minister for Health, on 12 December 2006 *(redirected to the Acting Minister for Health)*:

(1) What is the reason for the increase in spending on legal settlements by ACT Health from $2.9 million in 2004-05 to $3.8 million in 2005-06;

(2) What are the public details of the legal settlements that were made during 2005-06;

(3) What action is being taken by ACT Health to avoid the need for such settlements.

Mr Stanhope: The answer to the member's question is as follows:

(1) The amount for legal settlements as reported in the ACT Health 2005-06 Annual Report (Page 169) also includes legal costs for services provided by the Department of Justice and Community Safety to ACT Health, other legal costs and settlement payments.

The cost for legal services provided by the Department of Justice and Community Safety (JACS) increased from $0.750m in 2004-05 to $1.0m in 2005-06. The reason for the increase in these costs was due to increased provision of legal advice and Parliamentary drafting costs to ACT Health.

Other legal costs (excluding settlements) only increased slightly from $0.8m in 2004 05 to $0.9m in 2005-06. This category includes legal costs for Counsel, Medical Board enquiries, Administrative Appeals Tribunal matters, Disciplinary inquiries and Investigator fees.

Settlement Payments increased from $1.3m in 2004-05 to $1.8m in 2005-06. The annual expenditure in this category varies subject to the timing and type of matter being finalised, the amount of excess that applies for matters covered by the ACT Insurance Authority (the excess for medical indemnity claims increased from $10k to $50k from July 2002) and the timing of reimbursements from the ACT Insurance Authority.

(2) Of the claims settled in 2005-06 there were 21 medical indemnity claims for incidents that occurred between 1988 and 2004, 3 public liability claims for incidents that occurred in 2003 and 2004 and two property claims resulting from storm damage at The Canberra Hospital and at Calvary Hospital.

One medical indemnity matter was settled through the Supreme Court resulting from a claim where the Territory was found liable in negligence for discharging a patient with glass fragments still in his hand following an accident.

The other matters were settled out of court. Details of these matters cannot be released as they are protected by a confidentiality agreement within the Deed of Release signed at the time of settlement.

(3) ACT Health is continually working to improve the medical outcomes and safety for all its patients and has invested in clinical quality and safety functions as well as an improved reporting tool. With the establishment of the Patient Safety and Quality

Unit the following functions are well established across ACT Health facilities: consumer feedback, claims management, clinical review as well as clinical improvement projects and policy improvement.

Development—Kingston foreshore (Question No 1431)

Mr Mulcahy asked the Minister for Planning, on 12 December 2006:

When is the ACT Government expected to receive the $12.17 million in revenue from the Land Development Agency as a result of the sale of sites in the Kingston Foreshore precinct.

Mr Corbell: The answer to the member's question is as follows:

The total revenue received from the sale of Blocks 5 to 8 in Section 54 Kingston on Wednesday 6 December 2006 was $11.67 million. As stated in the sales contract, purchasers of these sites were required to pay a 10% deposit on the day of the auction with the balance received on the settlement date, which was 10 January 2007.

Roads—footpaths (Question No 1432)

Mr Mulcahy asked the Minister for the Territory and Municipal Services, on 12 December 2006:

(1) What amount of funding is set aside to install footpaths in old suburbs where such infrastructure does not exist;

(2) How many footpaths have been installed in (a) Campbell, (b) Narrabundah, (c) Griffith, (d) Yarralumla, (e) Forrest, (f) Deakin and (g) Red Hill since 2004.

Mr Hargreaves: The answer to the member's question is as follows:

(1) The current annual funding for footpaths under the Capital Works Upgrade Program (Pedestrian Facilities) is $350,000.

(2) There were three footpaths completed in the above listed suburbs since 2004/05, and two other footpaths are included in this year's program.

Public service—job losses (Question No 1434)

Mr Stefaniak asked the Chief Minister, on 12 December 2006:

(1) How many jobs have been lost in the ACT public service during 2006-07;

(2) How many agencies have cut positions during 2006-07;

(3) How many jobs has each agency lost;

(4) How many agencies have increased staff numbers during 2006-07;

(5) How many additional staff have been hired in the agencies that increased staffing levels.

Mr Stanhope: The answer to the member's question is as follows:

(1) As at 29 November 20062 206 officers separated from the ACT PS.

(2) As at 29 November 2006 11 agencies have reduced the number of positions.

(3) The following is a breakdown by agency of the decrease of officers as at 29 November 20063 :

Note: These statistics are net numbers and reflect the net reduction at a given point in time, noting that there is generally quite a rise and fall of casual numbers throughout the year, primarily due to employment of casual teachers.

Agency	**No**
ACT Planning and Land Authority	27
ACTION	7
Canberra Institute of Technology	135
Chief Minister's Department *Note: figure primarily reflects movement of staff as a result of structural changes*	288
CIT Solutions	7
Cultural Facilities Corporation	14
Department of Education and Training	8
Disability, Housing and Community Services	24
Land Development Agency	9
Legislative Assembly	2
Positions affected by machinery of government changes (eg, ESA)[4]	818
Calvary Public Hospital *Note: Figure represents decrease between July and 29 November 2006*	22

[1] The terms 'job,' 'position,' and 'staff' refer to those employees/officers engaged on a permanent, temporary, or casual basis.
[2] Staffing profile data sourced between 28 June 2006 and 29 November 2006 except for Calvary Public Hospital where data has been sourced for the period July 2006 to 29 November
[3] The figures presented are for 'paid headcount' - defined as the number of employees that have received payment at a given point in time.
[4] These decreases in agency numbers reflect movement of staff across the service as a result of structural changes.

