Debates

WEEKLY HANSARD

Legislative Assembly for the ACT

SIXTH ASSEMBLY

8 MARCH 2007

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Thursday, 8 March 2007

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

Ministerial arrangements

MR STANHOPE (Ginninderra—Chief Minister, Treasurer, Minister for Business and Economic Development, Minister for Indigenous Affairs and Minister for the Arts): At the commencement of today's proceedings I wish to advise members that the Minister for the Territory and Municipal Services, Mr Hargreaves, is on business elsewhere today. His legislative responsibilities this morning will be handled by Mr Barr. For the purpose of question time Mr Corbell is available to take any questions that might have been directed to Mr Hargreaves.

Territory Records Amendment Bill 2007

Mr Barr, on behalf of **Mr Hargreaves**, pursuant to notice, presented the bill, its explanatory statement and a Human Rights Act compatibility statement.

Title read by Clerk.

MR BARR (Molonglo—Minister for Education and Training, Minister for Tourism, Sport and Recreation and Minister for Industrial Relations) (10.32): I move:

> That this bill be agreed to in principle.

Today, on behalf of Mr Hargreaves, I am tabling the Territory Records Amendment Bill 2007. This bill proposes a new date of 1 July 2008 for the commencement of access to older territory records. When Mr Bill Wood, as Minister for Urban Services, introduced the Territory Records Act 2002 he stated that this act would herald a new approach to records management for all agencies of the ACT government. The introduction of the Territory Records Act 2002 followed a commitment made by the Chief Minister in his speech "A Code of Good Government" in March 2001 that when in office Labor would ensure that government records would be properly kept and that legislation would be introduced to establish the provisions for records management for the government.

Little did we realise at the time the extent to which this rigorous records regime would extend to every area of government. All territory agencies have now implemented records management programs which respond to the standards for records management provided for in the act. The legislation also requires agencies to prepare schedules for the disposal of their records, and since the commencement of this act the Territory Records Advisory Council has recommended, and the director of territory records has approved, records disposal schedules covering over 120 functions of government.

It is partly because of the success of the implementation of the Territory Records Act 2002 that I am now proposing this amendment to extend the time by one year that

territory agencies have to prepare their records for public access. We now estimate that the territory holds upwards of 20 kilometres of records. Many of these records will hold information of a personal and private nature, and we need to ensure that this material does not inadvertently become open for public access. Territory agencies will use this additional time to continue to examine the records that they hold. Agency record managers will also be preparing finding tools for these older records to assist members of the public in their interpretation and use of these records. This amendment also proposes a review timetable for the act to ensure that the Assembly is satisfied with all aspects of the operation of the act.

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

Training and Tertiary Education Legislation Amendment Bill 2007

Mr Barr, pursuant to notice, presented the bill, its explanatory statement and a Human Rights Act compatibility statement.

Title read by Clerk.

MR BARR (Molonglo—Minister for Education and Training, Minister for Tourism, Sport and Recreation and Minister for Industrial Relations) (10.32): I move:

> That this bill be agreed to in principle.

I am pleased to present the Training and Tertiary Education Legislation Amendment Bill 2007 which repeals the Vocational Education and Training Act 2003 and introduces amendments to the Tertiary Accreditation and Registration Act 2003, firstly, to accommodate those administrative and governance functions of the Vocational Education and Training Act 2003 that need to be retained; secondly, to incorporate references to the national protocols for higher education approval processes; and, thirdly, to allow for efficient, expert advice on the eligibility of an application for university status in the territory.

With this bill the department is seeking to streamline the administration of all aspects of vocational education and training, including policy, service delivery, industry input, accreditation and registration. Costly duplication of effort will be eliminated and provision of advice will be more streamlined. These amendments will change the object and scope of the Tertiary Accreditation and Registration Act 2000. It will therefore be renamed more accurately to reflect its expanded scope.

The Vocational Education and Training Authority was established under the Vocational Education and Training Act 2003 and given a range of advisory and administrative powers. Its administrative functions, however, were entirely delegated to the department, which operates as the state training authority for the ACT in all negotiations and interactions with the Australian government. Those functions that require the force of legislation will be incorporated in their entirety into the amended Tertiary Accreditation and Registration Act 2003. The department can properly carry out most governance and all of the administrative functions performed by the authority.

The department needs to comply with ministerially agreed contractual obligations about sourcing advice on VET, particularly those related to funding agreements with the Australian government. The department's ability to comply with these obligations will not be compromised by this amendment. The recently established ACT Skills Commission will take a whole of government approach to providing skills advice in the ACT. With the establishment of the ACT Skills Commission and the abolition of the authority the department will continue to source VET-specific advice from a VET advisory group, which will engage regularly and in a structured fashion with the broadest possible range of VET stakeholders. The department will continue to seek advice from various equity groups as it has done in the past.

Prior to the 2006-07 budget the department sourced industry advice under contract from the ACT Industry Training Advisory Association. The department will, in the future, purchase the independent research it requires to determine the ACT's annual VET priorities through standard contractual arrangements. This action will enable the department to purchase advice directly from the source. The department will seek advice from relevant business, industry and professional sources as well as from relevant government agencies through avenues such as skills forums.

The Tertiary Accreditation and Registration Act 2003 establishes the ACT Accreditation and Registration Council, made up of university academics and other professionals. The council, as the body responsible for approving non-university higher education provision and qualifications, currently advises me on higher education matters, including the quality assurance of the sector. The TAR Act currently provides a process for approving applications for university status from local and foreign applicants and a role for the council in providing advice. The current wording obliges me unconditionally to accept an application, convene a panel of expert persons and then ask the council for advice.

This bill introduces amendments to make the process for establishing a university in the ACT more streamlined and rigorous. It will provide more advice to me when considering these applications, allowing more informed decision making. It proposes that the council provide me with threshold advice on the eligibility of an applicant for university status. The council is well placed to provide expert advice on university applications and to continue implementation of the protocols for approving all higher education provision in the ACT.

The bill also introduces amendments to the legislation to include reference to the revised national protocols for higher education approval processes. In July 2006 the Ministerial Council on Education, Employment, Training and Youth Affairs approved revised national protocols for higher education approval processes. The protocols will take effect no later than 31 December 2007.

Finally, this amendment gives the chair of the Accreditation and Registration Council the authority to approve providers of courses to overseas students in the territory and to make recommendations to the commonwealth as to which providers should be placed on the commonwealth register of institutions and courses for overseas students.

The ACT government recognises the benefits of providing education and training to overseas students. It strengthens our relations with the countries and regions from which students come and yields valuable revenue. The internationalisation of education enriches the life of educational institutions and benefits domestic students by promoting the cross-fertilisation of ideas and cultures. Competition in the international marketplace is a stimulus to quality and innovation, which is in the interests of all students. I believe these amendments streamline several important areas of vocational and higher education governance in the territory and at the same time clarify the responsibilities of the chief executive and council. I commend this bill to the Assembly.

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

Holidays (Canberra Day) Amendment Bill 2007

Mr Barr, pursuant to notice, presented the bill, its explanatory statement and a Human Rights Act compatibility statement.

Title read by Clerk.

MR BARR (Molonglo—Minister for Education and Training, Minister for Tourism, Sport and Recreation and Minister for Industrial Relations) (10.41): I move:

> That this bill be agreed to in principle.

The Holidays (Canberra Day) Amendment Bill 2007 will amend the Holidays Act 1958 to change the day the Canberra Day public holiday is observed from the third Monday in March to the second Monday in March, which is closer to Canberra's actual birthday, 12 March. It appears that Canberra Day was first celebrated in 1963 with a one-off holiday celebrating the 50th birthday of the city on 12 March. Between 1963 and 1980 it seems that the day was celebrated in an ad hoc manner, with the federal minister declaring a public holiday year by year, and the date changing to fit with other events. Because planning is well advanced for this year it is proposed that in 2007 the Canberra Day public holiday be celebrated on the third Monday in March with the change to the second Monday in March each year becoming effective from 2008.

Submissions were invited from the community about their views on the two options for celebrating Canberra Day, which were either to observe the public holiday on 12 March or, if 12 March is a Saturday or Sunday, the following Monday, or observe the public holiday on the second Monday in March. The consultation resulted in a mixed outcome within employer groups and within unions with no clear preference expressed for celebrating Canberra Day on 12 March or on the second Monday in March. However, the community indicated a clear preference to maintain a long weekend; that is, the second Monday in March.

Celebrating the Canberra Day public holiday on the second Monday in March from 2008 is a sensible option that fits with community preferences, including concerns that the Canberra Day holiday be celebrated closer to Canberra's actual birthday. The

effect and purpose of the amendments are explained in detail in the explanatory statement. I commend the bill to the Assembly.

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

Education, Training and Young People—Standing Committee Report 4

MS PORTER (Ginninderra) (10.44): I present the following report:

> Education, Training and Young People—Standing Committee—report 4—*Report on annual and financial reports 2005-2006*, dated 22 February 2007, together with a copy of the extracts of the relevant minutes of proceedings.

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

Leave granted.

MS PORTER: I move:

> That the report be authorised for publication.

Question resolved in the affirmative.

MS PORTER: I move:

> That the report be noted.

Question resolved in the affirmative.

Executive business—precedence

Ordered that executive business be called on.

Freedom of Information Amendment Bill 2006

Debate resumed from 23 November 2006, on motion by **Mr Corbell**:

> That this bill be agreed to in principle.

MR STEFANIAK (Ginninderra—Leader of the Opposition) (10.45): The opposition supports this bill with the exception of clause 7, which it opposes. A number of elements in this bill are quite reasonable. They relate to terminology and process in respect to personal information; the extension of time to enable consultation in certain circumstances; the process for release of documents likely to affect relations between the territory and a state or the commonwealth, or business relations; and the exemption of documents that may affect national security, defence of the commonwealth, any state or territory, or international relations of the commonwealth.

I think the latter is particularly important because I do not think anyone would want any compromise on important issues such as national security, defence of the commonwealth, any state or territory, or international relations of the commonwealth. Referring to personal information, I think that is something we need to monitor. I note that the bill is based on a federal act and I note also that the federal government is having a look at things such as privacy laws. Privacy laws are a double-edged sword so I would be interested to see how this issue pans out.

I think people are starting to realise that privacy laws can be taken too far in the reasonable provision of information to people. We are content to see how that goes but, as I indicated earlier, the other aspects of the bill are fine. Clause 7, which my party opposes, substitutes a new section 23 (1) for the existing section. I am worried about that clause which will enable an agency or a minister to consider refusing an FOI request if it involves an unreasonable diversion of resources. It also provides some guidelines on the matters that must be considered and that must not be considered when making such a decision.

I think this is just another example of the Stanhope Labor government's wrong priorities. It is another example of the Stanhope Labor government just putting things into the too hard basket. The government's budget last year—a budget we had to have because of the Stanhope Labor government's squandering of the territory's finances—must be biting. It seems that the public service does not have the resources to attend to those freedom of information requests that might, in someone's estimation, be a bit too much trouble. In the case of ministers, is it perhaps that they are just too busy to concern themselves with matters as trivial as FOI requests, or is it just—and pardon my cynicism—that ministers have too much to hide and simply want a way out?

The guidelines that must be considered by an agency or a minister in making a decision about whether an FOI request will unreasonably divert resources are not real guidelines, and they are so open-ended as to provide no guidance at all. If guidelines are to be of any use at all they must be measurable. These guidelines are not measurable. When does an FOI request become too onerous or too unreasonable for the agency or minister? What does unreasonable mean? This is not covered in clause 7. Is it when it requires one person more than a week to process a request, or is it when 10 people are required for more than a month? Is it when there are 100 documents to be copied or 10,000 documents to be copied? Is it when the schedule of documents is one page or 100 pages? Who knows? There are no clear guidelines.

It should not surprise the government to know that even the council for civil liberties agrees with the Liberal Party's take on clause 7. Recently I saw council representatives who indicated to me that they considered it an erosion of the rights of ordinary citizens. They put out a media release in relation to this issue, with which I agree. Through clause 7 the government is seeking to erode the rights of ordinary citizens. That is something that is open to abuse because of these Clayton's guidelines.

We have here a very secretive government, a government that supposedly prides itself on human rights, but when it comes to looking at real rights it is one of the most secretive governments I think we have seen since self-government in this territory. It is a government that has gone to great lengths to ensure that my colleague Mrs Dunne

does not have access to documents relating to one of those most crucial issues confronting us in recent times: the Labor Party's controversial plan and decision to close 23 schools. The Labor Party has not allowed the Costello review to see the light of day and, in that instance, it has hidden behind cabinet confidence.

There are a number of instances but I think perhaps the most recent are the problems my colleague Mrs Dunne is having, which just shows how secretive this government is and how it does not want to share information with the public. This bill as it stands will potentially enable the government to use its provisions to deny the public reasonable access to information—access that the public should have. People who want to access information to hold the government accountable will not be able to get it as a result of the guidelines in this bill. It must be very tempting for this government, or indeed for any other government, to include a provision such as clause 7, because it prevents them from being scrutinised. It makes it harder for ordinary members of the public, or other concerned bodies or citizens, to get information relating to government activities.

Measures such as this compromise the whole idea of freedom of information, which was a good step to ensure that governments were made more accountable and to give ordinary citizens or other parties access to relevant documents. Massive abuse of the system does not appear to be a real problem. We are aware that it is sometimes onerous for governments to supply a lot of documents. In many instances they have the ability to charge for these services but they do not do so for the public benefit. At times it is a pain for government officials to find and hand out documents that are required under freedom of information requests, but it is an important part of our modern and democratic process. It is an important part of keeping governments accountable and honest.

I think this is just another step that could be open to abuse by this government, which has turned out to be the least open of any government we have seen since self-government. The Stanhope Labor government has done it again. This bill contains some very wrong priorities—self-serving pretend efficiencies to try to justify this government's financial mismanagement and, probably even more fundamental, it erodes the rights of people. In our opinion clause 7 cannot be allowed to stand. It is not prescriptive enough, it is open to abuse and it is artificial. The opposition will oppose clause 7 in the detail stage but, as I said earlier, it supports the rest of the bill. I reiterate that we will be voting for the bill but opposing that most important clause.

DR FOSKEY (Molonglo) (10.53): The Attorney-General started his presentation speech on this bill by stating that it "supports the government's commitment to open government and transparency principles". Perhaps in his closing speech the minister could reveal exactly which sections of the amendment he is alluding to, because every substantive amendment in this bill is directed at limiting the public's right to access documents. Some of these restrictions are commendable, such as the sections dealing with the release of personal information and the rights of relevant people to be consulted prior to a decision being made. This brings our FOI Act into line with the commonwealth act, and in this instance the commonwealth act provides a desirable template. I expect that everyone will wholeheartedly agree with these provisions and I expect that the minister will defend them strongly.

Where he is on shaky ground is in his championing of conclusive certificates which cannot be effectively reviewed by an independent non-partisan, non-political arbiter. I do not have time to examine every detail of this bill, so I will focus largely on conclusive certificates, as this is the least defensible aspect of these amendments.

In his reply to the report of the scrutiny committee the minister states that the limitations on the right to freedom of expression are justified because the aims are necessary to ensure the security of ACT citizens and others. Well, yes, the aims are commendable; it is the means which leave a lot to be desired. They are not necessary and they are not the least restrictive mechanism available. While an oversight mechanism is available it applies only on the narrowest possible grounds.

The minister, or perhaps his advisers, tell us that "this is an appropriate threshold for oversight and that it reflects the analysis of the High Court in McKinnon". This is a particularly disturbing statement, given that the oversight mechanism contained in this legislation would be best described as the most restrictive mechanism available.

The High Court's decision in McKinnon has reduced AAT review of the issue of a conclusive certificate to the level of farce. If the minister does not know this I suggest he seek an urgent briefing on McKinnon either from his department or from an independent public law expert. If he does know the effect of McKinnon he is being deceptive in pretending that this amendment represents an effective avenue of review. Writing in the *Press Council News* this is what Professor HP Lee said about conclusive certificates and McKinnon:

> Through the lens of a public lawyer, the narrow decision in McKinnon may be viewed as a calamity ...
>
> The majority Justices, in practical effect, have given the government of the day *carte blanche* to deny information to the people according to its whims and fancies. The servant of the people has, by a narrow judicial philosophy, become the people's master.

Michael McKinnon is the freedom of information editor for the *Australian* newspaper. He began his seemingly innocuous quest for information on bracket creep and apparent fraud back in 2002. Because it would cause political embarrassment, Treasurer Peter Costello spared no public expense in defending the public's right not to be told the extent to which it was paying more tax through bracket creep and the extent of fraud in the first home owners grant scheme.

Late last year the High Court finally handed down its decision in McKinnon, and the Howard-appointed majority agreed that the Treasurer had a right to decide what was and what was not in the public interest, and that his view did not have to be persuasive, logical, or even vaguely credible.

The analysis in McKinnon means that if there are predominantly and overwhelmingly probative reasons why the release would be in the public interest, a minister has the right to sign a conclusive certificate if they can dream up one credible reason why it would not be in the public interest—one vaguely credible reason. Anyone who has anything to do with the FOI Act knows that determining the overall public interest is

always a balancing act between public interest reasons for and against releasing a document. It is always possible to come up with one facile reason why a document should be exempt. This is what Rick Snell, administrative law lecturer at the University of Tasmania and arguably Australia's leading expert on FOI, said about McKinnon:

> The majority decision of the High Court effectively opens the gates fairly wide for this government and future governments to use conclusive certificates fairly freely and without having to meet very high thresholds in making them valid. So you will see the increasing issuing of conclusive certificates and them being unable to be challenged effectively.

Professor Klugman, President of Civil Liberties Australia, agrees with Mr Snell. She states:

> Conclusive certificates mean a department can stop an FOI request dead in its tracks, and suppress information without an effective right of review or appeal. They can, and have been, abused by government departments and ministers.

On the *7.30 Report*, Michael Brissenden had this to say:

> These days the Federal Labor Party says they will scrap the use of conclusive certificates. Mark Latham took that policy to the last election and it remains Federal Labor policy. The fact is, though, that State Labor Governments, holding the reins of power don't seem to share the reformist's zeal.

He has nailed it there. I wonder whether he has reflected on the corrosive influence that majority government has had on the ideals of Labor governments. Whether it is in the area of openness and transparency in preparing budget papers, closing libraries, engaging in public consultation, or stifling public input into urban planning developments, this government's reformist zeal has disappeared up its own self-interest. At least it will be well illuminated the next time the Labor Party finds itself in opposition. A long stint in opposition has obviously worked its magic on Nicola Roxon, Labor's federal shadow attorney-general. This is what she said about the growing phenomenon of conclusive certificates and opportunist state Labor governments eagerly grabbing this latest "get out of jail free when we have stuffed up again" card:

> We don't control the state Labor governments. We actually think it's really important when the Howard Government is closing down every other avenue of review, whether it's in the Senate or how they deal with the media or the way they gag debate in the house, this is another tool they are using to stop there being public debate and public scrutiny and we don't think they should be allowed to get away with it.

Would the Attorney-General like to respond to his federal counterpart in his closing speech? Just a word to his advisers: I suggest they avoid including self-serving platitudes about how these laws will increase security or thwart terrorists. These laws may thwart terrorism in extreme circumstances but there are existing ways to achieve that result if those extreme circumstances eventuate. Contrary to the government's assertions there are far less restrictive ways to achieve that result.

Just in case anyone thinks my opinion on this bill is just me going off on a Green frolic, here is what yet another legal expert, Professor HP Lee, had to say about the review provisions that the Attorney-General assures us are "appropriate":

> In the wake of the Court's decision the power of a tribunal to question the appropriateness or legitimacy of a certificate is effectively confined to deciding whether or not the decision to issue the certificate was irrational or absurd. In other words, it will in practice be impossible successfully to challenge a Minister's decision to refuse to disclose information, even where such information should rightfully be in the public domain.

South Australian Senator Linda Kirk, another of the Attorney-General's Labor colleagues, had this to say about conclusive certificates in a parliamentary speech:

> As most of us are aware, the strength of our democracy rests on the ability of citizens to cast an informed vote at the ballot box and in order to do this information is the key. But there appears to be a predisposition within the higher levels of the Australian government to favour secrecy and nondisclosure—that is, a culture of suppression of information has become endemic. It is for this reason that we have freedom of information laws. Without accountability there cannot be confidence that the executive government and the public servants who serve the executive are doing the right thing.

However, the High Court decision last year in McKinnon v Secretary, Department of Treasury has resulted in the 24-year-old FOI Act being rendered virtually useless in gaining access to sensitive government material. The High Court found that ministers such as the Treasurer can issue conclusive certificates if they have reasonable grounds to argue that the disclosure would run counter to the public interest. All justices of the High Court found that there was no provision under the existing FOI Act for a review of the merits of a minister's decision to issue a conclusive certificate. Indicating the unbalanced nature of the test, two justices of the High Court stated:

> … so long as there is anything relevant to be said in support of the view that disclosure would be contrary to the public interest, an applicant … must fail.