(4) 7 agencies have increased the number of positions in 2006-07.

(5) The following is a breakdown by agency of the increase of officers at 29 November 2006:

Agency	No
ACT Health (excluding Calvary Public)	66
Government Audit Office	3
Justice and Community Safety	578
Legal Aid	2
Territory and Municipal Services (excluding ACTION)	313
Treasury	160
Exhibition Park in Canberra	33

Note: Some of the above increases reflect movement of staff as a result of structural changes (eg JACS now includes ESA).

Industrial relations—rallies (Question No 1435)

Mr Stefaniak asked the Chief Minister, on 12 December 2006:

(1) How many public servants participated in rallies over the Federal Government's industrial relation laws on 30 November 2006;

(2) How many offices or other government services closed down as a result of staff participating in these rallies;

(3) How many staff were docked pay as a result of their participation in these events.

Mr Stanhope: The answer to the member's question is as follows:

(1) No record was kept of the number of ACT Government officers or employees who participated in the rally;

(2) None; and

(3) None.

Belconnen Remand Centre (Question No 1440)

Mr Stefaniak asked the Attorney-General, on 12 December 2006:

(1) How many times have remandees been locked down at the Belconnen Remand Centre since the beginning of 2006;

(2) What was the (a) date and time and (b) cause and duration of each occurrence of remandees being locked down during 2006.

Mr Corbell: The answer to the member's question is as follows:

(1) From the beginning of 2006 to date, there were 41 lockdowns at the Belconnen Remand Centre (BRC).

(2) The following table provides the date, time, cause and duration of remandee lockdowns at BRC from the beginning of 2006 to date.

Date	**Time**	**Cause**	**Duration**
2 Feb 06	1600-1900	Incident in F Yard	3 hrs
2 Feb 06	1030-1300	Staff shortage	2 hrs 30 mins
16 Feb 06	1045-1245	Staff shortage	2 hrs
27 Feb 06	1800-1900	Prison Project briefing	1 hr
9 Mar 06	1040-1300	High security escort	2 hrs 20 mins
14 Mar 06	1040-1300	Staff shortage	2 hrs 20 mins
5 Apr 06	1700-1900	Incident in B yard	2 hrs
19 Apr 06	1440-17-30	Two incidents in Yards	2 hrs 50 mins
20 Apr 06	1300-1800	Staff shortage	5 hrs
12 May 06	1045-1300	Staff shortage	2 hrs 15 mins
31 May 06	1045-1300	Staff shortage	2 hrs 15 mins
23 Jun 06	1700-1900	Staff shortage	2 hrs
24 Jun 06	700-1800	Staff shortage (staff required for hospital watch)	11 hrs rolling lockdown (see note below)
28 Jun 06	845-1500	Staff attendance at colleague's Funeral	6 hrs 15 mins
30 Jul 06	1045-1300	Staff shortage	2 hrs 15 mins
24 Aug 06	1630-1800	Staff shortage	1 hr 30 mins
1 Sept 06	1000-1300	Staff shortage	3 hrs
1 Sept 06	1415-1710	Staff shortage	2 hrs 55 mins
2 Sept 06	F,B, and A Yard individually locked down at various periods on the day.	Staff shortage	Time ranges from 45 mins to 2 hrs
2 Sept 06	1345-1445	Staff shortage	1 hr
26 Oct 06	1640-1740	Staff shortage	1 hr
27 Oct 06	910-1040	Staff shortage	1 hr 30 mins
30 Oct 06	700-930	Staff shortage	2 hrs 30 mins
30 Oct 06	1030-1300	Staff shortage	2 hrs 30 mins
3 Nov 06	700-1000	Staff shortage	3 hrs
3 Nov 06	1300-1600	Staff shortage	3 hrs
7 Nov 06	1030-1300	Staff shortage	2 hrs 30 mins
8 Nov 06	1045-1300	Staff shortage	2 hrs 15 mins
10 Nov 06	700-1500	Staff shortage	8 hrs rolling lockdown (see note below)
16 Nov 06	910-1505	Staff shortage, officers injured as a result of an incident	5 hrs 55 mins
21 Nov 06	700-1000	Staff shortage	3 hrs
21 Nov 06	A,F,B, and D Yard individually locked down at various periods on the day.	Staff shortage	Times ranges from 2 to 3 hrs
22 Nov 06	700- 930	Staff shortage	2 hrs 30 mins
22 Nov 06	930-1800	Staff shortage	8 hrs 30 mins rolling lockdown (see note below)
23 Nov 06	700-1800	Staff shortage	11 hrs rolling

			lockdown (see note below)
25 Nov 06	700-1800	Staff shortage	11 hrs rolling lockdown (see note below)
4 Dec 06	700-1800	Staff shortage	11 hrs rolling lockdown (see note below)
8 Dec 06	1040-1250	Staff shortage (15 staff rostered, 11 staff attended)	2 hrs 10 mins
13 Dec 06	700-830	Staff shortage	1 hr 30 mins
14 Dec 06	700-830	Staff shortage	1 hr 30 mins
14 Dec 06	1035-1530	Staff shortage	4 hrs 55 mins

N.B For lockdowns exceeding 6 hrs, detainees are permitted outside their cells periodically.