In other words, any old excuse will do when it comes to denying access to these documents. It does not matter if it contains little weight just as long as it contains some weight, and it does not matter if there are countervailing arguments, even if they are of far greater weight in favour of giving access. So, instead of promoting access to government material, FOI has been left to the sole discretion of the relevant minister. This creates unlimited potential for the abuse of the conclusive certificate process. Trust us! The government says, "Trust us." That is why we should not criticise what looks like an opportunistic grab for power justified on the grounds that the federal coalition gave itself the power.

Is that our new benchmark for best practice governance? The Howard government wants these powers because it wants to be able to continue to lie to the electorate about things such as children overboard, weapons of mass destruction and immigration department collusion with Indonesian and Sri Lankan officials. Conclusive certificates under the exact same provisions we are debating today could

be issued to prevent the release of information about any and all of these incidents. It is quite possible that the government's enthusiasm for conclusive certificates could reflect the deteriorating relationship between the government, JACS and the judiciary.

This bill is a lack of confidence vote in the judgment of the AAT or the judiciary. Could we not instead trust the AAT or the federal court on appeal to identify when the release of a document may cause damage to the security of the commonwealth or the territory? Perhaps the government has come around to agreeing with Sir Arnold Robinson, the fictional cabinet secretary in *Yes, Minister*. When asked about Jim's commitment to the Labour Party policy of open government he states, "My dear boy, it is a contradiction in terms: you can be open or you can have government."

The last conclusive certificate I am aware of was issued by the education department to prevent an MLA from getting access to documents, which could explain why particular ACT schools have been closed or will be closed. Surely this is information that an electorate, let alone an MLA, needs to make an informed opinion about the probity and wisdom of their elected representatives decision-making processes. The Austexx legal advice document I tabled on Tuesday was released only because the AAT overturned the government's attempt to hide it from public scrutiny. It is hard to avoid the conclusion that the government fought to keep it secret because it would cause political embarrassment. As it is, the government did manage to keep it secret until the issue was no longer in the media spotlight.

Trust is no longer one of the government's strong suits, and unless it thinks the opposition can be trusted with the absolute power it is proposing to give itself it should take its federal colleagues' advice and repeal all conclusive certificate provisions from what has become the freedom from information bill. Dr Kris Klugman had this to say about the bill we are discussing today:

> I am becoming increasingly disturbed by the attitude of many ACT public servants towards FOI. Clearly they don't believe in the objectives of the FOI Act of making information about the operation of the public service available to the community, and keeping governments accountable for their decisions. This is not open government; this is government huddled and hiding behind a wall of repression, in a bunker of silence.

Dr Klugman has called on the government to change the act to prevent the use of conclusive certificates in FOI matters, and I echo her call here today.

MRS DUNNE (Ginninderra) (11.07): I congratulate Dr Foskey on the speech that she gave, which was essentially the speech that I am about to give. What we have here today in these poor amendments to the Freedom of Information Act is the government tinkering at the edges while ignoring the real problems that underlie the operation of the Freedom of Information Act in the ACT. My knowledge of the Freedom of Information Act goes back a long way. I was one of the people in the then commonwealth department of education who set up the operation of the commonwealth Freedom of Information Act in that department, too long ago to remember. I was involved at the outset in the operation of the Freedom of Information Act and I saw the first winding back of compliance under the Labor government back then.

I suppose, like all of these things, freedom of information, openness and accountability, are things that one likes to talk about in opposition, but when one gets into government one fails at the first test. We heard all through 2001 the now Chief Minister giving heart-rending speeches about openness and accountability and about how a Stanhope Labor government would not stand behind confidentiality clauses and would not use the Freedom of Information Act to prevent people's access to information. But, as Dr Foskey has said here today, what we now have in the ACT is a freedom from information act.

We know that we have reached considerable lows in the treatment that I have received in my attempts to obtain information in relation to school closures. I have asserted, and I do not think that anyone has corrected me on this, that this is the first time that anyone in the ACT has issued a conclusive certificate in relation to documents sought under the Freedom of Information Act. I checked with a couple of former attorneys-general, neither of whom could recall it happening in the past. In the time that I have worked in this place for attorneys-general, I cannot recall it happening. But, over the issue of school closures, we now have two sets of conclusive certificates in relation to a substantial number of documents.

Dr Foskey has already taken my words, but I will repeat them. What it actually shows is that this government does not trust an eminent jurist like Mr Michael Peedom, the president of the AAT, to make—

Mr Mulcahy: The government has given it away. There is no-one here.

MRS DUNNE: There is no-one here. There is a lot of information getting in here, but none of it is getting to the government because there is no-one here to listen. The real issue is that what the government is saying is that it does not trust the president of the tribunal, a longstanding lawyer in this town of considerable status, to make a decision on the merits of the case. So what we have is a process which is really a freedom from information process.

The application of conclusive certificates in relation to documents that relate to school closures is an absolute travesty of everything that Jon Stanhope said in 2001 that he stood for. Jon Stanhope was then saying, "I am Mr Openness and Accountability. My commitments as a civil libertarian are to openness and accountability." What do we have today? *(Quorum formed.)* What we have in the operation of this government, and in the operation in relation to school closures, is complete fleeing from the commitments of the Stanhope government—the general commitments made by Jon Stanhope before he became Chief Minister—and the specific commitments made in this place by the minister for education, Andrew Barr, about being open about the decisions made about school closures. "I will reveal everything. Everything will be open for discussion." Mr Barr said words to that effect over and over again in this place. When it actually came to the crunch, they were not as good as their word.

When it became an issue, when parents and I decided to pursue the government and to find out why they made these decisions and how they came to this process, what did we have? We had 150-odd documents being subject to a conclusive certificate. That is not openness and accountability. Really, it has got to the stage where we have

everything that Professor Snell, Dr Klugman and all the other commentators on the Freedom of Information Act had predicted as soon as the McKinnon case came down.

The McKinnon decision was a very narrow decision and a very narrow victory for governments. There is much in the decision that does not give as much heart as people might first think to governments' capacity to close off lines of inquiry. But the general thrust of the interpretation of governments and the convenient interpretation for governments is that it is now open season on conclusive certificates. Every time something comes up that is slightly inconvenient we will see conclusive certificates because the test of public interest is very narrow and anything that is not convenient to Andrew Barr, Jon Stanhope or Simon Corbell will cease to be in the public interest and we will continue to see conclusive certificates.

The federal Labor Party, as Dr Foskey has pointed out, has been very strong in criticism of the decision and criticism of government use of conclusive certificates. In this territory we have seen this government, at the very first opportunity, jump on the post-McKinnon decision bandwagon, and we now have the issuing of conclusive certificates in a completely unjustified way, an absolutely unjustified way.

If this minister and his officials cannot demonstrate to the AAT that there is public interest in withholding this information, the information should not be withheld. At the moment, the tribunal does not have the capacity to make that decision. The only capacity it has is to make a decision about whether the people who issued the certificate were acting rationally at the time.

I would submit that the people who made the decision were not acting rationally at the time because they had an irrational desire to protect their political masters from exposing the bad decision making that they made over school closures. That is not a good enough reason to limit my access and, through me, the community's access to the decision-making process that underpinned the school closures that plagued this community last year and will continue to plague communities for the next three to five years. What we actually see is decision making that impacts on the day-to-day operations of families being obscured because of the government's capacity to refer—

MR TEMPORARY DEPUTY SPEAKER (Mr Gentleman): Order! Mrs Dunne, it has been brought to my attention that, ironically, there could be contravention here of the sub judice rule in that I understand you have an application at the moment before a court and you are going into the very aspects that could be talked about in that case. I just draw your attention to that and remind you of the sub judice rule.

MRS DUNNE: Thank you, Mr Temporary Deputy Speaker. I will be mindful of the sub judice rule. It is ironic that the application of conclusive certificates is designed in this case to impede people's access to information. They were legitimately promised by Jon Stanhope when he was the Leader of the Opposition and by Andrew Barr in this place on a number of occasions over the last few years.

The whole tenor of the Freedom of Information Act needs substantial review. The tinkering that we have here today is simply that; it is tinkering. There have been a few bits added. Although we are supporting some of these amendments, I think that it is doubtful that we need to have mirror legislation that completely copies the federal

legislation and that we need to have the same national security provisions as the federal legislation, because we do not hold the same national security information as the federal government. Although I do not have a real problem with it, there are questions about the whole point that we are doing this because we need to have mirror legislation.

There are other provisions in here which are designed to impede people's access to information. Clause 6 causes me some concern. Although we are not opposing clause 6, we will watch it very carefully because I see that clause 6 will make it easy for departments to prevaricate and put off the time when they have to provide information to the public by a mere 30 days, because a few bureaucrats can get together and say, "If we write to each other and say that there are some overlapping things here, we can delay things for 30 days". My colleagues and I will be watching that to see that this provision is not abused and, if it is abused, we will be bringing it back.

Mr Corbell: But you are going to support it.

MRS DUNNE: You will get to speak again, Simon. Be quiet. Another thing is that the provisions of clause 7 are onerous and are designed to find every opportunity to cut off people's freedom of information requests. That is all part of the mentality of the ACT bureaucracy under the Stanhope government. I will relate to you, Mr Temporary Deputy Speaker, another incident that has occurred with me in making a freedom of information request to the department of education. I got this peremptory letter saying, "If you do not write to us within a particular period and tell us how you can limit your request, we will throw your request out."

That is not in the spirit of the Freedom of Information Act. The principles of the Freedom of Information Act require a decision in favour of disclosure. They require people to presume that everything will be disclosed, not to go round saying, "Oh, oh, Mrs Dunne has asked for something. How can we stop her finding out? If we cannot stop her finding out, how can we actually stymie her freedom of information request at the first hurdle?" It is too difficult and it is too inconvenient. I might find out something that they do not like. What are they trying to do—not even process the request, but find an excuse for throwing it out? The approach of the department of education in this regard has been appalling from the outset. There are many matters that need to be discussed and revisited in this place after the current case in relation to my and another parent's appeal to the AAT is dealt with in the AAT. At that time, I think, the opposition will be looking at its own amendments to the Freedom of Information Act.

MR CORBELL (Molonglo—Attorney-General, Minister for Police and Emergency Services and Minister for Planning) (11.20), in reply: I have to say that the government is somewhat bemused by the significant conspiracy theories that are being advanced by those opposite and the crossbench. I want to draw to members' attention the hypocrisy of Mrs Dunne's comments in particular. Mrs Dunne talked about the evils of conclusive certificates, but she neglected to mention that her leader stood up 20 minutes before her and said that he would be supporting, and the opposition would be supporting, the only clause in this bill that provides for a new range of conclusive certificates.

We had Mrs Dunne railing against the evils of conclusive certificates and how they are abused and should not be allowed, but her leader stood up 20 minutes before and said, "We are going to support the clause." Mrs Dunne is going to vote for the clause that puts in place a conclusive certificate. So I think the hypocrisy of Mrs Dunne's position needs to be exposed. Conclusive certificates either are appropriate or they are not, but Mrs Dunne is being a hypocrite, Mr Speaker; she is being a hypocrite.

MR SPEAKER: You will have to withdraw that.

MR CORBELL: I withdraw that, Mr Speaker. Let me come to the issue of conclusive certificates. I thank Dr Foskey for her comments, which I think were considered and obviously well-researched. Let me draw members' attention to the current provisions of the Freedom of Information Act and what the government is proposing to put in place.

Conclusive certificates can be issued in two sets of circumstances under the current act. These relate to executive documents and documents concerning commonwealth-state relations. Executive documents obviously are cabinet documents, documents for the consideration of or being considered by the executive. I do not think anyone is seriously advancing in this place that cabinet documents be subject to freedom of information requests, and that is the current situation in relation to executive documents. If Mrs Dunne is objecting to the use of conclusive certificates, maybe she should go back to taws in relation to executive documents and explain why she believes cabinet documents should be released through freedom of information.

Commonwealth-state relations are another matter. There is a longstanding provision there, as with executive documents. Commonwealth-state relations are obviously matters which have always been exempt from the FOI Act through a conclusive certificate. Working documents, I am advised, are not subject to the conclusive certificate regime.

Mr Speaker, that needs to be considered by members. Those are the circumstances in which conclusive certificates can be issued. They are longstanding provisions. As far as I am aware, no member of this place has previously objected in terms of previous considerations of the Freedom of Information Act to the application of conclusive certificates in those circumstances.

That is what currently exists. The government is proposing to insert a new clause that deals with information received by the territory around national security, defence or international relations, and it does propose a conclusive certificates regime in that regard. What is the reason for that? The reason is very simple. If the territory wishes to receive and share information from the commonwealth relating to security or defence matters, we need this provision. The commonwealth will not accept a proposition whereby they share intelligence information with us and that information could be captured through a simple FOI request.

It is not about whether we generate this information, as Mrs Dunne suggests. No, we do not generate the information. The ACT does not have its own intelligence agencies and so on. But we hold it, and we are given it and it is shared with us. Why does that

occur? That occurs so that our own emergency services, our own police forces and our own other instrumentalities can prepare or have regard to issues that may be matters of risk to the ACT community in terms of potential terrorist threat, other security threats and other matters that may endanger community safety. That is why we have that clause.

Mr Speaker, I have just been advised that internal working documents do have conclusive certificates, so I correct the record in that regard. Nevertheless, issues around internal working documents are all about the consideration by government of matters that are subject to government decision.

I do have to say that these clauses are not new. This government did not put these clauses in place, but they have been available and they are rarely exercised. These provisions have been in the Freedom of Information Act for an extended period. If members opposite are unhappy with that, they have it open to them to suggest that those provisions be changed. That is a matter for them.

Turning again to the issue of national security, defence and international relations, the new provisions provide for the security of the transfer and sharing of information between the commonwealth and the ACT. Without our ability to do so, without our ability to protect such documents, we simply would not be given access to them. I think it is in the public interest that the territory is aware of potential issues that may affect the security of our community through intelligence and other information gathered by commonwealth agencies and that we give it an appropriate level of protection. So that is what those provisions are there for.

I turn to the issue of clause 7 and the amendment that requests may be refused in certain circumstances. This clause deals with the issue of when does a freedom of information request impose an unfair diversion of resources in its compilation and assessment. Again, these provisions already exist in the act, but they are exceedingly general in nature. What we are seeking to achieve through these amendments is to make more explicit the grounds on which such a decision can be made and, in doing so, should this matter become a matter for review in the AAT, the tribunal would have more guidance on the factors that were brought to account in making the decision to refuse access because of the workload involved.

I draw members' attention to those clauses, in particular clause 7 (1A), whereby the agency or the minister must have regard to the number and volume of documents and resources that would have been used in identifying, locating and collating the documents, examining the documents and consulting on them, copying the documents, preparing an itemised schedule of the documents, and notifying the applicant of any interim or final decision. So the provision makes more explicit the grounds for considering whether a request is unreasonable and that gives guidance to both officers and the AAT in the event of a review.

The provision also makes clear that there are circumstances which cannot be taken into account in having regard to these matters. For example, in making a decision as to whether it is reasonable to refuse a request because of workload, regard cannot be had to any fee or charge payable for processing the request, the reason given by the person requesting the information and also the agency's or minister's views as to the

person's reasons for requesting the information. So you cannot just say, "We are not going to give you information because we just know you are a trouble maker and you are just trying to make a political point," or whatever it might be. That is explicitly ruled out as a reason for not giving the information, for not granting access.

I believe that this clause actually strengthens the decision-making process. It actually gives more explicit grounds for reaching a decision on this particular provision and it gives a more explicit framework for the tribunal, should review of the matter be sought, as to what the reasons were of the agency or minister involved. Those, in essence, are the changes. I know that Mr Speaker has raised some questions about review of a decision in relation to the exempting of a document. I am advised that that is covered, but I can provide him with further information on that.

At the end of the day, these provisions provide for a regime that protects information that needs to be protected where it is in the public interest to do so. They also give grounds for the more efficient working of the FOI Act without unduly limiting people's access to information. The government is not operating in the same way as the commonwealth. I think it is unfair to draw that comparison. Our freedom of information regime is still considerably more liberal than the commonwealth regime and the government has no intention of mimicking in every respect either the operation or the administration of the commonwealth scheme.

Whilst it may be appropriate for members to raise concerns about whether that is a direction in which we will head, I can assure you that that is not the case and the day-to-day operation of the Freedom of Information Act bears this out. The overwhelming majority of freedom of information requests are expedited with minimal difficulty and little, if any, dispute. There will always be matters which are more contentious in any freedom of information regime, and ours is no different in that regard. There have been a number of matters more recently that have been sought review of because of decisions that have been made around the application of the act. That is as it should be and the government does not have a difficulty with the processes that are in place in dealing with those matters currently.

I commend this bill to members. Now that you are back in the chair, Mr Speaker, I know that you have raised particular provisions in relation to clause 37 and what I would like to do is to give you the courtesy of some further information on that that I think will satisfy your concerns. I foreshadow at this point that I will seek to adjourn this debate after the in-principle vote to allow that further information exchange to occur. The government will seek to resume this debate later this sitting day. I commend the bill to the Assembly.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail stage

Clauses 1 to 6, by leave, taken together.

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

Children and Young People Amendment Bill 2006 (No 2)

Debate resumed from 12 December 2006, on motion by **Ms Gallagher**:

> That this bill be agreed to in principle.

MRS BURKE (Molonglo) (11.36): The Liberal opposition supports the major thrust of the Children and Young People Amendment Bill 2006 (No 2), which is primarily seeking to facilitate better management and coordination of the operation of the youth detention system here in the ACT. I am sure my colleague Mr Seselja will expand on this shortly.

Today I wish to focus particularly on the new section to be inserted in the act, relating to prenatal reporting and the anticipation of abuse and neglect. The Liberal opposition offers cautious support, understanding the complexity and sensitivity of the reporting procedures and in turn the follow-on observation and care required for a woman whose child, when born, may need to be taken into the care and protection of the ACT government. This, no doubt, is a very difficult area to monitor and to act upon in relation to the reporting process. I note that other jurisdictions have enacted similar legislative measures to provide for clear guidelines and provisions to emerge on prenatal reporting.

Surely no government would wish to see child deaths occur. It is therefore crucial to allow any statutory child protection agencies to have the power to intervene in the early stages to ensure the best possible chance of preventing the injury or death of an unborn child. Quoting from page 3 of the minister's explanatory statement of December 2006, I note that the provisions will:

> … enable the Chief Executive to provide, or arrange the provision of, voluntary support services to the pregnant woman and other family members who may be involved in the care of the child after birth, including for example the child's father.

The Liberal opposition supports any move to ensure that firstly the mother is offered the most suitable forms of care; that should in turn lead to the protection of an unborn child.

Naturally, the issue of a person's right to privacy may cause some concern. However, the government must surely have an overriding sense or duty of care to ensure that, whenever it is observed through a reporting process, a mother and an unborn child who face significant risk must be offered as many forms of care as the government can offer.

It would seem reasonable to intrude on some rights, given consideration of recent child deaths across Australia. Legislative measures that would allow for an early response to protecting unborn children need to be catered for so that a mother can be given early support, taking into account the need for the protection of the child.

The Liberal opposition is satisfied that procedures would be undertaken such that any pregnant woman would be allowed the right to access or not access government assistance. However, it is encouraging that the chief executive has proportionate powers to intervene, with justifiable limits, to ensure that every effort is made to reduce any likelihood of future abuse or neglect of a child.

On a personal note, I commend the minister, the departmental officials and members of the minister's office for highlighting this serious issue and implementing some clear legislative measures that further protect a mother and her unborn child where they may be vulnerable.

Finally, I look forward to a continued positive working relationship between me and the minister and between her office and my office in relation to further changes to legislation that affect our society's most vulnerable—that is, children.

DR FOSKEY (Molonglo) (11.40): While I remember it, I want to echo Mrs Burke's thanks to members and to staff in the minister's office; my office has benefited from ready access to those people as well. That is always much appreciated.

I will be supporting the Children and Young People's Amendment Bill 2006 (No 2) because I believe it brings greater human rights responsibilities into the Quamby search processes and deals with the issue of prenatal reporting in a manner that respects both mother and unborn child.

The subject of prenatal reporting and the services which should be provided to expectant mothers who are alleged to have drug and alcohol problems is a sensitive issue; it strikes issues of privacy and a person's right to bodily integrity. In 2006 national clinical guidelines on the management of mothers using drugs during pregnancy, birth and early childhood were developed and released. These were hailed as a welcome step forward. However, more research is required in order to move from consensus to evidence-based guidelines. Until the evidence becomes clearer, I believe that the ACT government has taken a careful approach that appears to be in line with human rights principles: while it recognises the risks to the unborn child, it also ensures that the response by government services has the mother's consent, is proportionate and is least restrictive.

The Murray-Mackie report showed us how tragic some of the circumstances for infants can be. It is important that services are provided to assist these mothers and their close family and friends. However, it must be done using a partnership approach: we already face a situation where expectant mothers with drug and alcohol problems tend to engage with antenatal services much later than others, due to their fear of having their child removed by welfare services upon birth. Such a situation does little to minimise the harm to the health of the mother and the unborn child. By ensuring that intervention cannot occur at this prenatal stage without the mother's consent, there is greater potential for a partnership approach and a hope that, by working together, the drug and alcohol problems can be alleviated before the birth of the child, to safeguard the health of the child and the mother and to ensure the best chances for the parent and child.