Office of Regulatory Services (Question No 1441)

Mr Stefaniak asked the Attorney-General, on 12 December 2006:

(1) How many positions have been lost in establishing the Office of Regulatory Services;

(2) Which areas have lost positions in this restructure and how many positions has each area lost;

(3) What level of savings has this restructure achieved so far;

(4) What work is no longer being performed as a result of the restructure;

(5) What impact has this restructure had on the regulatory burden on small business and on processing times for various tasks.

Mr Corbell: The answer to the member's question is as follows:

(1) Currently a total of 25 positions are unoccupied within the Office of Regulatory Services that will not be filled in the future. All positions proposed not to be filled were either vacant as at 1 July 2006 or have become vacant as a result of voluntary staff movements.

(2) The Registrar-General's Office has reduced staff numbers by 3; The Office of Fair Trading has reduced staff numbers by 7; ACT WorkCover has reduced staff numbers by 7; Parking Operations has reduced staff numbers by 6; and 2 other positions forming part of the Office of Regulatory Services on its establishment have since been removed from the structure.

(3) Staff reductions, program changes and resource efficiencies have delivered budget savings of $1.9 million this year.

(4) No activities have been ceased as a result of the establishment of the Office of Regulatory Services.

(5) It is not believed that the regulatory burden for small business has increased due to the establishment of the Office of Regulatory Services. While the immediate impact of

the staff reductions has resulted in minor increases in some processing times and the reduction in preventative inspection programs, work continues on the structural reform of the operations of the Office to redress these impacts.

Dickson—parking arrangements (Question No 1442)

Mr Stefaniak asked the Minister for the Territory and Municipal Services, on 12 December 2006:

(1) What changes have occurred in the parking arrangements in Dickson since 1 July 2004;

(2) How many (a) two-hour car parks and (b) all day car parking spaces are there at Dickson now compared to 1 July 2004.

Mr Hargreaves: The answer to the member's question is as follows:

(1) Recent changes to parking arrangements at the Dickson group centre include:
a. car park modifications to improve traffic flow, line of sight and safety;
b. rezoning of parking spaces to cater for businesses in the area such as all day parking to short-stay parking, 2 hour parking to 3 hour parking and additional reserved mobility parking spaces;
c. private land redevelopment that includes the provision of on-site parking; and
d. routine parking control sign maintenance and replacement.

(2) Records show that in July 2004 there were 465 two hour parking spaces and 367 all day parking spaces compared to 464 two hour parking spaces, 48 three hour parking spaces and 293 all day parking spaces currently at the Dickson group centre.

Sport and recreation—aquatic facilities (Question No 1443)

Mr Stefaniak asked the Minister for Tourism, Sport and Recreation, on 12 December 2006:

(1) What reviews have been commissioned by or on behalf of the Government in the last five years in relation to aquatic facilities in the ACT;

(2) What recreational land use assessments have been commissioned by or on behalf of the ACT Government in the last 5 years;

(3) What were the outcomes of these reviews;

(4) Are these reviews available to the public; if not, why not;

(5) Does the Government have a strategic plan for the management of aquatic facilities in the ACT and in particular has the Government commissioned any research in relation to the (a) need for, (b) market for, (c) usage of, (d) demand for and (e) cost of, maintaining aquatic facilities in the ACT;

(6) If the Government has not commissioned any research into the nature of aquatic facilities in the ACT, how does the Government inform itself of the matters referred to in part (5);

(7) On what basis does the Government fix admission charges for the use of aquatic facilities in the ACT.

Mr Barr: The answer to the member's question is as follows:

(1) In 2001 a feasibility study was commissioned to investigate options for a permanent enclosure and refurbishment of Canberra Olympic Pool.

In 2004/05 a study was undertaken to review some of the major findings of a 1997 study entitled "Strategic Review of Swimming Pools and Related Facilities in the ACT", and the 2001 feasibility study, with particular reference to Canberra Olympic Pool and Lakeside Leisure Centre.

(2) In 2003 a Facilities Study was undertaken by the then Sport and Recreation ACT to assess the distribution of various types of sport and recreation facilities across the ACT and to provide an objective analysis for future decision making on facility development.

(3) (i) 2001 Canberra Olympic Pool feasibility study

This study arrived at a preferred option that provided a modern community aquatic centre that included a permanent enclosure over the main 50 metre pool and toddlers pool, with the addition of a small hydrotherapy pool. The amenities would be subject to a major upgrade/refurbishment, with the addition of new gymnasium, crèche and club facilities.

(ii) 2004/5 Swimming Pool Review Study

The study confirmed the view that the Canberra Olympic Pool should undergo a major refurbishment, including permanent enclosure and enhanced facilities, to bring it up to modern safety and user standards.

The study also suggested that Lakeside Leisure Centre was then in need of further development to meet community needs, with expanded health and fitness facilities and a learn to swim pool.

(iii) 2003 Facilities Study

This study brought forward 18 recommendations covering a wide range of issues including funding for new facility planning and development; viability of indoor sports centres; greater use of Canberra's lakes; redevelopment of the Phillip Pool site; pursuit of major events; and the use of school facilities.

(4) The 2001 Canberra Olympic Pool feasibility study and subsequent 2004/05 review are not generally available to the public as they are essentially internal planning documents.

The 2003 Facilities Study is a public document, receiving wide exposure within the sporting community when it was completed.

(5) The Government's position is largely based on the 1997 Strategic Review of Swimming Pools, with subsequent updates on aspects of that work, such as a "Public Benefit Assessment and Feasibility Study" undertaken in 1999 into the development of the new Belconnen Pool; and the review study of 2004/05 outlined earlier.

Each of these studies examined to varying extents aspects of demand, supply, potential usage levels and costs of swimming facilities.

(6) The Government monitors the performance of the pools under management contracts in several ways including financial performance and usage statistics provided by contract managers, and annual customer satisfaction and performance surveying using standardised tools developed by the University of South Australia. This information provides useful guidance on levels of demand and performance that contribute to the planning process.

(7) Contract managers submit proposed fees and charges for services at pools for approval to the Department of Territory and Municipal Services as part of their annual business planning process. Any changes are guided by variations in costs via the Consumer Price Index, fees charges by other privately operated pools, and to some extent by the convenience of cash handling procedures (i.e. small increases from say $3 to $3.10 can create inconvenience in maintaining supplies of change) so increases may be held over for a year and be of larger amounts to simplify office processes.

Housing—applicant categories (Question No 1446)

Mrs Burke asked the Minister for Housing, on 12 December 2006:

(1) Given that the 2005-06 annual report of the Department of Disability, Housing and Community Services in Volume 1, page 51 highlights the changes to the Public Rental Housing Assistance Program (PRHAP) that has seen a shift in the eligibility criteria to access public housing assistance offered by Housing ACT, what is the breakdown of applicants awaiting allocation of public housing in (a) Early Allocation Category 1 and 2 and (b) Standard Allocation Category 3 and 4.

(2) If there is to be a change in the classification of categories to three new "needs" categories, what is the breakdown of applicants now falling within the categories of (a) priority, (b) high needs and (c) standard housing.

Mr Hargreaves: The answer to the member's question is as follows:

(1) Housing ACT has reviewed the needs and circumstances of applicants on the waiting list under the criteria detailed in the Public Rental Housing Assistance program (PRHAP). The previous categories – Early Allocation Category 1, Early Allocation Category 2 and Standard Allocation Categories 3 & 4 no longer exist.

(2) Applicants are assessed and if eligible for public housing are assigned to the following categories (a) Priority, (b) High Needs and (c) standard housing.

As at 11 January 2007 the numbers in the above categories were:

(a) Priority	15
(b) High Needs	479
(c) Standard Housing	507

In addition 66 applications are awaiting final assessment and category assignment on the new register as at 11 January 2007. It should be noted that none of the 66 applications are from applicants who had previously been approved for allocation at EAC1 under the previous eligibility criteria.

National Capital Private Hospital (Question No 1448)

Mr Smyth asked the Minister for Health, on 13 December 2006:

(1) When was the arrangement entered into whereby ACT Health gained access to 10 beds owned by the National Capital Private Hospital;

(2) How long will this arrangement remain in place;

(3) Are the beds being leased; if not, what is the arrangement that gives ACT Health access to these beds;

(4) What is the cost of each bed and how has this cost been determined;

(5) Are there any costs related in the use of these beds that remain the responsibility of the National Capital Private Hospital;

(6) What arrangements have been made to provide staff for these beds;

(7) What arrangements have been put in place to accommodate any of the patients of the National Capital Private Hospital who have now lost access to a bed;

(8) Can the National Capital Private Hospital regain access to these beds if there is a change in circumstances for that hospital; if so, what are these circumstances; if not, why not.

Ms Gallagher: The answer to the member's question is as follows:

(1) The arrangement commenced on 17 October 2006.

(2) The initial agreed period was for 3 months with an option to extend if required. This option has now been exercised for a further 3-month period, pending completion of the new Medical Assessment and Planning Unit at The Canberra Hospital (TCH) which has an anticipated completion date of April 2007.

(3) TCH has purchased the bed days from the National Capital Private Hospital (NCPH).

(4) The agreed cost is $520 per bed per day plus GST with a 5% discount for early payment.

(5) The cost is inclusive of all associated costs for a bed.

(6) NCPH is providing the nursing staff and ward services staff. The patients remain under the care of the medical staff of the TCH treating inpatient team and are recorded on the TCH patient administration system as TCH patients.

(7) There are no arrangements in place as there have been no patients who have been denied access to the medical ward at NCPH as a result of this agreement.