The legislative amendments in regard to searches of children and young people are to be commended for embracing human rights principles. We learned during the briefing that the government is looking at purchasing and using an X-ray machine by around August. That will relieve the need to conduct searches in the current intrusive manner. I look forward to the day when a child or young person does not have to suffer the indignity of stripping in front of an adult.

Until then, however, the undesirable practice of searches will continue. At least now they are legislatively required to embrace respect, dignity and the human rights of the young person. However, I remain concerned about the practice of "squat and cough" as a search procedure. During my briefing I was informed that the ACT government is seeking legal advice on this issue, and that it will be addressed in the searches standing order to be presented in the next few months. The practice has been condemned by the Human Rights Commissioner and many others; it appals me to see that it is still in practice. Let me quote from the human rights audit of Quamby:

> It is … the policy of Quamby to routinely conduct a "squat and cough" procedure as part of every strip search …

The audit also says:

> The use of the "squat and cough" procedure must be based on law (which it is not currently), and cannot be justified unless there is reasonable suspicion that items have been hidden … The lack of a lawful basis on which to order such searches and the lack of adequate justification in individual cases renders the routine use of such orders, even where a security risk might be indicated (e.g., visits etc), inconsistent with the prohibition on inhuman or degrading treatment under s.10 (1) (b), s. 19 (1) (humane treatment), and the prohibition on the unlawful or arbitrary interference with privacy under s.12 of the HR Act.

Our Human Rights Commissioner found over 18 months ago that the squat and cough procedure was being used unlawfully at Quamby and was in contravention of the human rights children and young people are entitled to. Yet it appears that the ACT government continues to condone this procedure. The Greens are not satisfied with the ACT government's lack of action in response to this concern. We will continue to lobby on this issue until it is resolved and the situation changed.

As a result of my briefing, I am also concerned about searches conducted on children and young people that are the responsibility of the Attorney-General and the minister for police. It seems that until the Children and Young People Bill revisions are legislated, children and young people will continue to be subject to adult searches under the Crimes (Sentence Administration) Act 2005 and, if enacted, the provisions of the Corrections Management Bill 2006. It might not be until late 2007 or early 2008 that children and young people will actually be treated as children and young people by Corrective Services. We are still waiting for the day when the vulnerable status of children and young people in regard to searches is fully recognised.

It is also concerning that, despite the passing of any of these pieces of legislation, the AFP will continue to treat children and young people as adults, as the AFP will continue to operate under the Crimes Act 1900.

There are different search provisions provided through each of these pieces of legislation, although all apply to the one vulnerable group. The best model we have so far is that provided in the Children and Young People Amendment Bill being debated today. It states that each level of search should not be conducted unless there is suspicion and that the search must be the least intrusive search that is necessary and reasonable in the circumstances.

The Crimes Act 1900, which the AFP currently uses and will continue to use into the foreseeable future, also requires that there be reasonable grounds for suspicion, but it makes no distinction between the search provisions for a child, an adult or a young person. It also fails to require that the search is the least intrusive possible.

When it comes to corrective services being responsible for a child or young person, it must currently abide by the Crimes (Sentence Administration) Act 2005; if passed, the Corrections Management Bill 2006 will then govern the search provisions. The Crimes (Sentence Administration) Act does not restrict the powers of the chief executive with regard to searching and basically upholds current practice. Again, there is no distinction between youth and adult detainees. The Corrections Management Bill gives fairly unrestricted power to search and certainly makes no distinction between youths and adults. Finally, perhaps in 12 months time, when the revised Children and Young People Bill is passed, Corrective Services will have to abide by the Children and Young People Act.

The Crimes Act, Crimes (Sentence Administration Act) and Corrections Management Bill lay out relatively backward processes in spite of the progress the government has made with regard to the Children and Young People Act, which entitles youths to individual consideration and appropriate proportionality with quite a bit of oversight.

As well as the complexities associated with administering four different pieces of legislation in the next 12 months in relation to searching children and young people, it is an additional challenge to uphold three pieces of legislation which clearly have not been developed with consideration to the needs and rights of young people and juvenile justice.

I am disappointed that for possibly the next 12 months, until the revised Children and Young People Bill is passed, our children and young people in the ACT will continue to be subject to the search procedures I have mentioned and that the two responsible ministers between them have not thought it important enough to remedy this situation. I would like to see the minister for children and young people take this issue up with the Attorney-General and seek appropriate legislation sooner rather than later to ensure that the human rights of children and young people during searches are recognised at all times.

Finally, I would like to thank the department for its extensive and detailed briefing. I fully appreciate the effort that its officers have taken. I also appreciate the commitment of this minister to improve aspects of her portfolio like this one. We are not there yet, but we do appear to have come a long way. I will certainly be supporting this amendment bill.

MR SESELJA (Molonglo) (11.50): My colleague Jacqui Burke has said what the Liberal opposition's position will be on the Children and Young People Amendment Bill 2006 (No 2): we will be supporting the bill. I want to speak a little on some of the areas around search powers and the areas that apply to ACT Corrective Services in relation to young people generally.

This bill tries very hard to find a balance between the rights of detainees, the rights of young people who are in detention, the right of employees to work in a safe environment and the right of the community to be protected from people escaping and the like. It seeks to get that balance and it goes a fair way to doing that. We have looked at these provisions fairly closely and in terms of setting out broad parameters.

In particular, we have looked closely at some of the search powers. In terms of broad parameters, I think the bill goes a reasonable way to getting it right. It is very important that, in this debate and in legislation like this, we protect the dignity of young people. Things such as strip searches are something that we want to avoid wherever possible, but of course there are circumstances where they are necessary.

Much of how this plays out in practice will depend on the training of the particular officers involved, the procedures that are set up and the culture of the organisation. Legislation can go only so far in protecting people's rights. It can set out the broad parameters. It can set out penalties—although I note that there are not penalties here, and I might come back to that in a second. What will be important are the standing orders. They are coming and we will be looking at them very closely.

It needs to be recognised that simply putting in legislation that we protect the rights of these young people will not get it done. That is where it is going to be incumbent upon the minister and senior officers in the department to ensure that the guidelines and the culture that goes with this are put in place in such a way that young people are not subjected to unnecessary or humiliating searches wherever that can be avoided.

I want to touch on a couple of provisions of the bill. In her tabling speech, the minister said:

> The search provisions in the Act require simultaneous amendment in order to ensure that searches of children and young people detained at the youth detention centre are done in a way that is compatible with the Human Rights Act.

I question whether we need the Human Rights Act to tell us to treat young people with dignity or to treat young people in a way that is not overly intrusive. I do not think that the Human Rights Act is a necessary precondition for us to have provisions like this. We could come up with these provisions without the Human Rights Act—though, to the extent that the Human Rights Act acts as a guide, it may be of some use. We in the Liberal opposition have put our concerns about the Human Rights Act on the record in the past, but I do not see that any of these provisions would not have been made or should not have been made even if we did not have the Human Rights Act.

There are provisions around search powers and screening powers in Commonwealth legislation. Much of that material is very similar in terms of ensuring that people conducting the searches do it in a respectful manner and that we do not have males searching females in a close way where that can be avoided—and vice versa. That is pretty standard legislative practice, and that should be the legislative practice. We need to ensure that these search powers are not abused. These are particularly vulnerable young people. They need to be protected, but at the same time they sometimes need to be protected from each other, and that is where the balance comes in.

There are no penalties. I do not particularly make comment on that; I just raise it because I know that in, say, some of the commonwealth legislation where there are search powers there are penalties where officers overstep the mark or breach particular laws. I would just put that out as something that can be looked at. It does not need to be a severe penalty, but at times a penalty can be something of a deterrent when you do get rogue officers or rogue employees who might want to breach some of these provisions.

This morning I raised another issues with one of Ms Gallagher's staff members. I had a brief discussion on one of the provisions, in relation to section 401AK, which concerns the requirements of scanning, frisk and ordinary searches. I referred to subsections (2), (3) and (4). Subsection (2) says:

> A frisk search or ordinary search of a detainee must not be conducted in the presence or sight of—
>
> (a) another detainee; or
>
> (b) someone else whose presence is not necessary for the search.

Subsection (3) says:

> A frisk search of a detainee must be done by a youth detention officer of the same sex as the detainee.

Subsection (4) exempts (3). It says:

> Subsection (3) does not apply if the chief executive believes on reasonable grounds that—
>
> (a) there is an imminent and serious threat to the personal safety of the detainee or someone else; and
>
> (b) compliance with subsection (3) would exacerbate the threat.

I raise that because I thought it was somewhat curious that subsection (2) is not also exempted. That says that a frisk search or ordinary search must not be conducted in the presence or sight of other detainees where there is an imminent threat. I was assured by the member of Ms Gallagher's staff that that has been considered, and that there still may be some circumstances where, if the threat is so serious, that search would be conducted in a way not in accordance with subsection (2).

I bring that to the attention of the Assembly and the minister. It may be a loophole; it may not. I just want to get some clarification from the minister that she is comfortable that that is not going to prevent searches in some circumstances where there is an imminent threat and a need for a search and where some of these provisions may not be able to be complied with in the circumstances. I bring that to the attention of the Assembly and the minister. I look forward to seeing the standing orders and will look at them very closely. We need to get this right.

I conclude by saying that I think that much more is going to be needed than just this piece of legislation. The legislation is a good start. It may need to be amended in small ways down the track, but it seems as though it seeks to get the balance fairly right, and does get the balance fairly right, in terms of protecting young people who are in custody, protecting the community generally and protecting employees. I commend all of the work that went into preparing this legislation. The opposition will be supporting the bill, but we look forward to seeing the standing orders as soon as possible so that we can look at them very closely.

MS GALLAGHER (Molonglo—Minister for Health, Minister for Disability and Community Services and Minister for Women) (11.58), in reply: I thank members for their contribution to the debate and for their support for the Children and Young People Amendment Bill 2006 (No 2). As other members have said, the bill introduces prenatal reporting to allow the chief executive to receive and respond to reports of concerns of anticipated abuse and/or possible neglect. The bill also revises the search and seizure scheme for Quamby Youth Detention Centre.

Prenatal reporting is outlined in clauses 6 to 9 of the amendment bill. The bill introduces prenatal reporting to allow the chief executive to receive and respond to voluntary prenatal reports during a woman's pregnancy and removes ambiguity about the legal status of such reports on information currently being received from community members.

Prenatal reporting gives effect to one of the key recommendations of the recent Murray-Mackie study into the near-deaths and deaths of children in the ACT. The bill has been assessed as compatible with the Human Rights Act on the basis that it does not interfere with a pregnant woman's human rights or liberties, particularly the right to privacy.

Any assessment or intervention that may occur following a prenatal report can be undertaken only with the freely informed consent of the pregnant woman. The bill does not confer any legal rights onto the child before its birth. Instead, it allows a supportive response at the earliest possible stage to prevent harm that might otherwise occur after the child's birth and to provide support to the mother during the pregnancy to ensure that any issues that may result post the birth because of lack of support during the pregnancy are picked up earlier than they would otherwise be.

A number of other Australian jurisdictions have introduced prenatal reporting to address these complex issues—namely, Queensland, New South Wales and, most recently, Victoria. Experience there and elsewhere confirms the need for prenatal reporting to ensure that adequate attention is given to the future needs of children at the earliest opportunity.

The bill proposes that people making prenatal reports will be protected from civil and criminal liability, as currently exists for reporters of all other child protection reports. The bill proposes to expand the offence for people making dishonest child protection reports to include reporters making prenatal reports. This will ensure that reporters are adequately deterred from making dishonest and vexatious prenatal reports.

The government considers that prenatal reporting is necessary and proportionate to the objective served by the provisions in reducing the likelihood of future abuse or neglect of children.

In relation to the search and seizure scheme as outlined in the amendment bill, the search provisions in the act require simultaneous amendment with the standing orders to ensure that searches of children and young people at Quamby are done in a way that is compatible with the Human Rights Act. The bill establishes that the proposed search and seizure scheme will apply to children and young people lawfully detained in the youth detention centre. It will not apply to a child or young person who is subject to a therapeutic protection order or who is living at the shelter known as Marlow Cottage. There has been further policy work on a revised search and seizure scheme for children and young people who are subject to therapeutic protection; this is included in the exposure draft of the Children and Young People Bill currently subject to community consultation.

Searches of children and young people who are remanded or committed to a youth detention centre are necessary to prevent the entry of unauthorised items that may harm another person within the youth detention centre, including the detained child, another young person or employees who work at the detention centre.

The Human Rights Act provides at section 8 that everyone has the right to life. Public authorities have a positive duty to protect the life of a person in the care or custody of the territory The search and seizure scheme, involving the use of force in certain circumstances, will protect against the unlawful admittance of contraband which could threaten the safety of children and young people detained at the youth detention centre.

Strip searches and searches of body cavities are inherently degrading and therefore engage principles of human rights, in particular the right to humane treatment, the right to privacy and protection of the child. To ensure that searches of detainees are proportionate to the necessary aim of the searches, the bill introduces a number of obligations for persons conducting or assisting with a search. These obligations are introduced to ensure that the children and young people who are searched are treated humanely and with respect for their inherent dignity, and are protected from unlawful or arbitrary interferences with their privacy.

The Standing Committee on Legal Affairs commented on the bill in scrutiny report 37. The committee queried whether it is a reasonable and proportionate intrusion on a pregnant woman's right to privacy for the record of a prenatal report to be retained in government files. The committee also sought clarification about how clauses relating to meeting detainees' medical needs and the searching of legally privileged material would operate, and queried whether the provisions were ambiguous. The committee

further queried why the definition of privileged material was broader than the definition contained in the Corrections Management Bill 2006. I have provided a detailed response to the chair of the committee in response to these issues. The committee's comments did not require any government amendments to the bill.

Let me turn to some of the comments that previous speakers have made. I listened to Dr Foskey with great respect on this matter. I understand her commitment to children and young people and to the day-to-day goings on at Quamby. I agree that it is a process of continuous improvement. This work has been ongoing for the last couple of years. It often seems to take a long time to progress these matters to where they are today. I will look more closely at the issue raised about consistency in how young people are treated at all times and whether we have incorporated or covered that through the exposure draft which is out for consultation at the moment.

The standing orders, the provisions in the new act and the amendments which we are urgently dealing with today, outside the exposure draft, are indications of steps that we are all taking to make sure that the framework that exists to support children who have to reside at Quamby is the best it can be. The legislative framework needs to be there first. The standing orders will come, but then there will be a process of training and other day-to-day activity at Quamby to make what we are talking about here a reality for young people and for staff.

We are working on the new scanning machine. We are going through procurement of that machine. It will greatly assist with some of the issues we have talked about today—in terms of subjecting young people to this kind of exercise when they enter Quamby. We will be one of the first jurisdictions to use a machine such as this to get around some of the very difficult issues of searches of young people. I look forward to that machine being in place at the earliest opportunity.

Let me turn to Mr Seselja's comments about how we do not really need a Human Rights Act in order to treat people with dignity. To some extent I agree with that—that we do not need one piece of legislation to tell us how to do another piece of work which can equally be covered through its own provisions in its own legislation. However, it is important for members to remember that it is precisely because of the Human Rights Act that this work was commenced and undertaken. It was precisely because of the Human Rights Act that we established that Quamby was not legal in the first place, and never had been, and that for over 10 years we had been detaining young people at Quamby in an illegal shelter. It was through the human rights legislation and the human rights review of Quamby that these issues were picked up. That was also the case for the lack of a legislative or other base for some of the practices that had been going on in Quamby for many years—even prior to the establishment of Quamby at Symonston.

Whilst I accept Mr Seselja's opposition to the Human Rights Act, I just remind him that, if it were not for this government's position on Human Rights Act, the human rights audit of Quamby would not have been undertaken. It would not have been undertaken in accordance with the act; we would not have had that report; we would not necessarily have gone to these amendments. We would not have found that Quamby was illegal and fixed that up. And all the work that has been done on the

standing orders over the past 18 months would not necessarily have been done to the highest order, as it has been.

In relation to juvenile justice, the Human Rights Act sets a higher test for us than other jurisdictions have. It sets a very high standard of care. Other jurisdictions do not need to abide by a human rights act when they are looking at how they manage children and young people on a day-to-day basis. Yes, they treat them with respect. Yes, there are guidelines about how they can operate—behaviour management programs and search and seizure procedures and all that. But it is not necessarily measured in accordance with the human rights of an individual. That is the difference we have here and that is why the Human Rights Act has been so important.

I turn to the comment about section 401AK. I am advised that 401AK (4) would not apply to 401AK (2), because in emergency situations we do not intend the search to occur in front of other detainees or persons whose presence is not necessary. I take the point: it is hard to legislate to cover every situation that may occur. This is one of the realities of understanding what goes on at Quamby on a day-to-day basis. You just cannot foresee some of the issues that are presented to staff and young people at the centre. You cannot imagine some of the things that people try to bring into the centre—or take away. It is hard to create a framework where the legislation allows for all of those situations to be incorporated. I am advised that, as far as we can see, as best we can see, those subsections are okay at the moment. However, as Mr Seselja says, there may be a need to look further at all of this in the future—particularly through discussion of the exposure draft once it becomes a formal bill in the Assembly.

In conclusion, I would like to thank members for their contributions. I appreciate the unanimous support that we sometimes reach in the Assembly. It is rare, but we sometimes do it. I also thank the staff at the Office for Children, Youth and Family Support—Paul Wyles and his team—who undertook this work. A couple of years ago they probably did not know the full extent of it, and they are still beavering away. The path is heading in the right direction, and I would like to thank Paul and all his staff for their commitment and for their excellent advice to me as we move forward, particularly around Quamby. I also thank Garrett Purtill in my office. He always makes himself available to everybody to talk about these matters when they need to be talked about.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

Sitting suspended from 12.11 to 2.30 pm.

Questions without notice
Bushfires—coronial inquest

MR STEFANIAK: My question is to the Chief Minister. I refer to this finding in chapter 7 of Coroner Doogan's report:

> 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.

Chief Minister, can you point to a more damaging finding by a coroner against a minister in the history of the Assembly?

MR STANHOPE: I cannot point to one that is more incorrect than that. As I have said, and I repeat, the coroner is simply and utterly wrong in the conclusion that she draws on what cabinet was and was not told. I have said that, I think, a dozen times in the last few weeks. I repeat it. Mr Stefaniak and the Liberal Party continue to recite those particular comments, but that does not change my opinion or the opinion of Mr Corbell, Mr Quinlan, Mr Wood, Mr Rob Tonkin or Mr Tim Keady. Perhaps most significantly, it does not change the opinion or evidence of Mr Mike Castle or Mr Lucas-Smith.

If one were to suggest that there was anybody with a particular interest in providing evidence to the coroner to the effect that cabinet was told these things, it would have been those that were responsible for the briefing, namely, Mr Mike Castle and Mr Peter Lucas-Smith. I refer members to their evidence, which is available to the public and to members. I refer you to the evidence of Mr Mike Castle and Mr Peter Lucas-Smith, the two people, as events have unfolded, that would have had a significant personal interest, it would seem to me, in providing evidence, if it existed, to the coroner that they briefed cabinet in the terms that the coroner ultimately found. But they did not.

MR SPEAKER: I remind the Chief Minister that there are proceedings afoot by Mr Castle and Mr Lucas-Smith.

MR STANHOPE: Thank you very much. I will leave my answer there. I commend to all members and the public at large the evidence of Mr Mike Castle and Mr Peter Lucas-Smith to the coroner on the information which they provided to cabinet. Not even Mr Peter Lucas-Smith or Mr Mike Castle, in their evidence, supported the conclusions arrived at by the coroner. In fact, nobody has. I would have to do a quick count, but I, Mr Rob Tonkin, Mr Tim Keady, Mr Mike Castle and Mr Peter Lucas-Smith gave evidence on that matter. Nowhere in the evidence of any one of us is there a suggestion that cabinet was briefed in the terms concluded by the coroner. That is interesting, isn't it? Five sets of sworn evidence—my sworn evidence, Rob Tonkin's sworn evidence, Tim Keady's sworn evidence and Peter Lucas-Smith's sworn evidence do not support the conclusions which the coroner arrived at.

In addition, those cabinet ministers who were not called to give evidence or who were not asked by the coroner to appear—namely, Mr Ted Quinlan and Mr Bill Wood, the minister who arranged the briefing and who was the responsible minister on the day—and were not called or invited to make a statement to the coroner have, in statutory declarations, again supported the sworn statements of those five who gave evidence. There are seven sworn statements, under oath, that the conclusions that the coroner drew are without substance or foundation. How many statements or how much sworn evidence that supports the coroner are there? Who gave evidence on this matter or provided evidence that supports the coroner? No-one! The count is seven to nil. *(Time expired.)*

MR SPEAKER: Does the Leader of the Opposition have a supplementary question?

MR STEFANIAK: I think he should read it again. Mr Speaker, my supplementary is: Chief Minister, why didn't you?

MR STANHOPE: I, of course, have answered this question on a significant number of occasions and I believe that I gave sworn evidence on this subject, too, to the coroner. It is quite obvious, of course, that the Leader of the Opposition has not bothered to go to the evidence but I gave sworn evidence on this particular issue and, interestingly, so did all of those others that appeared on behalf of the government, including Mr Lucas-Smith and Mr Mike Castle, and, in their statutory declarations, Mr Ted Quinlan and Mr Bill Wood go to the very same issue. We at all times responded actively and appropriately to the advice of the expert officials that we as a government engaged to advise on these matters—at all times.

That is the sworn evidence of all of us, that is the sworn evidence of myself, that is the sworn evidence of Rod Tonkin, that is the sworn evidence of Tim Keady, that is the sworn evidence of Mike Castle, that is the sworn evidence of Peter Lucas-Smith, that is the sworn evidence of Ted Quinlan, that is the sworn evidence of Bill Wood, and confirmed by Mr Corbell as a minister at that cabinet meeting. That is the sworn evidence of the seven of us that attended the meeting and it is the public stated position of Mr Corbell—eight to none.

Bushfires—coronial inquest

MR SESELJA: My question is to the Chief Minister. Chief Minister, in the early afternoon of Saturday, 18 January 2003, there was a meeting involving you and a number of people from the ESB and senior officers from government departments. In relation to the involvement of the police in that meeting, according to the transcript of evidence of the coronial inquiry, the Chief Police Officer said:

> I wasn't expected, as I understand it. I wasn't invited and I wasn't expected.

On 6 March 2007, you were asked about this meeting and you said:

> Commissioner Murray was invited to the meeting … It is not true to suggest that the commissioner was not invited. He was explicitly invited.

On 7 March 2007, when asked about the contradiction between your recollection of Mr Murray being invited to this meeting and Mr Murray's evidence under oath, you said:

> I gave an account of the meeting under oath to the coroner as well and I stand by it.

Chief Minister, there is no mention of the police being invited to this meeting in your evidence to the inquiry. Why was the Chief Police Officer not invited to the meeting?

MR STANHOPE: I did not arrange or call the meeting. I do not know who did. I presume it was a matter of moment to the coroner. I did not call the meeting. It was not my place to call the meeting. This matter, of course, has been agitated before the coroner over four years, at a cost of $10 million. If the opposition believe that the coroner has been remiss in not pursuing this particular issue or question, then that is an issue, of course, for the opposition. If the opposition is suggesting that this is a vital matter that the coroner should have pursued, then that is a matter between the opposition and the coroner.

The coroner undertook an extensive inquiry. It took four years. It cost $10 million. If there are issues around who called the meeting and who was invited that have not been resolved or agitated by the coroner, then essentially that is a matter for the coroner. It is not a matter for me. What I know and what I state now, and stated earlier this week, is that when I arrived at the Emergency Services Authority I was informed that a meeting had been convened and that an important and vital attendee at that meeting was the Chief Police Officer. I do not know who informed me of that or advised me but, in the course of that conversation, it was indicated that the meeting should not commence until the Chief Police Officer arrived.

Why those that were responsible for the meeting—namely, the senior executives of the Emergency Services Authority—were advising or informing me that the meeting should not commence until the Chief Police Officer arrived, if he had not been invited or they were not expecting his attendance, is something I simply cannot explain. But, in the context of why we were awaiting the Chief Police Officer and where it was that he may have been that was causing his delay, I was informed at the time that the meeting could not commence in the absence of the Chief Police Officer. So there was certainly an expectation.

Whether or not he had been invited is a matter that I cannot respond to. There was an expectation amongst those, conveyed to me, that the meeting should not commence until the Chief Police Officer arrived. The Chief Police Officer was in Sydney and they were awaiting his return from Sydney so that the meeting could commence. I did posit the interesting question earlier this week: I do not know why the Chief Police Officer was in Sydney. I do not even know if he was there. I was told that that was where he was. I was told that the Chief Police Officer was in Sydney and that the meeting was delayed whilst we awaited the return of the Chief Police Officer from Sydney to Canberra.

I do not know whether, in the evidence, the coroner goes to this point as to why, in the light of some of her findings, it could have been that the Chief Police Officer of the Australian Capital Territory, the person in whom control of the territory would be vested under the Emergencies Act, had gone to Sydney. In the scenario which the coroner paints or finds and which the Liberal Party continue to pursue, if the situation were that desperate, how was it that the person in whom control of the territory would be vested in the case of a state of emergency was in Sydney and why had he gone to Sydney? Why was he there?

Mrs Dunne: Because he wasn't briefed.

MR STANHOPE: Because he wasn't briefed!

Mr Stefaniak: Why wasn't he?

MR STANHOPE: I do not know if he was briefed or not. I think perhaps he had the same briefing as the cabinet had. I think perhaps the Chief Police Officer was in Sydney on Saturday morning, 18 January, because he had received precisely the same briefing as the cabinet had received; namely, that there was not a matter of significant concern at that time, excepting that we faced a very serious situation. Is it not conceivable, on the basis of the scenario you paint, that the reason the Chief Police Officer of the Australian Capital Territory was in Sydney on the morning of 18 January 2003 was that he had in fact received precisely the same information that the cabinet received? Is that a feasible possibility? It is perhaps a matter of regret that the coroner did not pursue that possibility or that line of questioning.

MR SESELJA: I have a supplementary question. Chief Minister, have you misled the Assembly with your answers of 6 March and 7 March?

MR SPEAKER: Withdraw that.

Mrs Burke: He said one thing and he is saying another thing now. It is a fair question.

MR SPEAKER: I think there is an imputation that the Chief Minister may have misled.

MR SESELJA: Mr Speaker, I have pointed out two seemingly contradictory pieces of evidence and I am simply asking him whether he has misled the Assembly in relation to that.

MR STANHOPE: No, Mr Speaker.

Land development

MR GENTLEMAN: My question is to the Minister for Planning. Minister, the government has recently made further major announcements on the provision of additional land for housing in Canberra. Can you tell the Assembly how this land will assist in providing more housing opportunities for Canberrans?

MR CORBELL: I thank Mr Gentleman for the question. The government is very much putting its foot on the pedal to provide additional land to meet the significant increase in demand for new land in Canberra following the federal government's budget last year. As we know, following the federal government's budget last year announcements were made that have been predicted to bring about 5,000 additional public service jobs into our city, and that is certainly creating increased interest in and demand for land for new housing in the ACT.

In response to this, I was very pleased today to be out at the Bonython west development in Mr Gentleman's electorate, which is the final significant land release of a greenfields suburb in Tuggeranong. So it is an interesting footnote in some respects; it is the final bit of urban development for greenfields land in the Tuggeranong valley. This development will provide for around 226 dwelling sites, which will be released progressively by the LDA over the remainder of this calendar year, and the civil works associated with that represent about a $7 million investment in contracting work, civil engineering and infrastructure work, which will make a significant investment in the local community, as well as providing for that very important new housing estate.

This comes on top of other work the government has commenced and undertaken since September last year to significantly release additional land supply. Between September and December last year we have released over 520 blocks to the market for development. Since the beginning of this calendar year, in addition to west Bonython we have released land at west Macgregor, and further releases are anticipated at Franklin, Forde and Wells Station. So a very significant land release program is in place now, of close to 2,000 dwelling sites, just for this financial year.

The Bonython release in particular will be of great interest to people looking to buy land in the Tuggeranong valley. It is closely located to the Tuggeranong town centre but has a magnificent outlook over the Murrumbidgee River corridor and also takes good advantage of existing public and private infrastructure, in particular the Stranger Pond at the back of Bonython, which provides for an excellent level of amenity.

The government will continue to undertake this very significant land release program, as well as continuing to look at a range of issues around affordability and implement measures that can help to address this challenge. The Chief Minister, as members would know, has been instrumental in pushing this particular policy development agenda. The work that is being undertaken by the Land Development Agency when it comes to land release is now over $60 million in value. We now have a civil construction program in place through the Land Development Agency which is delivering a program worth $60 million in terms of civil works currently under way in the ACT.

I was very pleased to be down at Bonython west today with Mr David Dawes from the Master Builders Association, who welcomed this significant level of investment by the ACT government in the civil construction sector. This is obviously very good news for the members he represents who perform civil construction work, and it is a very significant level of investment in the local economy by the ACT government, because we know that for every million dollars in civil construction works Mr Dawes

quoted the figure that 15 jobs are created in the civil construction sector—eight directly and seven indirectly. So it is a very significant investment in our community; a significant commitment to address the demand for land supply in the territory.

We will continue to focus strongly on this issue in the months ahead and I commend the work that is currently occurring at west Bonython. If members are interested in seeing work in that last residential estate in Tuggeranong, I would be very happy to provide further details to them.

Education Amendment Bill 2006—amendments

DR FOSKEY: My question is to the minister for education and concerns the late amendments to the Education Amendment Bill 2006, passed on Tuesday, 12 December, which his office described as technical. Were the minister and his office aware that those amendments specifically impeded any plans of the Tharwa school community to set up the school as a campus of a private non-government school already established in Canberra? Isn't it deceptive to withhold such amendments until the last minute and then fail to declare their intent?

MR BARR: I thank Dr Foskey for the question and the opportunity to clear up this issue. I can state absolutely categorically that those amendments had no bearing whatsoever on Tharwa—

Mrs Dunne: That is not the answer to the question. Did you know?

MR BARR: and had absolutely no bearing at all on Tharwa. As I explained at the time, they were simply technical amendments to indicate an area within the Education Act where the act was silent in relation to the registration of additional campuses. All the amendments did was apply the same provisions—

Mrs Dunne: I think that's a yes, Deb.

Mr Stanhope: About as silent as the Liberals on education policy. Develop any policy last night?

Mr Pratt: Part of your program to exterminate Tharwa.

MR SPEAKER: Order! Mr Barr has the call. Cease interjecting, please.

MR BARR: All the legislation did was apply the same provisions to the registration of an additional campus—

Mrs Dunne: Making it impossible for Tharwa to do what they had already planned to do.

MR SPEAKER: Order! Mrs Dunne!

MR BARR: Additional campus that also applied to extending the year level of a non-government school or starting a new non-government school. That was all those amendments did—provide the same provisions.

Mrs Dunne: That is exactly right, but did you know that Tharwa was going to—

MR SPEAKER: Order! Mrs Dunne, I warn you.

MR BARR: The heroic assumption that is being made by Dr Foskey and Mrs Dunne is that in some way the government was going to immediately hand over the facility of Tharwa that we are still using as a government preschool—that we were going to hand that over. That was never going to occur. That property is maintained in government ownership for the use of the Tharwa preschool. Any conspiracy theory that the property was going to be transferred to a non-government school is just that—a conspiracy theory. It is rubbish.

The amendments to the act simply applied the same provisions to the registration of a new campus for a non-government school as applies to the extension of a year level or the establishment of a new school. There is a process—and it is a process that is supported by the Association of Independent Schools. It is a process whereby there is a registration period. It is an appropriate process and it should be gone through. I think all members would agree that not just anyone should be able to set up a school in the ACT—that you should meet appropriate standards and that there should be an appropriate process.

Ms Gallagher: And there should be demand.

MR BARR: Indeed. As Ms Gallagher points out, there should be demand.

Ms Gallagher: They are the criteria that you used.

MR BARR: They are the criteria in the act. We apply exactly the same criteria, as I say. For those who choose not to listen, I say for the third time—

Mr Smyth: Go and talk to them. Go and talk to the Tharwa residents.

Ms Gallagher: This was the intention of the original act, which you guys supported.

MR SPEAKER: Order! The Deputy Chief Minister will cease interjecting.

Mr Pratt: We would never have supported the eradication of Tharwa.

MR SPEAKER: Order! Mr Pratt! Mr Barr has the call.

MR BARR: I will say it again. I repeat: the same provisions. If Dr Foskey and those opposite seriously believe that existing non-government schools should be able to establish multiple other campuses without any regulation—if that is what they seriously believe—let us hear them say that. Let us hear them say that to all of the non-government schools that would be affected by one or other of their competitors going out and establishing multiple campuses without any form of regulation. That is what the amendment dealt with, and I stand by it.

MR SPEAKER: Do you have a supplementary question, Dr Foskey?

DR FOSKEY: Thank you. Could the minister please provide for the Assembly all instructions and correspondence relating to the drafting of those amendments and the advice that he received from the education department as to why they might be necessary and their impact?

MR BARR: I provided that information in my speech, in the outline of why the government sought to legislate in this area. It was a clear area where the act was silent, and I said that at the time. If there was an error in what occurred, it was that members were not provided with the full detail of those amendments on the Monday. They should have been provided on the Monday; I think the information was provided on the Tuesday. I apologise—and I apologised at the time—for that delay.

Bushfires—coronial inquest

MRS DUNNE: My question is to the Chief Minister. Chief Minister, yesterday in question time, in relation to a call from Mike Castle and evidence that you gave to the coroner, you said:

> I gave a statement. I was called as a witness. I was examined. These issues were raised by counsel assisting—a most significant senior counsel. He raised these issues in his examination of me in the court.

In fact, you gave evidence on 20 April 2004, and the existence of the call from Mr Castle became available on 4 May 2004, some weeks after. On 13 May you advised the Assembly:

> I was not asked about any contact I had, or might have had, with officials or emergency services personnel.

Chief Minister, why did you give incorrect advice yesterday about your evidence to the coronial inquest?

MR STANHOPE: I provided a supplementary statement to the coroner providing extensive detail on this particular issue and was available for subsequent examination on the details of the telephone call. I gave evidence to the coroner on all the details around the issue of the telephone calls. It was in my sworn statements to the coroner.

MRS DUNNE: I ask a supplementary question. In relation to the phone call from Mr Castle, given that you hedged about with your answer on two days, will you now tell the Assembly why you did not return Mr Castle's call?

MR STANHOPE: I have answered that question.

Emergency services—restructure

MR PRATT: My question is to the Minister for Police and Emergency Services. Minister, in the last eight months we have seen four senior officers in the emergency services resign. Additionally, a number of middle-ranking professional officers and

volunteer rank and file have also resigned, or simply not come back to training. The chief fire officer has now resigned in disgust. I have it on impeccable authority, minister, that he decided to resign immediately after the briefing that announced your latest restructure of the Emergency Services Agency. Why have you and your commissioner misled the ACT community as to the real position and, that is, that the chief fire officer resigned in disgust?

MR CORBELL: Mr Pratt does not know that that is the decision of Mr Prince. I assume Mr Pratt has not asked or spoken to Mr Prince to have that confirmed.

Opposition members interjecting—

MR CORBELL: It is an assumption on the part of Mr Pratt. I saw Mr Prince last night at a meeting where I was attending a meeting of the community fire unit representatives. Mr Prince was there. I spoke to Mr Prince and thanked him for his service and his commitment to the ACT Fire Brigade and to the community and expressed my view that I was very sad to see him leaving the organisation. He indicated to me that he had taken the decision that it was time for him to move on to other things in his life and we left the discussion at that.

Opposition members interjecting—

MR SPEAKER: Order! Members of the opposition!

MR CORBELL: Mr Speaker, I know that those opposite would like to think there is some sort of serious, devilish conspiracy at play here and the government is seeking to hide or cover up the reason for Mr Prince's resignation. The reasons for Mr Prince's decision to retire are entirely a matter for Mr Prince.

Mr Pratt: It depends on the circumstances, Simon. It might be a public interest.

MR SPEAKER: Order! Mr Pratt!

MR CORBELL: What is most undignified is Mr Pratt's assumption that he knows why Mr Prince has taken the decision to retire. You are dragging Mr Prince into the political debate. He is not interested in engaging in that political debate. He has taken the decision to retire. That decision should be respected instead of the pathetic and undignified approach by Mr Pratt who leaps to the assumption that Mr Prince must be unhappy with me, or the government, or our political and government agenda. Perhaps it may just be that Mr Prince has decided to retire.

Mr Pratt: You blokes have treated him like bloody dirt.

MR CORBELL: I find it distasteful, Mr Pratt—

MR SPEAKER: Order! Mr Corbell, resume your seat. Mr Pratt, how many times do I have to call you to order to get you to quieten down? Mrs Dunne is on a warning now. I call Mr Corbell.

MR CORBELL: I find it distasteful in the extreme that Mr Pratt and other members of the opposition will seek to drag a fine and outstanding leader like David Prince into the political agenda just to suit their political critique of the government when it comes to the Emergency Services Agency. They are entitled to critique this government as much as they like but they are not entitled to make assumptions about decisions made by senior officers within our emergency services agency without evidence, without a scrap of evidence, and to drag that person into this debate.

Mr Prince is a fine and outstanding man. I have enormous respect for him. I have very little respect for those opposite who seek to drag into the political debate the reputation, the standing and the motivations of people like David Prince simply to suit their own political agenda. They should be ashamed of their behaviour. They should apologise to Mr Prince for dragging him into the political arena in this way. The only person who can speak about what Mr Prince's motives are is Mr Prince. They should refrain from drawing conclusions they have no basis for.

MR PRATT: I ask a supplementary question. Of course, minister, you know that he will not go public.

MR SPEAKER: Order! Come to the subject of the question.

MR PRATT: Minister, while losing one senior executive may be regarded as a misfortune, losing five surely looks like carelessness.

MR CORBELL: It is not a question.

Emergency services—restructure

MR MULCAHY: My question is to the minister for emergency services. The restructure of emergency services announced on Tuesday has effectively reduced the ESA to the same unworkable and unreliable position that the failed ESB was pre-2003. This is clearly why fire brigade chief officer, David Prince, resigned, the fifth senior officer to do so since you took over the portfolio. Minister, did you take into account the detrimental effect on professional officers and volunteers of another damaging restructure?

MR CORBELL: I thank Mr Mulcahy for the question. All of the assumptions in Mr Mulcahy's question are not based on any sense of reality. We have a series of artificial constructs designed to justify the Liberal Party's position on this matter.

A lot has changed since 2003, and I am very happy to put these things on the record. We now have an arrangement where the operational independence of our chief officers and our operational staff is guaranteed in legislation. Those opposite know this and seek to avoid and ignore it because they know it does not suit their argument.

Yesterday, I was able to demonstrate to those opposite that, despite claims to the contrary, the commissioner of the ESA and the chief officers of the ESA have very good access to the minister. I was able to demonstrate yesterday that, in the last six

months, the ESA commissioner met with me directly on 15 separate occasions. That amounts to probably once a fortnight over the past six months.

In addition, I was able to demonstrate to those opposite that each of the chief officers of the four services were equally able to meet with me on three or four separate occasions over those six months. Any suggestion that the chief officers or the commissioner are unable to talk to the minister is simply not supported by the evidence.

Mr Pratt: The high-buy concept?

MR SPEAKER: I warn you, Mr Pratt.

MR CORBELL: They also fail to acknowledge that, since 2003 and with the passing of the Emergencies Act in 2004, those officers not only continue to have excellent access to the minister to raise issues of concern but also have their operational independence guaranteed in legislation. This did not exist before 2003. There were no guarantees under Mr Smyth and other Liberal ministers of operational independence in legislation; there was no freedom to act independently; there was no ability to make decisions based on operational needs and demands guaranteed in legislation. There is now. That situation is unchanged, even with the decision to consider the ESA as part of the justice portfolio.

Any suggestion that there is an inability for our senior executives in the ESA to operate with independence when it comes to operational matters is not in doubt. Have a look at the legislation. Any suggestion that the commissioner and his chief officers are unable to meet with me is not supported by the facts.

I have every confidence in the commissioner. I note today that, for the first time, we have an attack on the commissioner of the ESA by Mr Pratt and Mr Mulcahy. They are now taking the decision that the commissioner clearly is an impediment to their political critique of the ESA and they are going to start to undermine his position. I am going to stand by the commissioner and the senior staff of the ESA.

Mr Smyth: On a point of order: the question was about the detrimental effect on professional officers and volunteers. The minister has avoided it for four minutes. He might answer that question.

MR CORBELL: There is no point of order.

Mr Smyth: There is a point of order. You are not the Speaker, and you know it.

MR SPEAKER: Come to the subject matter.

MR CORBELL: The issues at hand are that the commissioner is there to manage the organisation and make sure that the ACT community is given the protection it needs and deserves in time of an emergency. I stand by the decisions that the managers in my department make to ensure the most effective operational arrangements for emergency services personnel. I will not put myself in the place of manager. That is

the job of the commissioner and the chief officers. I will support them in their decisions.

Mr Smyth: Mr Speaker, on a point of order: the minister must come to the question. He cannot ignore you. He must answer the question about the detrimental effects of his restructure on the professional officers and volunteers.

MR SPEAKER: I think he is telling you that there is no detrimental effect.

MR CORBELL: I know that these decisions will be to the benefit of volunteers and all other staff in the Emergency Services Agency.

MR MULCAHY: Mr Speaker, I ask a supplementary question. Is it not true that under the terms of engagement Mr Prince is constrained from making any public comment on the basis of his resignation while he is employed?

MR CORBELL: It sounds like another myth from the Liberal Party. I am not aware of the details of Mr Prince's contract. I do not see these contracts as a matter of course but I would be very surprised if that were the case.