(8) There has been no request from the NCPH to use the beds that have been purchased by TCH. NCPH has advised that it has the capacity to manage increased demand beyond the beds leased to TCH.

Griffith Library—use of premises (Question No 1449)

Mr Pratt asked the Minister for the Territory and Municipal Services, on 14 December 2006:

(1) What is the intended use of the premises located at Blaxland Street in Griffith that previously housed the Griffith Library;

(2) What are the ongoing maintenance costs of this premises;

(3) Where has the book collection that was previously kept in Griffith Library been distributed to;

(4) When will the redistribution of the book collection referred to in part (3) occur;

(5) Where have computers and other hardware previously located at Griffith Library been redistributed to;

(6) When will the redistribution of the computers and other hardware referred to in part (5) occur.

Mr Hargreaves: The answer to the member's question is as follows:

(1) The former school buildings on Blaxland Street, Griffith will be retained by the Government as part of the portfolio of former surplus properties managed and tenanted by the Property Group in the Department of Territory and Municipal Services.

(2) The actual maintenance cost for the buildings varies from year to year depending upon the work required. The budgeted figure is currently a maximum of $136,000.

(3) Parts of the collection have been moved to Civic and Woden Libraries. Part will be moved to Belconnen Library to support the Home and Mobile Library Services by June 2007.

(4) See (3)

(5) Computers and other hardware have been redistributed to the new Civic Library.

(6) See (5)

Griffith library—recurrent costs (Question No 1451)

Mr Pratt asked the Minister for the Territory and Municipal Services, on 14 December 2006:

What were the recurrent costs for the Griffith Library for (a) staffing and (b) utilities and ongoing maintenance for the 2005-06 financial year.

Mr Hargreaves: The answer to the member's question is as follows:

The 2005-06 financial year actual recurrent expenditure charged to the Griffith Library was:

(a) staffing	$537,435.28
(b) utilities and ongoing maintenance	$188,564.75

Policing—greenhouse strategy (Question No 1452)

Dr Foskey asked the Minister for Police and Emergency Services, on 14 December 2006:

(1) In relation to page 125 of the 2005-06 ACT Policing annual report which stated that as the AFP is a Commonwealth agency the ACT Greenhouse Strategy does not apply, can the Minister require through a purchase agreement that ACT Policing comply with an ACT Greenhouse Strategy;

(2) Has the Minister attempted to make such a requirement; if not, why not;

(3) Will the Minister consider requiring through a purchase agreement that ACT Policing comply with an ACT Greenhouse Strategy in the future.

Mr Corbell: The answer to the member's question is as follows:

(1) No, I cannot require ACT Policing under the Police Arrangement to comply with an ACT Greenhouse Strategy.

As ACT Policing is an arm of the AFP, a Commonwealth agency, the ACT Greenhouse Strategy does not apply. I am advised that the AFP does, however, in the interests of the environment, and fiscal responsibility minimise energy usage wherever possible. As such, the AFP operates within the Commonwealth Government's "Energy Efficiency in Government Operations Policy". This policy essentially imposes minimum energy performance standards to improve energy efficiency, and reduce the environmental impact of government operations.

(2) See (1) above.

(3) See (1) above.

Policing—community perceptions (Question No 1453)

Dr Foskey asked the Minister for Police and Emergency Services, on 14 December 2006:

(1) In relation to page 4 of the 2005-06 ACT Policing annual report which stated that the retreat assessed opportunities for ACT Policing to enhance community perceptions of police and to strengthen performance against empirical benchmarking, is the priority order for ACT Policing enhancing perceptions and then strengthening performance; if not, why is it reported this way;

(2) Given that page 4 also stated that ACT Policing will focus itself across four broad objectives, the fourth being more effective public information strategies to assist in a closer alignment of fear of crime with the likelihood of crime, can the Minister explain this statement further and does ACT Policing intend to run, or has it ran, public relations campaigns to dampen the fear of crime.

Mr Corbell: The answer to the member's question is as follows:

(1) No. The realigned focus for ACT Policing across four broad objectives outlined at page 4 of the Annual Report is intended to both enhance community perceptions and improve performance against empirical benchmarking.

(2) ACT Policing takes into account the likely impact on fear of crime in all decisions on media campaigns but has not conducted campaigns specifically focussed on fear of crime. It is sometimes the case that, where media campaigns set out to inform the public on how to protect themselves from crime, there will be some increase in fear of crime. Where it is considered a campaign or announcement may inadvertently increase fear of crime, this is taken into consideration and balanced with the need to keep the public informed.

Policing—response times (Question No 1454)

Dr Foskey asked the Minister for Police and Emergency Services, on 14 December 2006:

In relation to page 5 of the 2005-06 ACT Policing annual report which outlined that ACT Policing focused its main effort in 2005-06 on response times, but did not meet this key indicator of police performance and that Second Tier response times have not met target for four years, why is it not possible for ACT Policing to meet response time targets, particularly for Second Tier of a response within 20-30 minutes.

Mr Corbell: The answer to the member's question is as follows:

ACT Policing operates a four-level priority response model. Priorities 1, 2 and 3 each have two-tier annual targets. Priority 4 responses have a single-tier target.

The table below records ACT Policing's performance against responsiveness measures for 2005-2006:

Police Responsiveness Key Performance Indicators 2005-2006

Measures	Annual Target	Result 2005-2006	% variation from target	Target achieved?
12. Response times for Priority One:				
Within 8 minutes	60%	65.8%	9.7%	Y
Within 12 minutes	90%	87.4%	-2.9%	N
13. Response times for Priority Two:				
Within 20 minutes	60%	73.0%	21.6%	Y
Within 30 minutes	95%	84.4%	-11.1%	N
14. Response times for Priority Three:				
Within 2 hours	60%	83.6%	39.3%	Y
Within 3 hours	95%	88.9%	-6.4%	N
15. Response times for Priority Four:				
Within 24 hours	95%	93.6%	-1.4%	N

Source: ACT Policing Purchase Agreement Quarter Four Report 2005-2006

In 2005-2006, ACT Policing achieved its first tier targets for Categories 1, 2 and 3 by considerable margins and the result for Category 4 responses was very close to target.

A range of factors can impact on the ability of police to respond to incidents within particular time-frames, including attendance at higher priority incidents already in progress. Nonetheless, the failure to achieve tier two targets is of concern to the Government and ACT Policing. The Ministerial Direction issued in July 2006 requires ACT Policing to increase its capability to respond to incidents reported by the public. Utilising additional resources provided by this government, the Chief Police Officer has implemented a number of strategies to improve police responsiveness in 2006-2007 and beyond.

Policing—total offences (Question No 1455)

Dr Foskey asked the Minister for Police and Emergency Services, on 14 December 2006:

In relation to data on page 12 of the 2005-06 ACT Policing annual report which shows that despite the number of total offences going down 1%, the clear-up rate dropped from 35.0% to 30.9%, with greater police staffing, and fewer offences why does the clear-up rate drop.

Mr Corbell: The answer to the member's question is as follows:

Clear-up rates are impacted by a number of factors, including the type of offence, the complexity of the required investigations and the preparedness of offenders to admit to additional offences. There is no necessary correlation between offence numbers and clear-up rates.

Policing—community perceptions (Question No 1456)

Dr Foskey asked the Minister for Police and Emergency Services, on 14 December 2006:

(1) In relation to page 7 of the 2005-06 ACT Policing annual report which claimed people feel safe at home, however table B.2 on page 13 shows that (a) 76% are worried about their house being broken into, which is 8.8% more than the average number of people concerned around Australia, (b) 64% are worried about their car being stolen which is 2% up on the Australian average, (c) 83% are afraid of being home alone after dark in Canberra which is up on the average around Australia by just 0.2% and (b) only 66.4% are satisfied with their police force, down 10.9% on the average around Australia, does ACT Policing have an expectation that these figures should be dramatically superior than Sydney or Melbourne given the ACT Police Force serves a rather small precinct;

(2) Does ACT Policing ever compare, or intend to compare, its statistics to similar sized jurisdictions rather than cities with populations over 1 million.

Mr Corbell: The answer to the member's question is as follows:

(1) No. While many factors may impact on community attitudes, it is not apparent that the size of the jurisdiction is one of these factors.

(2) No. Comparisons within the ACT Policing Annual Report relate to Australian States and Territories, not particular cities within those jurisdictions. The practice of comparing rates per 100,000 population allows for standardized comparisons across jurisdictions and, by agreement, is used by all Australian states and territories.

Policing—major events (Question No 1457)

Dr Foskey asked the Minister for Police and Emergency Services, on 14 December 2006:

(1) In relation to pages 38 and 39 of the 2005-06 ACT Policing annual report which showed that the Major Events Planning Team produced over 100 Operation Orders in support of major events, equalling around 2 a week, how many of these Operation Orders were purely Commonwealth responsibility;

(2) If any of these Operation Orders were purely Australian Government responsibility, why were they reported in the ACT Policing annual report.

Mr Corbell: The answer to the member's question is as follows:

(1) Of 105 Operational Orders prepared in 2005-2006, 32 related to Commonwealth activities. The following table shows the number of Operational Orders prepared by activity type and area of responsibility.

Event	ACT	Commonwealth
Active Policing	1	
Ceremonial	5	
Demonstration	21	20
Exercise	1	
Football	23	
Memorial Service	2	
Public Event	20	
VIP Event		1
VIP Tour		11
Totals	73	32

Demonstrations listed as Commonwealth responsibilities include demonstrations occurring at Parliament House, Embassies and High Commissions.

(2) Commonwealth activities are included in the ACT Policing annual report to provide an accurate account of the roles, responsibilities and activities of ACT Policing and the steps taken by ACT Policing to ensure the safety of residents of and visitors to the ACT.

Policing—motorcade duties (Question No 1458)

Dr Foskey asked the Minister for Police and Emergency Services, on 14 December 2006:

(1) In relation to page 44 of the 2005-06 ACT Policing annual report which communicated that motorcade duties are a significant part of the mobile team's duties for this year due to the number of dignitaries who visited the ACT, what level of ACT Government funding is dedicated to motorcade duties;

(2) Does the Australian Government or ACT Government fund mobile teams when they are on dignitary duty;

(3) If the ACT Government does not fund those functions outlined in parts (1) and (2), why is it reported in the ACT Policing Annual Report.