Bushfires—coronial inquest

MR SMYTH: My question is to the minister for emergency services. Minister, Coroner Doogan has recommended that the emergency services bureau should be a statutory authority. You ignored her findings, instead restructuring the ESA. On ABC radio this morning, Val Jeffrey, a volunteer with over 50 years of valuable experience of bushfire management said regarding the restructure, "This is a recipe for another 2003 or worse." Minister, why haven't we learnt the lessons from the 2003 bushfire that the ESA should be a statutory authority?

MR CORBELL: Mr Jeffrey is a very excellent firefighter. He is not, though, a man with experience or significant understanding of the needs and demands of managing a large public sector organisation. I will respect Mr Jeffrey's views on firefighting and his experience in that regard. I ask that he respects the views of those professionals we engage to manage our emergency services.

MR SMYTH: I ask a supplementary question. Minister, why have you ignored the recommendations of both Coroner Doogan and Mr McLeod on the matter of the ESA being a statutory authority?

MR CORBELL: I note that another recommendation that we have not accepted which is now drawing a critique from firefighters is the recommendation of the coroner to create a single fire service. The opposition cannot have it both ways. They cannot say, "You are ignoring the coroner on this recommendation," but then go quietly into the night on a recommendation that they themselves do not agree with.

I would like the Liberal Party to stand up and tell me whether or not they agree with the coroner's recommendation on a single fire service. If they do, at least their position is consistent. At least they can say, "We support the coroner's recommendations." Instead, what they are doing is critiquing the government when

we do not agree with a recommendation of the coroner, but they are not criticising or chastising themselves when they do not agree with another recommendation of the coroner.

The reasons to maintain the ESA within the justice portfolio are very clear. They are about ensuring that the organisation works within its budget and ensuring that the taxpayer does not have to pay for duplicated services when it comes to human resource management, taxation, HR services, IT services, ministerial support and all those issues that would just lead to another bureaucracy within the ESA.

Those opposite talk about removing bureaucracy from the ESA but if it was a stand-alone authority we would have to pay for all those services, instead of simply asking the justice department to do it for them so that they can focus on the frontline services the community expects them to deliver. The position of those opposite is completely hypocritical and ill-informed. Mr Pratt is the worst of the lot. I have never met a man more ill-informed and more hypocritical on these matters than Mr Pratt.

The difference that needs to be alluded to when this debate occurs is that, firstly, as I said in my answer to an earlier question, the operational independence of our officers is guaranteed, and guaranteed in legislation. It does not matter what the administrative arrangement is. Their operational independence is enshrined in law.

Opposition members interjecting—

MR CORBELL: It is enshrined in law, Mr Stefaniak, and that is not going to change. It is enshrined in law, Mr Pratt, and it is not going to change.

The other thing that needs to be drawn to members' attention in this regard is again the argument that, because it is in the justice portfolio, it is buried in the bureaucracy and all of those people within the ESA are unable to get to the minister and raise issues with him. That has also been disputed and it has been proven to be patently false. As I said in my earlier answer, the issue is: are they able to meet with me and raise their concerns with me? The answer is yes.

Over the last six months, on 15 separate occasions I have met with the commissioner of the ESA to discuss matters concerning the ESA's budget, its organisational structure, the arrangement of resources to meet the needs of the different services and a range of personnel and strategic policy matters. Those are the facts of the matter. To suggest that they are not able to meet with me and not able to raise these matters with me is simply false.

Those opposite need to come up with a better argument. The reasons that they claim the ESA needs to be a separate statutory authority are not supported by the facts. It is time they got themselves a better argument or dropped the idea altogether.

Public service—workers compensation

MS MacDONALD: My question is to Mr Stanhope in his capacity as Chief Minister and Treasurer and it relates to workers compensation and changes to the Comcare legislation. Would the Treasurer advise the Assembly of the likely impact on public

sector workers in the ACT of changes being made by the Howard government to the Safety, Rehabilitation and Compensation Act 1988?

MR STANHOPE: I thank the member for her question and acknowledge her continuing interest in this issue and in those changes that have been made to our industrial relations landscape that impact so adversely on workers and on families. Indeed, this particular change, the change to the Safety, Rehabilitation and Compensation Act by the Howard government, will have a dramatic impact on a large group of workers and families within the Australian Capital Territory.

The amendments have been passed by the House of Representatives and opposed rigorously by federal Labor. Why this legislation has been so roundly condemned and so fiercely opposed by Labor governments and the Labor Party around Australia is that these amendments, when and if passed by the Senate, will remove, from workers compensation, coverage for journeys to and from work and during recess breaks. This is a most significant reduction in coverage and protection for workers in Australia and a very significant change to the working conditions and protections that workers traditionally, universally, have accepted as appropriate.

Those members of our public service that have in all their working lives been protected by workers compensation in their journeys to and from work and as they travel during recess breaks will, on the passage of this legislation by the Liberals, no longer be protected. This really is a very significant change to the entitlements and protections of ACT public servants and we stand and condemn it and it has been roundly condemned by the labour movement within the territory and by Labor parties and governments around Australia. But, of course, there has been silence from the Liberal Party within the territory—significant silence.

The Liberal Party within the ACT obviously support the removal of this protection for every ACT public servant. The Liberal Party in the Australian Capital Territory do not believe that ACT public servants of any description should be covered by workers compensation as they travel to and from work and as they travel during their breaks. That is the policy position of the ACT branch of the Liberal Party. They have not declared this position publicly, as they have not actually declared publicly any position on any policy issue, though they had a closed-door hidden policy forum last night, apparently, the fruits of which we are yet to hear.

But it is symptomatic, of course, of an opposition that has now been in opposition for 2½ years. They do not have a single policy of any substance on any particular issue, other than, of course, the declared policies in relation to revenue—and the revenue policies that they have announced involve the non-collection of well over $100 million in taxes and charges. That is the only stated, declared policy—

Mr Mulcahy: I raise a point of order, Mr Speaker. The question related to Comcare and changes related to occupational health and safety. It has not even a remote relevance to Liberal Party tax policy or otherwise, and I don't understand what it has got to do with the question.

MR SPEAKER: I think the Chief Minister is drawing some contrast—

Opposition members interjecting—

MR STANHOPE: I can understand why the Treasurer would stand and take a point of order—

Mr Mulcahy: I'm not Treasurer yet!

MR STANHOPE: why the shadow Treasurer would take a point of order on any discussion anywhere in the ACT. The one discussion the Liberal Party do not want now or at any time between now and the next election is: what services are they going to cut to cover the $100 million of recurrent moneys that they have promised not to collect?

Opposition members interjecting—

MR SPEAKER: Order! Come back to the subject matter of the question.

MR STANHOPE: That is a policy, in addition to their policy on workers compensation, which the people of Canberra, most particularly public servants, would be very keen to hear about. Why will the Liberal Party in this place—and, significantly, Senator Humphries, when it comes to the vote in the Senate—not commit to support the working conditions of public servants, particularly workers compensation coverage during these most important times of travel to and from work and during their recess breaks? *(Time expired.)*

Emergency services—restructure

MRS BURKE: Mr Speaker, my question is to the Minister for Police and Emergency Services, Mr Corbell. Minister, on ABC radio this morning Val Jeffrey said this regarding your proposed restructure:

> It's not just a matter of the number of bureaucrats, it's the politics and attitudes that come with bureaucracy.

These sentiments echo the deep concern expressed this week by Mr Barling and many other volunteers. Minister, why have you ignored the warnings of volunteers about returning the ESA to a bureaucracy?

MR CORBELL: Mr Speaker, as I have indicated in answers to previous questions today, we are not returning the ESA to a bureaucracy. In fact, the decision to place the ESA within the justice portfolio means that there is less bureaucracy within the ESA. The restructure that I announced the day before yesterday also highlights the streamlining at senior executive level. It means less bureaucracy, not more.

In relation to Mr Jeffrey's views, I can only restate what I said before. Mr Jeffrey is an excellent and very highly respected volunteer firefighter with many years of knowledge and expertise in firefighting. I respect his views when it comes to matters around dealing with fires. But Mr Jeffrey is not an expert in the management of a large public sector organisation, a large public sector emergency response

organisation, and I would ask that he have as much respect for people who have experience in that area as they have for him in his area.

MRS BURKE: Mr Speaker, I ask a supplementary question. Minister, why do you continue to ignore professional advice and community opinion about the structure of the ESA?

MR CORBELL: I would not regard Mr Jeffrey's advice in relation to the ESA as professional advice.

Tourism

MS PORTER: My question is to the minister for tourism. Can the minister please inform the Assembly of the latest international visitor survey results and the impact of international tourists on the ACT economy?

MR BARR: I am pleased to advised the Assembly that yesterday Tourism Research Australia released the latest international visitor survey results for 2006. I am very pleased to advise the Assembly that the survey provides some very good news for the ACT. The survey shows that there have been increases in total expenditure, visitor nights, expenditure per visitor, expenditure per night and average length of stay, as well as an increase in visitation from South East Asia, one of our main target markets. That is extremely positive news for the ACT economy and for Canberra as a tourism destination.

I can advise the Assembly that international visitors to Canberra stayed for a total of 2,277,460 nights in 2006, up a massive 28.6 per cent on the 2005 result. The average length of stay for international visitors who came to the ACT for a holiday was 4.9 nights in 2006, up from 3.3 nights in 2005. A total of 37,242 international backpackers visited the ACT in 2006, representing a 16 per cent increase compared with 2005.

The ACT government has been targeting markets in South East Asia. For example, last year we launched our first ever consumer awareness campaign in Singapore. The campaign included print, online, outdoor and cinema advertising components introducing Canberra to Singaporeans and using Floriade to position the look and feel of our experiences. Four major travel agencies in Singapore partnered the ACT in the promotion by providing Canberra destination and package information on the spot.

The survey shows we are getting a good return on this investment. There has once again been an increase in visitors from Singapore, Malaysia, Thailand and Hong Kong. This market has developed to be the third highest in terms of visitation to the ACT, surpassing New Zealand and China. In a speech to the Tourism Industry Council's state of tourism lunch in September last year the then acting leader of the opposition, Mr Mulcahy, criticised the tourism investment in Singapore, but we can see from these figures very positive results for the ACT.

It is particularly important to note that the latest figures demonstrate a direct link between increased length of stay and increased expenditure. The figures show total expenditure of $225 million in 2006, up from $129 million in 2005. This is excellent

news for the ACT economy. It is news endorsed by none other than the federal tourism Minister Fran Bailey, who said on the *AM* program on ABC radio yesterday morning:

> The real issue is how much we earn out of an industry. You've really got to look at the amount that is being spent. The Tourism industry is like every other industry, it's the bottom line and what you're earning, so that sectors of the industry can reinvest and create more jobs.

That was Fran Bailey, federal tourism minister, on the *AM* program on ABC radio yesterday morning. Given the challenging nature of the international tourism market, the ACT has performed well in maintaining its market share in an environment where the number of visitors to Australia has remained relatively static. There was a small decrease in raw visitor numbers to the ACT largely as a result of a decline in Chinese visitors to Australia on packaged tours.

So the come-in-for-a-day-and-leave visitors—the ones that come in, visit the free attractions and bring their own lunch—are very low-yield visitors, as the tourism industry is wont to repeat to me on many occasions. There has been a decline in that proportion of the market but it is particularly pleasing to see a return on our investment into South-East Asia, the 16 per cent increase in international backpacker visitation and the increased length in stay. The total expenditure increased to $225 million, Mr Smyth.

Mr Smyth: So why did you cut the budget?

MR SPEAKER: Mr Smyth, I warn you.

MR BARR: You sit there up the back looking for one bit of bad news in the entire situation, which is a massive increase in expenditure in the ACT economy, going against what you predicted. You were out there talking doom and gloom and you have been doing that the entire time that you have been shadow minister.

MR SPEAKER: Direct your comments through the chair, Mr Barr and Mr Smyth.

MR BARR: The shadow minister has been talking down the ACT tourism industry ever since he has been in that portfolio. When Mr Mulcahy stepped in as acting leader of the opposition and spoke to the Tourism Industry Council he talked them down as well. These results show that the industry is booming—a 28 per cent increase in expenditure in the ACT economy—a fantastic result. The industry deserves congratulations.

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

Papers

Mr Corbell presented the following papers:

> Administration of Justice—ACT Criminal Justice—Statistical Profile—December quarter 2006.

Subordinate legislation (including explanatory statements unless otherwise stated)

Legislation Act, pursuant to section 64—

Domestic Violence Agencies Act—Domestic Violence Agencies (Council) Appointment 2007—Disallowable Instrument DI2007-63 (LR, 5 March 2007).

Duties Act—Duties (Stock Exchanges) Declaration 2007 (No 1)—Disallowable Instrument DI2007-61 (LR, 28 February 2007).

Gambling and Racing Control Act and Financial Management Act—Gambling and Racing Control (Governing Board) Appointment 2007 (No 1)—Disallowable Instrument DI2007-57 (LR, 26 February 2007).

Government Procurement Act—Government Procurement Appointment 2007 (No 1)—Disallowable Instrument DI2007-53 (LR, 21 February 2007).

Health Act—Health (Fees) Determination 2007 (No 1)—Disallowable Instrument DI2007-52 (LR, 22 February 2007).

Health Records (Privacy and Access) Act—Health Records (Privacy and Access) (Fees) Determination 2007 (No 1)—Disallowable Instrument DI2007-59 (LR, 26 February 2007).

Long Service Leave (Contract Cleaning Industry) Act—Long Service Leave (Contract Cleaning Industry) Levy Determination 2007—Disallowable Instrument DI2007-58 (LR, 26 February 2007).

Occupational Health and Safety Act—Occupational Health and Safety Council Appointment 2007 (No 1)—Disallowable Instrument DI2007-60 (LR, 1 March 2007).

Public Health Act—Public Health (Drinking Water) Code of Practice 2007 (No 1)—Disallowable Instrument DI2007-62 (LR, 1 March 2007).

Tertiary Accreditation and Registration Act—

Tertiary Accreditation and Registration Council Appointment 2007 (No 1)—Disallowable Instrument DI2007-54 (LR, 22 February 2007).

Tertiary Accreditation and Registration Council Appointment 2007 (No 2)—Disallowable Instrument DI2007-55 (LR, 22 February 2007).

Tertiary Accreditation and Registration Council Appointment 2007 (No 3)—Disallowable Instrument DI2007-56 (LR, 22 February 2007).

Leave of absence

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

That leave of absence be given to Mr Hargreaves for this sitting.

Trade Mission to India
Ministerial statement

MR STANHOPE (Ginninderra—Chief Minister, Treasurer, Minister for Business and Economic Development, Minister for Indigenous Affairs and Minister for the Arts) (3.29): I ask leave of the Assembly to make a ministerial statement concerning the recent trade mission to India.

Leave granted.

MR STANHOPE: In early February I was very pleased to lead the first ACT government sponsored trade delegation to India. I would briefly like to review

the outcomes of the delegation and where I see the future of the economic relationship between the ACT and some of the Indian regions, cities and firms that we visited.

Firstly, I would like to make a few preliminary remarks about India which I think are pertinent. India has clearly staked its claim as the next big thing in world economic development. Just as we were coming to terms with the numbers thrown up by China's rapid development, another set of Indian metrics has captured the attention of every economist, merchant banker and product marketer.

India has a population of over one billion people and is demographically on track in the first half of this century to overtake China as the most populous nation on earth. In fact, each year India's population grows, by births alone, by the size of the Australian population. It is the youngest country in the world, with around half the population less than 25 years old. It is the largest democracy of the world. As the *Financial Times* so neatly put it, every time India goes to the polls, it becomes the largest electoral exercise in history.

It is the fourth largest economy in the world in terms of purchasing parity power after the USA, China and Japan, and the second-fastest growing economy in the world. We should not forget that the Indian economy, which has been growing by over six per cent per annum for nearly 25 years, now has rates pushing close to double digits.

There are massive infrastructure investments in the order of $US130 billion currently unfolding across India. There is a stable political environment and recent governments have embraced openness, economic reform and economic engagement, which are truly remarkable achievements given the complexities, challenges and disparities of its society.

Not least, India has a rapidly growing and consuming middle class that is currently 10 times the size of Australia's total population, or a group of consumers roughly the same size as the population of the United States. The size of that middle class is forecast to double by 2025 to around 50 per cent of the total Indian population.

New Delhi recently became the first city in the world to claim more than 10 million cell phone accounts. It is easy to get dazzled by the sheer numbers and many a business visitor to India goes there with the predictable thought, of course: just one per cent of that market and we are home and hosed.

But as any business that has tried to cut it in an overseas market will tell you, it is hard and India poses a whole new set of challenges, even for savvy exporters who might have cut their teeth elsewhere. Since the early 1990s, India has dramatically opened up to foreign trade and reduced or removed many of the barriers to international competition. Increased trade has also given India's consuming class access to a wider range of goods and services, which in itself has created an irresistible momentum for reform and further pressure for market access.

These changes explain the strong interest countries and businesses around the world, including in Canberra, are now taking in India. The ACT delegation was an important

first toe in the water for the ACT as it comes to grips, along with the rest of the world, with the rapidly expanding opportunities opening up in India.

The ACT delegation was made up mostly of knowledge and technology-based firms and some of the key education and research institutions. The delegation consisted of: the National ICT Centre of Excellence; Perpetual Water; Ruleburst: the University of Canberra, EXCOM Education; the India Australia Business Forum Film and Entertainment Group; Shivoys International; Capital Hill Consulting; Diverse Concepts International; and the Centre for Customs and Excise Studies. The Canberra Business Council also accompanied the delegation.

Austrade was contracted to provide a commercial visits program for each of these companies, which consisted of around three to five meetings per day for each company over the 10-day mission. The ACT government paid for the Austrade services provided to the participants, while the companies themselves met their own direct participation costs.

The government also met some of the Canberra Business Council's direct costs in recognition of its role in managing the ACT Exporters' Network, the leadership role it plays in export development through its international business taskforce and its co-delivery of the TradeStart program with Austrade.

The specific objectives of the delegation were fourfold. The first was to understand the Indian business environment. Many things can be learnt about a place remotely, but hands-on experience can be invaluable in working through possibilities. The second objective was to establish relationships between ACT businesses and their counterparts in India. Our mission development partner Austrade did an outstanding job in connecting our businesses with likeminded Indian companies and institutions and provided first-class logistic support for my program and that of each of the companies.

The third objective was to consider how we might attract some of India's many skilled people to come and ply their trade in Canberra. The fourth objective was to sell Canberra generally and the ACT's unique economic story. The Indian business community still has a fairly dated view of Australia as mostly a supplier of agricultural products and energy and mineral exports. What has not been grasped is Australia's position as a major centre for research excellence across a number of fields, all of which embody technology and nearly all of which are now moving down commercialisation paths.

In Australia there is no better example of high tech R&D capability than Canberra. My role was to present Canberra's credentials in India as Australia's premier research cluster regional economy, opening doors for company participants and giving focus, viability and visibility to our delegation in India. The strong sense I now have of India is that we simply cannot afford to sit on the sidelines and watch the Indian economic story unfold in someone else's direction and for someone else's benefit. India, like China, will drive wealth creation across the globe over the next two decades, and we have to expose our businesses to these dynamics as soon as we can.

Our companies and institutions need to understand what is taking shape in India. India will be a major driver of world trade and technology in the coming years and we must integrate our companies into the emerging global supply chains that India is creating, shaping and driving. But there are current and real business opportunities as well. We have a growing Indian presence in our education export sector. Our ICT sector has the capacity to tap into niche parts of the Indian market now, as well as developing partnership arrangements with some of the larger companies. Our defence technology and biotechnology capabilities are the equal of any in the larger states and of relevance to what is happening in the life sciences industries in India. We also have a unique capacity in screen-based design and technologies.

In the first few days of the mission, India's national daily newspaper carried a front page article on Australia and how it had just displaced the United Kingdom in the destination of choice ranking for overseas study. With just under 30,000 Indian students now studying in Australia, we sit in second place behind the United States, with about 60,000 Indian students. Some analysts have predicted that the number of Indian students studying in Australia will reach 40,000 within another 12 months.

Canberra is currently home to about 300 Indian students. The potential to grow the market is obvious. The number of ICT and engineering graduates each year in India is simply staggering, somewhere in the order of 500,000 per year, and not bad when you consider that Indian universities are only capable of taking the top one per cent of students.

But what its tertiary system does not do particularly well is to produce work ready graduates or talent that is capable of accelerated development in western business environments. The idiomatic English skill of graduates is recorded as a problem. The training is rigid and not conducive to the freewheeling and innovative thinking that US and Australian graduates are renowned for, and there has been little emphasis on the development of soft managerial skills. We here in Canberra are well placed to support Indian institutions and organisations with all these things.

Tourism is also a significant opportunity. In the 10 years from 1992 to 2002, Indian visitor numbers to Australia grew from 10,000 per annum to around 45,000. According to the Australian Tourist Commission, the next 10 years will see numbers reach 147,000 per year by 2012. A significant driver of both the education and tourism markets is certainly the Bollywood film. Both Melbourne and Sydney have had recent blockbusters filmed around their iconic locations, and it is something that I believe we should also seriously pursue.