Mr Corbell: The answer to the member's question is as follows:

(1) Commonwealth activities undertaken by ACT Policing, including assistance with official visits by dignitaries, are funded by the Commonwealth Government in accordance with agreed funding arrangements between the ACT and the Commonwealth.

(2) See (1) above.

(3) Commonwealth activities are included in the ACT Policing annual report to provide an accurate account of the roles, responsibilities and activities of ACT Policing and the steps taken by ACT Policing to ensure the safety of residents of and visitors to the ACT.

Policing—Clea Rose case (Question No 1459)

Dr Foskey asked the Minister for Police and Emergency Services, on 14 December 2006:

(1) Given that the Clea Rose case is not mentioned in the ACT Policing 2005-06 annual report and that this was a significant and tragic event that was part of ACT Policing responsibilities, why did the report not include any mention of the (a) Clea Rose death, (b) resulting internal review/report and (c) review of pursuit guidelines which was required internally.

Mr Corbell: The answer to the member's question is as follows:

(1) In selecting matters for inclusion in its annual report, ACT Policing is mindful of its obligations under the Policing Arrangement between the ACT and Commonwealth Governments and respects the authority of the Courts in matters which are sub judice or subject to examination by the Coroner. The primary focus of the annual report is ACT Policing's performance against the annual Purchase Agreement. In this regard, page 7 of the annual report includes details of ACT Policing's response to road trauma.

It should also be noted that there were 20 deaths on ACT roads in 2005-2006. None of the names of victims, the specific circumstances surrounding their deaths or police responses to those collisions are included in ACT Policing's Annual Report.

Policing—fatal collisions (Question No 1460)

Dr Foskey asked the Minister for Police and Emergency Services, on 14 December 2006:

(1) Given that fatal collisions have gone from 2.8 per 100 000 in 2003-2004 to 5.8 in 2005-2006 and that page 46 in the ACT Policing 2005-06 annual report stated that it should be noted that while fatal collisions are at their highest since 2000-2001, they still remain below the national average per 100 000 population and that these are positive results, does ACT Policing have an expectation that these figures should be dramatically superior than national average given the ACT is a rather small precinct, and has the wealthiest and most educated people population in Australia;

(2) Does ACT Policing ever compare, or intend to compare, such statistics to similar sized jurisdictions rather than cities with populations over 1 million;

(3) What ACT Policing policies and programs relating to collisions have been (a) withdrawn since 2001 and (b) significantly altered since 2001;

(4) How has ACT Policing consulted with the community in seeking more effective prevention measures against fatal collisions.

Mr Corbell: The answer to the member's question is as follows:

(1) No. While many factors may impact on road trauma, it is not apparent that the size of the jurisdiction, average income or levels of education are among these factors.

(2) The National Road Safety Strategy clearly outlines the measures to be used by all States and Territories relating to road trauma. In accordance with the strategy, comparisons within the ACT Policing Annual Report relate to Australian States and Territories, not particular cities within those jurisdictions. The practice of comparing rates per 100,000 population allows for standardized comparisons across jurisdictions and, by agreement, is used by all Australian states and territories.

As a normal part of business and review of strategies, ACT Policing constantly looks at all areas of road trauma, within Australia and overseas to identify strategies that may work within the ACT.

(3) ACT Policing constantly reviews and assesses its traffic enforcement strategies.

(4) The factors that cause deaths on our roads are well known and whilst ACT Policing seeks every opportunity to engage the community in media campaigns and information sharing, the reality is that the number of deaths in any given year is directly related to the driving behaviours of the community. The majority of deaths on our roads are preventable by road users obeying the traffic rules, not drink-driving, not speeding, wearing a seat belt, not using illegal drugs, and not driving whilst fatigued.

ACT Policing takes these messages to the community at every opportunity including through media campaigns, attendance at ACT schools and community organisations, involvement in offender programs and consultation with other government and road safety bodies.

Policing—performance indicators (Question No 1461)

Dr Foskey asked the Minister for Police and Emergency Services, on 14 December 2006:

(1) In relation to page 93 of the 2005-06 ACT Policing annual report where it is stated that the number of sworn members rose from 571.7 to 621.4, an increase of around 50 officers in a year and given that this is a significant increase in staffing, which performance indicators does ACT Policing expect to see greatly improved as a result;

(2) What were the results for these performance indicators in (a) 2004-05 and (b) 2005-06.

Mr Corbell: The answer to the member's question is as follows:

(1) The Ministerial Direction issued to ACT Policing in July 2006 outlines the special areas of focus in which it is expected ACT Policing will concentrate efforts. The Ministerial Direction recognises the additional resources provided in the 2005-2006 and 2006-2007 budgets and requires that ACT Policing give special emphasis to the following broad operational issues during financial year 2006-2007:

- increase the capability of ACT Policing to respond to incidents, particularly those pertaining to Tier Two response time measures for Priorities One, Two, Three, and Four as defined by the Purchase Agreement;
- increase the visibility of Police in the community;
- implement measures aimed at improving road safety within the Territory;
- implement measures to deliver a Child Sex Offender Registration Team capability; and
- implement measures to support ACT Government Property Crime Reduction Strategy 2004-07;

(2) Results for performance indicators, including those for response times, community satisfaction with police and road safety, are contained in the ACT Policing Annual Reports for 2004-2005 and 2005-2006.

Housing—vulnerable residents (Question No 1462)

Dr Foskey asked the Minister for Housing, on 14 December 2006:

(1) What emergency procedures are in place in multi unit properties to ensure that if a fire or an incident that requires evacuation occurs, frail and vulnerable residents will know where to go and who will look after them;

(2) What access do residents of these properties have to waste recycling and what plans are in place to ensure that access is widened.

Mr Hargreaves: The answer to the member's question is as follows:

(1) A fire safety guide was prepared by Housing ACT two years ago and distributed to all tenants. It is provided to all new tenants when they sign their tenancy agreement. Tenants also received a copy of Emergencies and the National Capital – A Residents Guide, which was distributed to all ACT residents by Emergency Services Agency. Both publications have details on developing a home emergency plan.

The Department of Disability Housing and Community Services has held discussions with ACT Fire Brigade to develop a model for increasing the awareness of Housing ACT tenants in multi-unit complexes on fire safety and emergency preparedness, including evacuation.

(2) Multi unit developments have a standard allocation of recycling capacity based on the number of units in each property. Depending on the property size either 240 litre wheelie bins or larger 1000 litre hoppers are used for recycling. Unit complexes have a bin storage area where all garbage and recycling receptacles are located for use by residents. The ACT's Garbage and Recycling Contractor services the bins from the storage compound.

The Wheeled Bin Assistance Program (for ill or elderly persons) provided to households, townhouses and a limited number of units (where a single dwelling has been allocated a set of 240litre/140litre bins) involves the contractor entering the property and servicing the bin without the resident needing to present their bin to the kerbside or compound for collection. This service is not applicable to most multi unit complexes on the basis that the contractor already collects the bins from within the property and many unit complexes (particularly high rise) cannot accommodate the provision of a set of bins for an individual unit due to space limitations.

Schools—closures (Question No 1463)

Mrs Dunne asked the Minister for Education and Training, on 14 December 2006:

(1) In relation to the potential closure or amalgamation of the (a) Causeway Preschool, (b) Chifley Preschool, (c) Cook Primary School, (d) Cook Preschool, (e) Curtin South Preschool, (f) Dickson College, (g) Flynn Primary School, (h) Flynn Preschool, (i) Gilmore Primary School, (j) Gilmore Preschool, (k) Giralang Primary School, (l) Giralang Preschool, (m) Hackett Preschool, (n) Hall Primary School, (o) Hall Preschool, (p) Higgins Primary School, (q) Higgins Preschool, (r) Holt Primary School, (s) Holt

Preschool, (t) Isabella Plains Primary School, (u) Isabella Plains Preschool, (v) Kambah High School, (w) Macarthur Preschool, (x) McKellar Preschool, (y) Melba Preschool, (z) Melrose Primary School, (aa) Mt Neighbour Primary School, (ab) Mt Neighbour Preschool, (ac) Mt. Rogers Primary School, (ad) Page Preschool, (ae) Reid Preschool, (af) Rivett Primary School, (ag) Rivett Preschool, (ah) Tharwa Primary School, (ai) Tharwa Preschool, (aj) Village Creek Primary School, (ak) Village Creek Preschool, (al) Weston Creek Primary School and (am) Weston Preschool, what regard has been given to the (i) educational impact, (ii)financial impact and (iii) social impact on the (A) students at the school, (B) the students' families and (C) the general school community.

Mr Barr: The answer to the member's question is as follows:

(1) In making a decision to close 11 of the 22 preschools proposed for closure and 12 of the 17 schools proposed for closure, I carefully considered, for each school and preschool, all the issues raised by (A) students at the school, (B) the students' families, (C) members of the general school community, and teachers, and the potential impact of the proposed closures and amalgamations on these stakeholders. During the six month consultation period I conducted, as required under section 20(5)(a) of the Education Act 2004, I considered all correspondence, submissions, views expressed at meetings and during my school visits. This allowed me to make decisions with due regard to educational, financial and social factors and their potential impact on each school, and more broadly on each of eight regions.

Education—Italian language (Question No 1464)

Mrs Dunne asked the Minister for Education and Training, on 14 December 2006:

(1) Will the Minister or any person or body representing the ACT Government accept the Italian Government's recent invitation to enter into a memorandum of understanding with it in relation to the teaching of the Italian language in the ACT;

(2) What factors have been or will be considered in reaching this decision;

(3) Have representatives of any other foreign governments made similar approaches to the ACT.

Mr Barr: The answer to the member's question is as follows:

(1) The Department of Education and Training is currently in negotiation with the Italian Government through their representatives in the Embassy of Italy to develop a Memorandum of Understanding (MOU) in relation to the provision of Italian language in the ACT.

(2) The teaching of language is a valuable part of the curriculum and it is important to ensure the quality of primary and secondary school language programs.

(3) Yes.