While in India I visited Mumbai, Pune, Bangalore and New Delhi. The first day of the mission was to see some of those Bollywood companies first up. I met with Adlab Films Ltd and Yash Raj Films, two of the largest entertainment conglomerates in India. One of the outcomes of these meetings will be consideration of facilitation and support of an Indian film being shot in the Australian Capital Territory. There is also interest from a southern Indian film production company that has been generated through one of the mission participants, Butterfly Media.

I participated, whilst in Mumbai, in the NASSCOM Leadership Forum—the National Association of Software and Services Companies—and delivered a paper on Canberra's experience in building knowledge communities. With most of the Indian ICT industry in town for NASSCOM, it also provided a convenient opportunity to meet with a number of Indian ICT companies. Individual meetings were held with Tata Consulting Services, Datamatics, HCL Technologies and Patni Computer Systems, some of the biggest companies in the Indian ICT sector.

Each of these companies has expressed a strong interest in visiting Canberra during this year, and I believe there is a very real prospect of direct investment at this level in Canberra. Indian ICT companies are looking for partnering opportunities with SMEs in technology leadership positions and Canberra's credentials in this regard are significant. NASSCOM also provided a unique window into the future of the global IT industry. I can report that NASSCOM is bringing a delegation to Sydney's CeBIT ICT trade show in May and is now likely to extend this mission to Canberra.

In Mumbai I also met with two major industry organisations, the Bombay Chamber of Commerce and Industry and the India Merchants Chamber. Both organisations have offered to arrange introductions for Canberra businesses to help promote further trade.

In Pune, the Mahratta Chamber of Commerce, Industries and Agriculture is one of India's most influential business bodies. The chamber responded directly to my address and visit by proposing a return trade mission to Canberra. The chamber and ACT government have agreed to progress ideas on the reciprocal mission over the coming months with a view to bringing it together some time later this year.

In Bangalore I met with the Chief Minister of the State of Karnataka, Mr Kumara Swamy, who holds a number of business related portfolios and is a significant political figure in India. Outcomes of this meeting included a proposed reciprocal visit in 2007 to be led by the Chief Minister. Educational partnerships between Canberra and Bangalore institutions were also discussed. In Bangalore I also met with the Director of the Indian Institute of Science, India's most prestigious research organisation. I also met with the Antrix Corporation, the commercialisation arm of India's space sciences industry.

In New Delhi I met with the Chief Minister of the National Capital Territory of Delhi. We discussed a range of issues pertaining to urban development, but notably opportunities for Canberra to provide educational services to Indian companies. The Chief Minister was also interested in our sports sciences and administration capacity, stemming from New Delhi's hosting of the 2010 Commonwealth Games.

The delegation met the Secretary for the Union Ministry of IT. This discussion also focused on education partnerships, particularly in the area of middle management training of ICT graduates, an area of significant untapped demand in the Indian ICT sector.

Further meetings were also held with the New Delhi operations of Tata Consulting Services and HCL Technologies, two of the large ICT companies with a strong interest in Canberra's ICT research capabilities and our position in the

government procurement market. Tata's strong interest in Canberra and support for the mission in general can be viewed from the perspective of its involvement in e-government and related services and transactions technology. Tata has carriage of a major whole of government e-government project in India and is actively looking for technology partners to participate in the project. I understand that ACT companies have strong capabilities to meet some technical elements of this project. Mission participants had direct meetings with the Tata project team on this.

ACT government and University of Canberra representatives also conducted skilled migration and tertiary education opportunity information sessions in Bangalore and New Delhi to around 160 pre-qualified ICT professionals, accountants and engineers. These occupations are all in critical shortage in Canberra.

The mission's presence in the ICT city hubs in India was a good opportunity to spread the word in India about the employment and professional development opportunities that Canberra has to offer. Prior to the mission, the government's skilled and business migration program had sponsored 21 independent skilled migrants from India since May last year, in fields ranging from ICT to accountancy and social work. We have also assisted local employers to sponsor another 12 skilled workers from India in the medical, hospitality and childcare industries, as well as in academia. I anticipate the face-to-face promotion of this program in the context of the mission will see an increase in the number of qualified and skilled Indian technology workers coming to Canberra.

In terms of next steps, a formal participant debrief will be held in the coming weeks by Austrade and my department with all mission participants. At that point we will have a much better handle on the outcomes of the individual company programs. However, in general terms I can report that all the participants have returned to Canberra full of enthusiasm about an India dimension to their businesses. They are talking about strong business opportunities, and real ones, right now.

For my part, I was also very encouraged by the discussions I had in India. I am absolutely convinced that Canberra has much to learn and much to gain through deepening its connections with the people of India and broadening its reach into the Indian economy. As such, I envisage there will be significant trade and investment outcomes that directly arise from this mission. But, of course, the hard work needs to continue.

My department will be working with the business community and Austrade to bring together the outcomes of the mission and develop a strategy to capitalise on the opportunities it has presented. Our preliminary thoughts are to stage a Focus on India-type business event later this year or early next year to bring this effort and interest together in a concentrated form. Trade missions are not just about selling to new overseas customers on a one-to-one, container-by-container basis. They are also about opening our economies to two-way trade and investment flows and making permanent and strategic connections. That is how we must all see and approach India, and that is what the recent trade mission was all about.

Before concluding, I would like to thank those officers within my department, as well as, most particularly, Mr John Miller of the business council, and those delegates from

the number of ACT educational institutions and businesses that formed part of the delegation. It was a particularly successful delegation and the work that was done by each of the participants certainly contributed to that great success. I thank each and every one of them very much for their participation in the delegation. I present the following paper:

> Trade mission to India—ministerial statement, 8 March 2007.

I move:

> That the Assembly takes note of the paper.

MR SMYTH (Brindabella) (3.46): I am delighted that the Chief Minister has made this statement today. I agree with him. I think India is one of those markets that most of the western world has overlooked. It is a fabulous country. Its population will exceed China's some time in the next 10 to 15 years. It currently has a middle class of some 200 million people. There are something like 20 million US dollar millionaires in India, and growing daily. Its economy is booming. It is growing. It is looking for markets and expertise. I am very pleased that the Chief Minister took that delegation, the second ministerial delegation, to India.

The great shame is that it took them six years as a government to follow up on the work that we started. I believe it was in July 2001 that Michael Moore, representing the government at an international conference on drugs in India, went to Bangalore and other areas to look for opportunities to expand relationships with India. There were commitments made then that were not followed up by this government, and we have seen that so often. Commitments made in China were not followed up and contacts and commitments made to South Africa were not followed up. I guess six years later is better than not at all.

I concur with all that the Chief Minister has said in his summation of his trip. India is a good place for Australia to do business. When Mr Moore went in 2001, he took officers from Business ACT—I think the officers are no longer there because they were lost in the cuts that the government imposed upon Business ACT—to look at relationships at the level of chamber of commerce to chamber of commerce as well as city to city because even then it was quite clear to us, in 2001, that the opportunities were there to be had.

Notwithstanding some of the problems that the Chief Minister touched on, there are advantages that do exist that make India a very easy market for Australia to look at. In India, in the main, they speak English. They operate under a system of English law and they have a great and enormous respect for Australia on a number of levels, including a shared military history and sporting achievement. I am not sure that all that many Australians know that the only other troops, apart from ANZACS, that went ashore on Gallipoli on 25 April 1915 were, in fact, Indians. Two mountain batteries of Indian artillery went ashore, as well as some Indian medical corps. Indeed, Simpson, of donkey fame, spent much of his time camping with the Indian orderlies because they looked after the donkeys.

Australians and Indians served together in the Boer War, World War I, World War II and Korea. They suffered as much as we suffered in places like Malaysia, the Western Front and Gallipoli. There is a bond there that goes deep. Then we can add to that the layer of sport. When I was in Calcutta, people wanted to talk about Steve Waugh and the work he is doing in Calcutta.

While I am not saying we should be mercenary, the bond with Australian sportsmen does open doors. There is a great deal of respect for Australians in India. You only had to let it be known in most bars that you were from Australia and they asked if you had an attachment to the cricket team. It is a great way to see India. They are great people. They are hospitable people, and there are an awful lot of them.

What they are doing in the world is astounding. Often overlooked is India's contribution to the world in terms of maths, medicine, astronomy, science, engineering, literature and the arts, as well as the significant history of India with its many different faiths and religions. India is the home not just of Hinduism; it is also the birthplace of Buddhism. With that background, it is very sympathetic to the sort of life that we have in the ACT and the things that we aspire to. I think there is a great deal of advantage to be gained from the Anglo-Indian society of the ACT, as well as the other contacts that exist here.

Well done to the Chief Minister for finally taking a delegation to India. It follows in Mr Moore's footsteps. Mr Stefaniak, when he was education minister, sent an officer from his department, Mr Peter Gordon, who later headed Business ACT, to India looking for opportunities. This is all work that was done in 2000 and 2001. I hope we can pick up the trail. I hope we can capitalise on it. I hope we have not left it too late. But, that being said, exactly what the Chief Minister outlined I believe is true and accurate. There is work to be done. Let us make sure that we work very, very well with the ACT business community to capitalise on these things.

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

Women—gender equity
Discussion of matter of public importance

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

> The importance of gender equity for women of the ACT.

MR GENTLEMAN (Brindabella) (3.52): Today is International Women's Day, an important event in the international calendar since 1977. This day provides an opportunity to celebrate women's achievements and their contribution to society. Today, women can celebrate the progress that has been made, but also contemplate those areas of women's lives where more can be done to achieve gender equality.

I would like to talk firstly about gender equity issues in Australia generally and then focus on what we have done in the ACT to address these issues and also to briefly discuss two recent reports, the first from the Australian National University and the other from the Human Rights and Equal Opportunities Commission. Both provide interesting analysis and recommendations on this issue.

Unfortunately, the social positions of women and men are markedly different and fundamentally unequal. However, gender equality is a complex and paradoxical goal. It requires both equality of opportunities and sex-based differences to be recognised and addressed.

A gender equal society must neither discriminate against nor between women. It must be remembered that a large failure of the debate about gender equity emphasises sameness. This is misleading and destructive to the cause as it fails to recognise the differences of women and men and is an acknowledgment that government programs and policies affect women and men differently. While on some occasions men and women may need to be treated equally, in other areas this is not so—for example, in employment conditions relating to childbirth.

Despite many improvements in the status of women in Australia, there are still many inequalities. Firstly, the suggestion that women have achieved equality in the work force is a myth. Women are earning less in relation to men than they did a decade ago. Women are still responsible for the majority of unpaid domestic labour, including housework and childcare. Despite the common held belief that Australia has achieved equality in the employment sector, women still find themselves at a marked disadvantage in this area. It is worth nothing that women make up just 33.6 per cent of the full-time labour force. Their earnings are 81 per cent of men's and, overall, women earn only 66 per cent of what men do.

This has clear disadvantages not only for women individually but also impacts on the choices of heterosexual couples concerning housework and childcare as it is often economically more viable for women to take responsibility for unpaid work because of their lower earning capacity. Despite the increased numbers of women in completing year 12 and going on to higher education, women are still concentrated in occupations such as retail, teaching, nursing and clerical work occupations that have a limited career structure and earning capacity.

Men still dominate most positions of power within Australia. Men hold 98.8 per cent of senior executive positions and 75.3 per cent of seats in the federal parliament. Unfortunately, Australia does not seem to be meeting its obligations under international labour conventions. In fact, we are going backwards. In the 1970s, the gaps between male and female rates of pay were being narrowed. However, since the 1980s, there has been little progress in removing that remaining gap.

There is also a new wave of anxiety following the recent changes to the industrial relations regime under WorkChoices. Added to this is the threat of further casualisation of the workforce and the push for individual contracts, both of which cause great disparity for women's working conditions and pay.

More Australian women now work part time than at any other point in our history and more than in any other country in the industrialised world. Further, there are now more women totally dependent on welfare and working poor women. This is due largely to the increases of female headed sole parent families with children and the number of divorced women aged over 60 who have limited means of support due to a lack of superannuation and not yet being eligible for the age pension. Clearly, the brunt of Howard government policy in the last 10 years has reversed the position of women in society by making it more difficult for them to access full-time employment, and have a better work-life balance.

Making up just over half of the ACT's population, women in this territory are fortunate enough to enjoy better lifestyles than women across Australia. Women in the ACT have higher average incomes than women nationally and the health status of women is generally better than their counterparts elsewhere in Australia. However, despite the positive position for the ACT, women in the ACT still earn less than men, are more likely to live in poverty in old age, are more likely to experience violence and are more likely to rely on social security benefits.

The government has put in place a range of programs and services that addresses this inequality through the public service and business, education and health sectors. From the outset, this government has been serious about improving the status and wellbeing of women in the ACT. After the Stanhope government was elected in 2001, it immediately formed the Select Committee on the Status of Women to undertake a comprehensive inquiry into issues affecting ACT women. The outcome of this inquiry informed the development of the ACT women's plan, which was launched in 2004.

The women's plan is a five-year policy framework that provides a whole-of-government approach to the development of strategies that address issues and advance the status of women and girls in the ACT. The government also established the first ACT Office for Women to provide advice directly to the Minister for Women and the Ministerial Advisory Council on Women as an avenue for the community to raise women's issues.

The government also recognises that seemingly gender neutral budget or cabinet decisions may have an inherent gender bias, and for this reason the ACT Office for Women continues to assess all cabinet submissions to determine the impact that particular proposals may have on women. The women's budget statement provides a report card in relation to women in the ACT and an account of the measures the government has in place to address and support women's issues.

This government has introduced tangible and practical initiatives to strengthen opportunity, increase safety and provide extra support for those women who need it most. The ACT women's grant program was launched in 2004 to support projects which improve the status of women and build organisational capacity in the community. In 2006, the Stanhope government convened the first ACT Women's Summit. This biennial event was established to provide the government with key advice on areas where further work is needed to enable it to target policies and strategies to support women in the community.

The government recognises that men still outnumber women in leadership roles across all sectors in the ACT. Without representation women have less ability to influence public policy. However, it must be noted that there has been an increase of roughly 4.5 per cent in the number of women taking up executive positions in ACT public service since the government came to power.

The Office for Women also operates a program of scholarships for women to attend a course in company directorship with the Australian Institute of Company Directors. This program supports the objective of representation and recognition of women, as identified in the ACT women's plan. It aims to develop the knowledge, skills and abilities of women in the ACT who are, or aspire to be, in high level, decision making roles.

In addition, the ACT government agencies are required to consult with the Office for Women regarding suitable women candidates when seeking membership to ACT government boards and committees in order to achieve of goal of 50 per cent representation for women. Through the ACT women's register, women in the ACT are able to register their interest in ACT government boards and committees. The register aims to increase participation by women from a range of backgrounds and ages in the decision making process.

Another important initiative that addresses inequality for women is the payroll tax exemption to private sector employers who grant paid maternity leave, primary carer or adoption leave of up to 14 weeks, as is the case in the public sector. The ACT government is committed to promoting gender equity and restoring balance and fairness for women in the ACT. The ACT also has the honour of claiming the first Australian female head of government. Rosemary Follett was elected Chief Minister in 1989.

As I mentioned, I would like to discuss two important reports that have been released in the past week concerning gender equity. Firstly, the ANU has released a report entitled *How well does Australian democracy serve Australian women?* This report examines the extent to which Australian democracy has promoted gender equity. The report considered a number of key issues in the provision of gender equity: the legislative framework that is intended to eliminate discrimination against women; the history and current functioning of the policy machinery that was developed in order to monitor the impact of public policy on women; the level of representation of women in Australia's parliaments, on public sector boards, in local government and in the judiciary; and the degree to which women's non-government organisations are consulted with, have access to, and are supported in their relationships with government.

Regretfully, the report did not contain positive findings for gender equity in Australia. Australia used to be at the forefront of the fight for gender equity. However, in recent years, particularly under the Howard government, many of the achievements of the past have now been undone and Australia has regressed in its efforts to achieve gender equality. The legislative framework to guard against gender discrimination has remained largely intact. However, the ANU report found that the legislative

framework is inadequate to ensure a substantial political equality between men and women in Australia.

Federalism in Australia has meant that, despite the commitment by some state and territory governments to gender equality, the hostility of the Howard government to fulfilling the goals of gender equality has led, according to the report, "to an unequal pattern of protection, participation, representation and appropriate policy for women, depending on geographic location."

There is only so far the states and territories can go to compensate if the commonwealth government is not going to provide a strong commitment to substantive gender equality at a national level. This report confirms other recent studies that gender equality in Australia is very much lagging.

While we in the ACT can contribute to greater gender equality through our policy initiatives, we are a small jurisdiction with limited resources and it is ultimately the prerogative of the federal government to provide a proper policy framework that adequately addresses measures to ensure true gender equality for all Australians.

Further, the Human Rights and Equal Opportunity Commission yesterday released a report which recommended that a new law be introduced into the federal parliament which protects workers with family and carer responsibilities from discrimination and gives them a right to request flexible work arrangements. I would like to encourage the federal government to consider the 45 recommendations put forward by HREOC, which I believe would lead to a happier society where families can strike a better work-life balance without sacrificing economic prosperity.

The second wave of feminism brought opportunities that benefited women of all ages and all sectors of society. In the past 40 years there have been greater educational and employment opportunities for women, which has improved their income earning capacity and personal autonomy. However, in recent years, particularly since the election of the Howard government, women's rights and opportunities have been constantly and systematically undermined by various federal government policies that leave women in a position today that is not much better than 40 years ago. However, I am pleased to say that the Stanhope government has achieved real and lasting improvements in the lives of women in the ACT. It has policies, programs and services in place to address the inherent inequalities that women still face.

While women in the ACT are significantly better off than women elsewhere in Australia and around the world, more needs to be done at a federal level to address longstanding inequalities that continue to disadvantage women. I encourage all of us here today to do the most we can to address this disadvantage at every opportunity.

MRS BURKE (Molonglo) (4.06): Mr Speaker, I am very pleased to congratulate Mr Gentleman on bringing on this motion today. It is quite fitting, of course, that on International Women's Day we hold such a debate on the matter of gender equity in the ACT. On such a day we gather to celebrate what it is to be a woman and how we play a part in any given community. Naturally there are many events on both a small and large scale that are celebrated to highlight the advancement and achievements of

women and our need to maintain continued vigilance and action. Indeed, we can hear that in our background music today; celebrations are going on already.

I believe it is particularly a central role as a woman and a parliamentarian to foster or encourage women in the Canberra community to become more actively involved in the political sphere. This is not to say that it translates into lobbying people to join a political party, although I would certainly not discourage this. I would, however, like to see more grassroots campaigning to or lobbying of the ACT government conducted particularly by women on issues that are important from both a social and a gender perspective. On that note I may add as a quick aside that I did, on becoming Deputy Leader of the Opposition, write to the Deputy Chief Minister, Ms Katy Gallagher, asking for ways in which women in this Assembly could work together to achieve some of those outcomes.

I approach the term "gender equity" with some caution. I would like to take a somewhat alternative stance on its application within our community. Canberra has quite an affluent society, and it is safe to say in many ways women have access to well-paying forms of employment, can connect quite effectively with a vast array of social networks or community services and enjoy a quality of life that is higher than in most places in Australia.

I would like to suggest that a key starting point is the education system. Encouragingly, gender equity is now beginning to become a focal point during the formative years of receiving an education. Girls are now more likely to pass their senior school examinations. Girls are more likely to finish by completing year 12 and when enrolling in the same subjects as their male peers are more likely to be successful.

It is important to note here that I am not casting a shadow over the performance of boys in the education system. However, for the first time in some 50 years or so girls are showing signs of improvement in academic performance. This is a crucial point. It highlights that within our society girls are capable of performing in non-traditional subject matter, and are actively encouraged to seek further educational opportunities in areas such as mathematics, science, IT and engineering, to name just a few.

At a lecture conducted at the University of South Australia by Judith Gill and Karen Starr and entitled "Gender equity: a case for moving beyond his 'n hers" I was struck by a quote about what gender equity means when applied by educators:

> What is needed is a revisiting of the meaning of gender equity—and possibly its reconstruction or abandonment—in terms of achieving an educational environment in which all young people feel free to engage in a range of activities and expect a range of achievements that are not marked by gender.
>
> It seems that there is a need to uncouple gender and equity, but rather to talk of gender order, gender regime, gender politics, gender dynamics and gender justice to refer to the ways in which people and their institutions perform gender. In this way we would be less likely to be drawn into the ubiquitous comparisons and more likely to be able to stand by the decisions we make daily as teachers and educators in dealing with our students. Of course the ultimate interest is and remains a more socially just environment and one that is more crucially aware of the often unintended consequences of our actions

I believe there is room for strategising on equity within the education system here in the ACT. Questions that I raise here have certainly been tested in the New South Wales education system almost a decade ago, including:

- Are the diverse experiences, interests and aptitudes that girls and boys bring to school considered in the planning, curriculum and assessment procedures?

- Which groups of girls and boys are underachieving, and in which areas of the curriculum?

- Is attention given to the achievements and experiences of women as well as men in all areas of the curriculum?

- Does any school provide both boys and girls with experiences in key areas of skills and knowledge which traverse key learning area boundaries?

- Are groups of girls and boys choosing their subjects along gender-stereotyped lines?

- What subjects incorporate teaching and learning about gender as an educational issue?

- Is educational and career information presented in a way that challenges students' views of appropriate subject and career choices for females and males?

Fundamentally, these questions should be raised during the formative years of a young person's education, be they male or female. To follow on from this, I note that last November—and I heard Mr Gentleman encouraging the federal government to do more in this area—the Minister Assisting the Prime Minister for Women's Issues, Julie Bishop, funded an action plan to address the under-representation of women in senior roles across our nation's universities.

It is crucial to have women in senior positions, playing important roles in this part of our education sector. The Australian government has agreed to match the $190,000 contribution by the higher education sector to address the action plan's priorities, which are to encourage all universities to integrate equity strategies and performance indicators into their institutional plans; to significantly improve the representation of women in senior roles by encouraging equity initiatives in critical areas; and to monitor the entry patterns of women into academia and respond to barriers to sustained entry. I can only hope this will go some way in recognising the need, where merit exists, for women to hold positions of authority and influence and in turn act as good role models.

I assert these points to move towards a platform of seeing us view gender equity as not something that is seen to be an issue solely relating to girls or women. We need to inject this approach into young people's minds early on in their lives to ensure that equity does not remain just about gender but about tackling disadvantage, marginalisation, isolation and lack of opportunity.

I am not denying that discrimination based on gender leads to persistent inequality between men and women on many levels in life. But the concept of gender applies to both men and women. There are key shared responsibilities that we can continue to teach young people about—that, as they grow, they must learn to share resources, make decisions about their own livelihoods, plan for their futures and what roles both men and women play in the family structure and then, in turn, how they fit into their community.

It can be said that gender equity is a social justice and human rights issue and is perceived on many different levels depending on its application, whether it be within the Canberra community or in a country stricken by poor financial resources, infrastructure or inability to compete in a global economy.

However, as legislators in the ACT Legislative Assembly we can, on varying levels through the course of our work, and without need for specific recognition, achieve gender equity when a policy, program or project auspiced by government is delivered—yet each policy, program or project affects men and women differently. I note some of the good programs that Mr Gentleman talked about and acknowledge the Minister for Women in the chamber at this time and thank her for pursuing those too.

Gender equity still does require an ongoing transformation of women's participation within our society and can only be achieved if men and women are working together. In today's society I believe we are as a whole making a much more concerted effort to look at issues based on merit and ability and to seek, as mentioned before, a more socially just environment. If we can see the sometimes unintended consequences of actions of the past and seek to rectify them, this is a sign of a maturing society.

If we take Canberra as an example, I believe we have a community that is certainly taking a lead on equitable opportunity in the areas of education, social structure and employment. Whilst Mr Gentleman and the Labor Party talk about the possible negatives of WorkChoices in Australia, I think they remain to be seen. However, I flag and have flagged before that I do have concerns in regard to some of those areas, particularly, nonetheless, for single women; I have been on the record as saying that. But today I am not going to mar that with any more politics. I do not think this is a day for political views; it is a day for a bipartisan approach. It is certainly an issue that needs a bipartisan approach and I do note that a gentleman—Mr Gentleman—has brought this on, and I thank him for that.

DR FOSKEY (Molonglo) (4.17): I think it is quite a stroke of luck or coincidence that on International Women's Day this was the topic that was pulled out of the hat. But perhaps there were about six or seven entries on the same topic; you never can be sure.

There is a lot to say on this one and there is no doubt that to start we do need to acknowledge that in the ACT women are in a relatively privileged position, certainly in regard to much of the rest of the world but perhaps in regard to Australia as well. I want to express my respect to the Minister for Women, because I have had plenty of evidence that she has got a strong commitment to this. It is not just a job; it is something that the minister really believes in and that I believe she lives in her life.

That is always a good start—to be a minister for something that you really believe in. Perhaps that is a bit of a luxury in these days.

I am going to speak a little bit about Sarah Maddison's and Emma Partridge's work for the democratic audit which she spoke about last night at the Pamela Denoon lecture. Also there is an article in the *Public Sector Informant* of Tuesday's edition of the *Canberra Times* by Sara Dowse entitled "Where have all the femocrats gone?". Of course the ACT is the home of the femocracy, or at least it used to be, and I think that is the major point that is being made by Sarah Maddison.

Sarah Maddison is a young feminist and Sara Dowse is what you might call an older feminist. One of the things that there used to be quite a lot of heated discussion about in the feminist movement was: were the older feminists hogging the game and not leaving much room for the younger feminists? But I think that was a bit of a luxury and those were the times when that could be the main discussion that we were having. Now the main discussion is such that all feminists have got together on this one, young and old. Whether they are liberal, socialists, radical, cultural—all the kinds of feminism that there are are now all united in saying that things are no longer as good for women as they promised to be in perhaps the early nineties.

I do not know quite where we go back, but certainly Sarah Maddison chronicled the deterioration from 1996, and I think that is a good place to start. In 1995 there was the Beijing conference on women. I do not know if any of you were involved in the women's movement then, but I was, as a representative for the International Women's Development Agency. There was in Canberra an organisation—a sort of network because, being feminist, we did not want to call it an organisation—called CAPOW. CAPOW stood for the Coalition of Australian Participating Organisations of Women and their whole agenda was to get together to work with the Australian government—and I said "with" the Australian government—on the input that Australia would have in the Beijing conference on women. CAPOW operated out of a room at the old Hackett school, where we had a fax machine. I do not think we had email in early 1995 but imagine what a difference that would have made. But the fax machine ran hot.

If you are looking for democracy, you have got to look at the women's movement because the women's movement is so stuck on democracy and equality. The faxes went out every day. There are about 60 national women's organisations in CAPOW—can you believe that? I think it is very difficult to believe, because what happened in 1996 was the federal government's decision to fund only three national women's organisations. The Women's Electoral Lobby was, of course, defunded at that time.

Last night was the Pamela Denoon lecture. Pamela Denoon was the first national coordinator of the Women's Electoral Lobby and it was good to reflect on what had happened. WEL has not been funded for 10 years now. It still exists, it still struggles along—but it is a struggle when you do not have very much money.

The women's movement is made up of volunteers. Women are, by their very nature, very busy people and so to fit into their lives another thing, like being a part of a community organisation, is often a very big ask. Women are already involved in community organisations, in a sense, if they have children, because most women are

very strong advocates for their children. They belong to the school organisations, the preschool organisation and they often care about the environment because they want the world to be here when their children grow up. But in whatever way they are very active community participants. To then be involved in organisations specifically about women is something that a lot of women do not have much time left over for, because women generally put their own interests last. That is still, I think, true of women who have a family in particular. So that is worth looking at.

In Clive Hamilton's and Sarah Maddison's book that they have recently edited called *Silencing Dissent* Sarah Maddison has an article that is specifically about the progress, or lack of it, of the women's movement and organisations over that 10-year period, and it is salutary reading. When I was doing my thesis work and so on, which was done from a feminist's perspective, I observed that one of the very first things that is recognised by Third World women—and I was writing about Third World women—is that women need organisations. It is just the number one, because not every woman has the ability to speak up for herself, and that is particularly true of illiterate women in countries like Sri Lanka, Bangladesh or the Pacific islands.

So the whole movement for women was about forming and empowering women's organisations that could then speak. And, as I said before, those women's organisations have to be democratic and they also have to recognise that not all women are equally placed in our society. So when we talk today about gender we have to remember that women cross the whole spectrum, as do men; that some women do not have the same voice as other women; and that very frequently it is middle-class educated women who, by reasons of birth or other factors, perhaps scholarships, such as I had, who go to university. We were the lucky ones, and we have a voice, but there are many of our sisters do not have voices. Therefore, I feel that when we speak we must always be aware of their interests. Where there is poverty and where there are families concerned, women are often the ones who are doing it tough, the ones who are juggling the pennies, trying to get food on the table and, particularly in a housing-stressed market, trying to just put a roof over their heads.

I just want to talk very briefly about the impact of welfare to work connected with WorkChoices, because when we talk about WorkChoices we are really talking about people who have jobs. Welfare to work has thrown a whole group of women onto the market who often are not prepared. As Sarah Maddison said yesterday, what do you do if you are a woman on the sole parent benefit, a job is offered to you and for all kinds of reasons you cannot take it? What happens is that you are breached of your benefit and you are forced to go through a very hard time.

I do not hear the voices of those women being represented in the debates that we have about gender and about WorkChoices, and we know why—because they do not have strong advocacy groups. I think there is such a group but I do not believe it is one of the ones the federal government is funding, and, without funding, women's organisations do not have a voice. Many, many women lack advocates in these very constrained political times.

MS GALLAGHER (Molonglo—Minister for Health, Minister for Disability and Community Services and Minister for Women) (4.27): I will just speak briefly as we have a function next door due to commence in a couple of minutes to recognise some

outstanding women in our community here in the ACT, with the ACT International Women's Day awards.

I just want to acknowledge the importance of today, the International Women's Day. Traditionally it is a day to celebrate the women's movement and their achievements over many, many years. It is also a day to celebrate other women across the world. But it is also, importantly, a day to focus on their campaigns that continue in Australia, whether they be around WorkChoices and welfare to work or around the world in relation to the peace movement, for example.

This year's International Women's Day theme is "ending impunity for violence against women", and that means ending the provision of exemptions from punishment particularly in relation to crimes against women. Here in the ACT we know that is not the case; that punishment does exist if a crime, a violent act, is committed against a woman. But that is not to say that violence against women is not an issue here in the ACT, because it is. It is with enormous sadness that in 2007 probably the single biggest issue affecting women in the ACT remains domestic violence.

I would like to acknowledge the efforts of a range of community organisations that work in the community providing support to women, and their children, who are experiencing violence. There is a range of services from crisis counselling services to long-term counselling services to family support programs and to accommodation support. It also crosses over into our child protection system to foster carers and the range of services that are provided through numerous community organisations, too many to name. But today I would like to stand and acknowledge the partnership that they work in with government to support women and children who have experienced or are experiencing violence to get back on their feet and get help that they need.

Today also is the day when we should all reflect on women who are living very difficult lives—again whether that be in the ACT, broadly across the country or across the world. That can be anything from disadvantage, poverty, homelessness or those experiencing discrimination. These issues remain for women across the world and it is the women's movement's commitment to international solidarity to advance the interests of women that has kept these campaigns alive.

I went to a function for the Women's International League for Peace and Freedom last week with Dr Foskey. They were celebrating the publication of their journal documenting the week of activity they had here in the Assembly last October. That organisation are celebrating their 91st birthday this year, and when you look at the principles that the Women's International League for Peace and Freedom, or WILPF, originally signed up to 91 years ago, those principles are still relevant today. It was about a group of women across the world that stood up for and sought peaceful solutions to international conflicts. Today we send our thoughts and best wishes to those women who are living, particularly in places like Iraq, amongst a war that should never have started. They really are the people that bear the brunt of war in their community because they are often the ones that have to try to keep their families together at a time when it is very difficult to do that.

So, whilst we acknowledge women in our community—and today we will acknowledge ACT women—it is also a time to sit back and think of those women who today, right at this minute, are living extremely difficult lives.

MR STEFANIAK (Ginninderra—Leader of the Opposition) (4.32): Mr Speaker, I will be brief and just touch on one point that the Deputy Chief Minister touched on and that is domestic violence against women, which I certainly find abhorrent.

I just want to speak about a couple of matters, one of which I think was sending a very good signal to people who perpetrate violence at the worst end of the scale, that is for various nasty and serious rapes, and also another matter that I was a bit concerned about in relation to what had occurred. Both were court matters. The first one was a matter last year where a serial rapist who terrified Canberra received what I regarded as a particularly appropriate sentence. I was concerned to see that a young woman was raped. Her matter was finalised by the court. She was 16 and she was raped by a couple of young fellows of, I think, 18 or 19, who picked her up after she worked at a place in Tuggeranong and, after molesting her, dumped her at a kerbside in Kambah, dishevelled and crying her eyes out. I was disturbed to see one of those matters dealt with when the young man—he was not a young person; he was an adult—received only periodic detention.

I do think courts need to be very aware of the community abhorrence of violence generally against women, but particularly rape. A lot of women used never to report rape. I think more and more are getting the strength and the support now to report this most heinous of crimes. But it is still often a very difficult offence to prove and there is still a reluctance by many women to come forward because of the trauma of reliving the experience. Certainly, when matters are brought to justice it is crucially important that our courts reflect the abhorrence that the community feels about rape and impose proper penalties accordingly.

Whilst I have seen some heartening steps, both here and elsewhere, in recent times, our judicial system needs to be forever vigilant in terms of extracting and imposing appropriate penalties for this most serious offence, penalties that will serve as a deterrent to the animals—that is probably being nasty to animals; to the people—who perpetrate these dreadful offences. It is appropriate that we look at these matters too when we commemorate the International Year of Women. I congratulate other speakers in this debate, but I do want to make that point.

MS MacDONALD (Brindabella) (4.35): I thank Mr Gentleman for bringing this issue to the Assembly. It is, of course, very relevant, today being International Women's Day. I would also like to note the contributions made by earlier speakers. I know that the minister, as well as the Deputy Leader of the Opposition and Dr Foskey, have gone to an International Women's Day awards event which is happening at this moment; so I think that this is a good time to have the discussion.

Before I give my formal speech, I want to make note of the comments that Ms Gallagher and others made in relation to how fortunate we are in the ACT in comparison with others overseas. Of course, that does not mean that there are not those within the ACT whose lives could not be improved. There are still women in the ACT whose lives could be improved. I speak from my experience last year in travelling to Nigeria and seeing at first hand the issues that women in other countries face. Being an Australian delegate for commonwealth women parliamentarians, I expect that I will hear those stories in detail again when I attend the conference in New Delhi in September.

It really does make you stop and think about how fortunate we are in comparison to those women abroad who daily face violence and death in lots of cases, that being much more common than it is in our country. It is important that we continue to work for gender equity for women in the ACT and Australia as a whole, but also do what we can to improve the lot of women in other countries.

Mr Speaker, gender equity for women is an important issue. The rights of women have come a long way in the past century, and the ACT government is committed to improving these rights. This commitment is evidenced through the many programs and strategies we have established to achieve equality in our community. I would say that that does not apply just to the current ACT government. All ACT governments have done their bit, some with more enthusiasm than others.

Disappointingly, I have to say, I do not feel that the same can be said about the federal government at the moment. Women have fought long and hard for equal pay and working conditions but, as a result of John Howard's WorkChoices laws, the gradual trend towards reducing inequality in the workplace has been reversed and the gains that have been made are being threatened.

In just over 10 months since their introduction, WorkChoices laws have been found to have had an overall negative effect on women in the work force. Findings released in Queensland's Griffith Business School report *Brave new work choices: what is the story so far?* revealed that women's conditions and pay sank in the first six months of WorkChoices, especially in the private sector. The real value of women's wages since the new laws came into effect has fallen by about two per cent.

The report's author, Professor David Peetz, found that women who were already very vulnerable in the work force were likely to be more vulnerable under WorkChoices compared with men. Whilst the public sector is somewhat more protected, the average weekly ordinary time earnings in the private sector, taking account of inflation, have fallen by 1.7 per cent for females, compared to a rise of 0.6 per cent for males.

Working women are more reliant on industrial awards and are less likely to be unionised or under collective agreements. Overall, 20 per cent of the work force is reliant on awards, around 25 per cent of women and 15 per cent of men. We know that WorkChoices is aimed at getting people off collective agreements and on to AWAs and breaking down the collective strength of unions. Past studies on negotiation behaviour have suggested that women are less likely to ask for more money and to be less confident and less likely to be successful in negotiations for individual agreements. I know that personally from having represented a predominantly female industry for five years.

John Howard's WorkChoices laws have effectively reversed the many gains women have made in the work force and have assisted in the widening of the gap to achieving gender equity. Women are faced with many challenges, particularly in the workplace. Many have work, home and family responsibilities to juggle, but, rather than making it easier for women, the federal government has disadvantaged them and made their working conditions less secure and less equitable.

The importance of this debate is clearly evident, especially while the country is governed by a federal government that continues to enact regressive laws that adversely affect our population. Once again the injustice of the WorkChoices laws has been exposed. While it is still early days for the laws, the data so far clearly shows that the gap between men and women in the work force has widened. Until these laws are dropped and full equality in the work force—in fact, in all aspects of life—is achieved, International Women's Day will continue to be an important day on the world calendar.

MS PORTER (Ginninderra) (4.41): I am very pleased to be able to join Mr Gentleman and other people in this place today in talking about gender equity. Along with Mr Gentleman, I read with interest the report in the *Canberra Times* that Australian adolescents are suffering as their parents experience problems balancing their work and home life, with less time to spend with their children. The report, as Mr Gentleman says, recommends that a federal law be introduced to prevent discrimination against workers who ask for more flexible hours to care for their children, their elderly relatives or people with disabilities in their families.

Only this morning, at the breakfast to celebrate International Women's Day, the ACT Chief Police Officer, Audrey Fagan, spoke about her experience as a policewoman and how the AFP has been recognised as being a family-friendly workplace. Of course, as Ms Fagan said, this aspect of the AFP is central to the service's response to the sad event of yesterday's plane crash in Indonesia, with the apparent tragic loss of two of their officers, along with the lives of many others, and with a large number suffering serious injury.

On a lighter note, Ms Fagan reflected on the fact that, as part of her work-life balance, she was having breakfast with her daughter today, as her daughter was attending the breakfast with her classmates. It was pleasing to see such a large number of young women from Canberra's public and private schools at the breakfast.

To return to the research featured in this morning's *Canberra Times*, the article emphasises the importance of parents' different roles and how significant difficulties are created in work-life balance through overwork. Fortunately, it does seem that we have moved on, at least in terms of this research, in our expectation of women being the ones in the family with household and caring roles.

However, women still report, as other research substantiates and as Mr Gentleman said earlier, that they still carry the lion's share—or should I say the lioness's share?—of this role. In fact, the *Canberra Times* article quotes the HREOC report *It's about time: women, men, work, and family* as arguing that women still shoulder the greater burden of unpaid work, while men want more time with the kids. There is a serious issue here, that is, the issue of how much we value the contribution of both men and women as parents.

Today's report in the *Canberra Times* comes as no surprise to me. Many years ago I learned of research undertaken in the United States which showed that that country's version of welfare-to-work policies had led to a rise in juvenile crime and delinquency among teenagers. The research showed that forcing mothers into the paid work force

when their children were at a certain age was counterproductive. It came at a great cost to families and society in general, as more young people were left to their own devices between when they left school or college in the afternoon and when their parents returned home. These young people were literally going off the rails and engaging in antisocial and criminal behaviour.

Mr Speaker, it is easy to see how this can cost families, and the community, dearly. It is obvious that our federal government's welfare-to-work and IR legislation is taking its toll. The federal government will argue that its legislation is offering women more opportunity and giving parents more time with their children. However, the research shows that, in fact, the reverse is the case. All of us in this place should be very concerned about this trend, not just on this day when we celebrate women but, indeed, every day.

MR SPEAKER: This discussion of a matter of public importance has concluded.

Freedom of Information Amendment Bill 2006
Detail stage

Clauses 1 to 6.

Debate resumed.

Clauses 1 to 6 agreed to.

Clause 7.

MR STEFANIAK (Ginninderra—Leader of the Opposition) (4.45): Mr Speaker, I will be opposing this clause, and I move my amendment accordingly *[see schedule 1 at page 417]*.

As I alluded to in my speech in the in-principle debate, I think that this clause is the most troublesome of all the clauses in this amendment bill. Other speakers have mentioned some general problems in relation to the rest of the bill and, as indicated earlier, we certainly will be looking at how it all pans out. I flag that the opposition probably will be looking to bring in its own bill in the ensuing few months.

I have already mentioned comments made by the Council for Civil Liberties on clause 7. This clause really is problematic. It is somewhat open ended. Despite attempts to have some structure to it in terms of some provisions and things to be taken into account, it is very open ended. There is great potential for a government to use it as an excuse not to grant documents to someone who quite rightly uses the Freedom of Information Act, and it is really subject to potential abuse.

As I said earlier, what is the cut-off? Is it 100 documents? Is it 10,000 documents? It would be very easy for a government to use this clause to say, "No, it is all too hard. It is going to be all too costly. We will decline your request." That goes contrary to the whole idea of freedom of information. It is something that is inconvenient for governments and it is something that is inconvenient for government departments,

which do not like particularly the work involved, but it is part of the checks and balances processes of our system, and has been for some time.

It is meant to be one of the hallmarks of an open and accountable government, which is something that governments of all political persuasions mouth platitudes about but quite often do not actually fulfil. As I said earlier, with this government in particular we have had a number of instances in recent times when they have shown themselves to be the least accountable government since the Assembly started. They are, of course, the first majority government since the Assembly started, which is all the more reason to have these necessary checks and balances.

I fear that a large number of requests which may well involve a fair bit of work but which should be granted for good governance reasons will be refused now because of this clause. Accordingly, I would urge members to vote against this clause. As I said earlier, there are some other parts of the bill which we are content to allow to go through, but I think that this clause has the potential to be really abused. It is very open ended and it is something that I think governments and departments will want to use to knock back perfectly reasonable requests on the basis that it is all too hard, it is all too costly, it is all going to take too much time. That should not be necessarily a basis for refusing requests.

MR CORBELL (Molonglo—Attorney-General, Minister for Police and Emergency Services and Minister for Planning) (4.49): Mr Speaker, the government rejects the assertions of Mr Stefaniak in relation to this clause. The provisions, far from being too general, are in fact more specific than the current provisions in the act. The current provisions in the act simply state that an agency or the minister may refuse a request to grant access to documents if the workload is too significant, end of story.

There is no detailing of the types of reasons and issues that need to be taken into account; nor is there, as there is in this amendment, the ruling out of certain issues as issues that cannot be taken into account in making this decision. I draw members' attention in particular to clause 7 (1A) (b), which highlights those matters that the minister or agency must not have regard to, and those are any fee or charge payable for processing the request, the reason that the person requesting access gives for requesting the information, and the agency's or minister's belief as to the person's reasons for requesting access.

So it actually rules out particular issues or particular matters that cannot be taken into account in making this decision, as well as being more detailed about the types of matters that the decision maker does have to have regard to in deciding whether the exercising of this clause is appropriate. Mr Stefaniak also fails to mention, of course, that this clause and this power are subject to review in the AAT. A decision to refuse access on the grounds of a workload which is deemed to be too onerous is subject to review in the Administrative Appeals Tribunal.

In fact, that is one of the reasons that this detail is listed in this amendment so that if this clause is exercised and if the matter is referred to the AAT, the AAT, instead of looking at whether the workload is too onerous or unreasonable, can actually see the detail of the reasoning in regard to the matters listed in the clause. Far from actually weakening, I believe it strengthens the operation of this provision and gives greater clarity and transparency to it, whilst still maintaining AAT review.

Mr Speaker, the government does not accept the opposition's critique in this regard and would urge members to support this clause.

MRS DUNNE (Ginninderra) (4.52): Mr Speaker, the minister says, "We are actually making it better and harder for people to knock back someone's request. We are setting out criteria so that the process will be clearer." Actually, what we are doing is we are encouraging officials to find ways of refusing and it will be made easier for bureaucrats to refuse documentation. As I said this morning in the in-principle stage, the current attitude of officials in the ACT is not helped by this matter before us today, nor the attitude of this minister, who, as we saw this morning, knows very little about the operation of the Freedom of Information Act.

I would like to read into *Hansard* a letter that I received recently in relation to an FOI request that I made on a series of correspondence. It says:

> In my letter of 20 February 2007 I identified a broad range of documents as possibly falling within the scope of your request and asked that you consider refining it. I also indicated the workload involved in giving access to all of the documents …

It goes on:

> As the authorised decision maker, if I have not received a response from you by Thursday 1 March 2007 I intend to consider whether your request should be refused in accordance with section 23 (1) of the FOI Act.

So we actually have misapplication of section 23 already in hand in departments in the ACT. What this minister is doing here today is, in fact, making it easier for bureaucrats to knock back requests.

I suppose it is discomforting for members of the bureaucracy when their political masters make silly decisions, as they did in the case of school closures, but I believe that the provisions of the Freedom of Information Act should allow me and other members of the public considerable access to the documents therein and it is not appropriate for officials to come up with the high-handed approach of saying, "If you do not do things by a particular day, I will consider disallowing your request under section 23." Today, the minister is making it easier for bureaucrats to do just that.

MR STEFANIAK (Ginninderra—Leader of the Opposition) (4.55): Nice try, Mr Corbell, but it failed. I am well aware of what must not be had regard to, but I think that that is a fairly feeble list of what cannot be had regard to. There are simply three items there. Whilst, of course, it does limit the matters that the minister may have regard to in relation to the rest of the clause, I do not think the minister has made out a case remotely in relation to why this clause could not be open to so much abuse by a government or by a department or agency.

Question put:

> That clause 7 be agreed to.

The Assembly voted—

Ayes 7		Noes 6	
Mr Barr	Ms MacDonald	Mrs Dunne	Mr Smyth
Mr Berry	Ms Porter	Dr Foskey	Mr Stefaniak
Mr Corbell	Mr Stanhope	Mr Mulcahy	
Mr Gentleman		Mr Seselja	

Question so resolved in the affirmative.

Clause 7 agreed to.

Remainder of bill, by leave, taken as a whole.

MR CORBELL (Molonglo—Attorney-General, Minister for Police and Emergency Services and Minister for Planning) (5.00): Mr Speaker, shortly my colleague Mr Barr will be moving for the adjournment of this debate. The reason for that, which I am going to take the opportunity to deal with now, is that it has been drawn to my attention that an incorrect version of the government's amendments has been circulated to members.

The version that has been circulated does not include a new clause 16, proposed new section 69A. This amendment is very minor in that it simply changes a heading by omitting the word "affairs" and substituting the word "information". Nevertheless, because it has not been circulated to members and for the sake of not being accused of failing to provide members with adequate time to consider these matters, the government will seek to adjourn debate on this bill until the next sitting to allow members to consider that small but nevertheless omitted piece of information from the version of the amendments that was circulated. Mr Speaker, we will seek to resume debate on this bill at the next sitting.

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

Adjournment

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

> That the Assembly do now adjourn.

Health—smoking

MS MacDONALD (Brindabella) (5.02): Last week it was announced that the Tasmanian state cabinet had taken steps to ban smoking in cars carrying children. Under the legislation which is expected to be enacted later in the year it will become an offence to light up in a car with occupants under the age of 18. I commend the Tasmanian government on this decision and urge the ACT and other Australian jurisdictions to enact similar bans. Last year South Australia legislated to ban smoking in cars with children, and police now have to the power to issue an on-the-spot fine of $75 to anyone smoking in a private car when a child under the age of 16 is present. I

cannot say which model the ACT should adopt, but I believe we should remain comprehensive in our approach to tobacco control and legislate to ban smoking in cars with children.

Children spend many hours in cars each week, and second-hand smoke in a vehicle has been proven to be 20 times more toxic than in a house. They have no choice if they are confined in a car with a smoker, and research shows that a vehicle that is regularly smoked in has harmful levels of carcinogens. Unlike all other legal substances, tobacco has no safe level of consumption. According to the findings of Action on Smoking and Health in Australia, also known as ASH, children exposed to smoke inside vehicles have a higher risk of asthma, pneumonia, bronchitis, coughing and wheezing, middle ear infection and meningococcal infection.

Some argue that banning smoking in cars with children erodes civil liberties and takes us one step closer to becoming a big brother nation. I believe that that is an absurd notion. We all know how deadly smoking is but it is still the single largest preventable cause of premature death in Australia. We also know that passive smoking kills but people still insist it is their right to smoke around others. If people did not still smoke in vehicles with children there would be no need to legislate, but education and health warnings obviously are not enough and some still insist on subjecting their children, who have little choice in the matter, to second-hand smoke.

While some will claim that this ban will be difficult to police, it should not stop us from making it illegal. It is illegal for people to talk on their mobile phones while driving and it is illegal not to wear seat belts. Similarly, enforcement of banning smoking in cars with children will be opportunistic. If police see a driver smoking in a car with children he or she will be fined and this will set an example to others that the law is enforceable. I believe that public pressure will also play a big part in the enforcement of this law. We know how dangerous passive smoke is, in particular for children, but people still smoke in the confines of vehicles containing children. Drivers would be less likely to do so if it were against the law.

I am pleased to see that smoking in cars with children will be banned in Tasmania, but I believe that much still needs to be done to further reduce the levels of smoking in our community and to stop youth from taking up the habit. I was disappointed to note that Tasmania did not ban tobacco products being displayed in retail outlets and did not move to ban children from selling tobacco products. Displays only assist new smokers to choose a brand and you need to be over 18 to purchase cigarettes, so I believe it is only logical that a person needs to be over 18 to sell cigarettes. Children should not be handling and selling a product that only adults can buy.

I spoke on this issue in November last year and I have long been an advocate for banning smoking in public places. I find it interesting that Senator Humphries jumped on the bandwagon earlier this week and called on the ACT government to enforce a ban. However, I welcome him to the fight to reduce smoking levels in our community. I will continue to lobby to reduce smoking to a negligible level and I hope that one day no-one will take up this terrible habit.

Emergency services—restructure

MR SMYTH (Brindabella) (5.06): I want to talk about Mr Corbell's autocratic approach to emergency management in the ACT. What we saw yesterday, delivered from on high and not open to discussion—a top-down approach to emergency management by this minister—has been sadly condemned by all who have been asked for an opinion. Val Jeffery, who was so vilified today by the minister, is against this proposal. ACT Volunteer Fire Brigades Association president Pat Barling, who has provided many years of service to the rivers brigade, described it as:

> …another kick in the guts for rural firefighters who were furious at the lack of consultation. It's basically a single fire service model by default and the SES and RFS will be pushed to the side.

Paul Cortese from the SES leaders group said exactly the same thing. There is a lack of consultation, a lack of consideration and a lack of understanding of what really happens on the ground. The question is: why is it being done? During question time we were given an answer by the minister, and this is approximately what he said, "The reasons to maintain the ESA within the JACS portfolio are that they are about ensuring that the organisation works within its budget and ensuring that the taxpayer does not pay for duplicated service."

What about giving consideration to the fact that we need more effective responses to emergencies? What about responding by stating that this would lead to greater units on the ground? What about responding by stating that this would cause more volunteers to come forward and join the service? No, this is all about cost cutting. It is about cost cutting because of ministers' ineffective financial management. Over the past two years the minister allowed, because the minister is responsible—and Mr Speaker you would know this because you were a minister—overruns of $5 million in the ESA. It overran its budget by $10 million. Because of that we will now get a second-rate emergency management system in the ACT.

All we have is this autocratic approach from Mr Corbell. What about all the work that has been done over the past four years by McLeod and Doogan? They said, "Listen to the locals. Listen to the experience. Listen to the volunteers and provide a system for them that enables them to do their job." Volunteers are frozen out of this organisation. They are frozen out of what Mr Corbell is doing because he is arrogant. This is an arrogant response from an autocrat who does not want to consult and it is in direct denial of the government's consultation manual.

The minister wants to ignore the VBA because he does not like what it has to say. He wants to ignore the SES leaders group because it does not fit with what he wants to do, and he wants to ignore the 50 years of experience of Val Jeffery because it does not accord with what he wants. Val Jeffery, a bushfire captain for many years, was president of the Bushfire Council for 12 years at a time when the Bushfire Council had control of hundreds of volunteers. So he led a bureaucratic organisation that had control of large numbers of people.

He was a representative of the Rural Fire Service captains group and he has provided well-regarded and wise advice to both the McLeod and Doogan inquiries, including broader emergency services capability matters. Today Val Jeffery said, "It is a stupid government of ill-informed bureaucrats who not only take no notice but then shoot the messenger." That is what this is. If you do not agree with Simon Corbell, you are cactus; you are gone. Val Jeffery said, "This is a recipe for another 2003 or worse." He said that it is not just a matter of the number of bureaucrats; it is the politics and attitudes that come with the bureaucracy.

Money juices an organisation. If you do not have money and control of the money to carry out what you need to do you do not have control. You can talk to ministers until you are blue in the face but we all know the bureaucratic process that sees the money tap turned off. That is what the SES and the RFS are afraid of. Indeed, that is what David Prince of the urban firefighters is afraid of, which is why he resigned in disgust. I am told he resigned as soon as the briefing was finished because he knows it will not work.

This is a single fire service by stealth. The minister referred to that in his press conference when he said, "We will combine demand and control." That is what he is doing; he is combining demand and control. This autocratic minister who should know better should listen to the volunteers and reverse this decision. He will be held responsible if 2003 or worse occurs. (*Time expired*.)

Mr Corbell: Mr Speaker—

MR SPEAKER: Mr Corbell, if you speak now, you will be closing the debate.

Mr Corbell: Yes, I will. Thank you, Mr Speaker.

Mr Smyth: Gagged! You do not want to hear any more. You are a shocker! There is no fair play.

Mr Corbell: No-one else stood up.

Mr Smyth: No fair play.

Mr Corbell: No-one else stood up.

MR SPEAKER: I think I am obliged to call any other member if he or she rises.

Mr Stefaniak: Okay, so I have risen.

Mr Corbell: I simply observed that no-one else was on his or her feet prior to my getting to my feet, so I got up.

Mr Stefaniak: We probably thought you were just stretching, Simon.

MR SPEAKER: I call Mr Stefaniak.

Bushfires—coronial inquest

MR STEFANIAK (Ginninderra—Leader of the Opposition) (5.12): Tonight I want to talk about several issues. When responding to debate on the Doogan inquiry and coronial inquests generally the government indicated that it was looking at amending the Coroner's Act or determining how it should proceed. In that debate I was concerned to hear suggestions that coronial inquests should just be a rubber stamp, that a no-fault approach should be taken and at the end there should be just recommendations for improvements. So no matter how bad things were, how many stuff-ups there were, how many problems or how many acts or omissions by various individuals, there should be a no-fault approach.

As we are debating the coronial structure it is important to look at the history of coronial inquests in this country to see what has come out of them. Sometimes individuals have been blamed and sometimes systems have been blamed. In the ACT we have a great history of thorough coronial reports. The act has been changed a bit since some of the matters that I will mention tonight were dealt with. For example, through the coronial process we have had committal proceedings against David Harold Eastman, who seems to have exhausted every conceivable appeal avenue available to him and some that no-one ever knew existed. However, a thorough coronial process led to his committal.

In some of the other coronial inquests that affected the ACT government, excellent improvements have been made in various agencies, such as JACS, ACT Health and other government departments. It is disappointing that some of the recommendations that were made by the Doogan inquiry, the latest thorough coronial inquest, will not be accepted by the government, including that major recommendation of great concern to everyone—the recommendation of a stand-alone emergency services authority.

Over the decades the coronary process has been a robust one. If we truncate it and emasculate it we will see some very real problems. New South Wales implemented a rubber-stamp coronial process in relation to its fires. It is painfully obvious to anyone with half a brain that one of the major fires that swept into the ACT—one of the four started by lightning on 8 January 2003—was the McIntyres Hut fire. After listening to people like Wayne West and other people experienced in fighting bushfires who live in the area it is apparent that New South Wales did not take the proper steps. That process was a much emasculated one.

I hope that in any review of the Coroner's Act we ensure that there are relevant mechanisms to improve the system and, if need be, to lay blame. We are dealing with competent judicial officers who oversee coronial inquests. We are dealing—and over the decades we have dealt with—a plethora of learned counsel, counsel assisting and counsel representing various parties. They sift through the minutiae of evidence and ensure that material is placed before the coroner so that the facts can be found. Systems can be changed through recommendations and, if need be, people and organisations can be blamed and structures can be improved.

That is the way we move on. As a result of some of the thorough coronial processes we have had in the ACT in the past the system has improved in many respects. As a result of coronial inquests that have taken place there have been some important initiatives in a number of ACT government agencies, and in a number of instances the same mistakes have not been made twice. If we adopt this Labor idea that no-one is to blame, we cannot apportion any fault, everything is all right and we will make a few recommendations to improve the system, I fear that we will not learn and we will run the risk of grievous errors being made. People will not learn from their mistakes and the innocent will suffer. Indeed, in some instances, they suffer with their lives. It is crucial that we get this review right.

RSPCA

MR MULCAHY (Molonglo) (5.17): While we are on the theme of bushfires, the matter about which I want to speak tonight is the RSPCA, one of the organisations so adversely affected by those terrible fires. But on a more constructive or positive note I wanted to make mention of my visit to that facility not so long ago when I had an opportunity to meet with Michael Linke, the CEO of the ACT division of the RSPCA. During that meeting we discussed issues relating to animal welfare and the role of the RSPCA in the ACT.

RSPCA ACT is a non-government funded organisation that, as a result of its location in Canberra, provides unique opportunities for re-homing companion animals as well as rehabilitating native wildlife. The RSPCA staff and volunteers are engaged in active caring every day of the year to ensure that all animals that arrive at the RSPCA are given every opportunity to live a fulfilling and healthy life.

There are four main functions of the RSPCA in the ACT: the operation of an inspectorate service, the operation of an animal shelter, raising community awareness through education, and raising funds. The society's first function is to investigate cases of alleged cruelty or neglect via an inspectorate service that ensures community compliance with the Animal Welfare Act 1992. As members may well be aware, this act gives RSPCA inspectors the power, when necessary, to enter premises, seize any animal and lay charges that could result in fines of up to $10,000, a year's imprisonment, or both.

Many of the complaints that are received do not warrant such harsh action. I am informed by the RSPCA that in most cases advice from an inspector and a follow-up visit are sufficient to ensure compliance. With the hot weather that we have had of late there are situations when people, either through oversight or a failure to appreciate the impact, do not leave out water for pets. The RSPCA, to its credit, is quick to move in those situations and inform people of their obligations.

Unfortunately, the RSPCA receives limited funding from the territory government to enforce the Animal Welfare Act on its behalf. I believe that increased government funding for this service would help the RSPCA perform its other important duties. Mr Linke explained that it is the government's responsibility to manage this aspect of service provided by the RSPCA, and stated his belief that it should recognise the important and vital work undertaken by the association by increasing funding. My

visit was prompted by representations that I imagine were made to all members of the Assembly.

The society's second function is to operate a shelter for lost, abandoned, unwanted and ill-treated animals. During the 2004-05 financial year alone, the shelter provided refuge for 1,660 dogs and puppies, and 2,223 cats and kittens. The shelter aims to reunite lost pets with their owners and to allow people to adopt new pets. Its third function is to raise community awareness of animal welfare issues through an education program, and the centre employs an education officer who visits schools and community groups and conducts tours of the animal shelter.

The society's fourth and final function is to raise funds to support its work. RSPCA ACT is a community-based not-for-profit association that relies on public donations, membership subscriptions and fundraising events to continue to care for the animals and to serve the public. I would like to acknowledge and congratulate Michael Linke and his team at the RSPCA for their continued efforts and hard work to ensure the respect of animal welfare in the local ACT community.

Their important work and continued dedication should not go unnoticed. I was moved by the professionalism of the organisation when I visited its headquarters and inspected their facilities. I was impressed by the overall approach and attitude of their director, so I am keen to put that observation on the record, which I imagine is shared by members on both sides of the Assembly.

Emergency services—restructure

MR CORBELL (Molonglo—Attorney-General, Minister for Police and Emergency Services and Minister for Planning) (5.22), in reply: Mr Speaker, I want to take the opportunity to reflect a little on the debate about the governance of emergency services. The first thing I want to comment on is the prospect advanced by some in this place and some outside of this place that matters of governance when it comes to the emergency services relate directly to how we tackle emergencies and in particular, in the context of the current debate, how we tackle bushfires in the ACT.

It always strikes me as very curious that debates about governance seem to be the be-all and end-all of whether or not we have an effective emergency services agency with the capacity to protect our community in a time of emergency or other threat. I do not accept the argument that the governance arrangements are the be-all and end-all of the capability and the capacity of an emergency services organisation to respond to an emergency. Indeed, what we are discussing and have been debating in the Assembly today and in the broader community over the last couple of years has been, in many respects, what is not the main game.

The main game should not be the administration of the ESA in terms of how it is structured. The main game should be: do we have enough resources in the right places to tackle the threats that our community face, do we have the appropriate level of resources, are they being tasked in the most appropriate way, and are they being managed well? That seems to me to be the main game, rather than: is it an authority or is it an agency; does it have a commissioner who meets with the minister alone, or does it have a commissioner who meets with other public servants? This seems to me

to be an increasingly esoteric and unhelpful discussion which really does detract from the main game.

But I want to take some members to task around a number of issues. The first, and I think the most striking one for me, is the suggestion that the government is ignoring the recommendations of the coroner around the governance of the ESA. The opposition cannot have it both ways. The opposition cannot say, "You ignored the coroner because you did not agree to establish a statutory authority again"—which is true; we did not agree—"but we won't talk about the fact that you also ignored or disagreed with the coroner's recommendation to establish a single fire service."

If you want to be serious about saying that it is about learning lessons from the past and learning from what the experts tell us, including the coroner, what did the coroner say? The coroner said it should be a statutory authority and it should be a single fire service. That is what the coroner said. That was her conclusion. You cannot escape that. You cannot get away from that.

The government do not agree with a single fire service, but we take the view that there is more than one way to skin a cat, in the same way that we take that view in relation to the authority versus agency debate. When it comes to the authority versus agency debate, we say you can ensure that operational independence is guaranteed without all of the apparatus of a stand-alone authority. You can ensure that operational independence is guaranteed because that is in the Emergencies Act.

But we also take the view that you can achieve greater levels of coordination and greater levels of effective resource utilisation without establishing a single fire service. The view we take is that that can be achieved through a better unification of command so that you have a single person who has regard to all of the factors around fire response in the territory and you make sure that those resources are being used most effectively to deal with fires in the territory.

I know there are different types of fires. I know there are different types of techniques that are needed to tackle different types of fires. But the issue is that you still have a large degree of commonality across the two services in terms of a range of functions and approaches and a range of training, and that should be able to be shared, combined and built upon in the interests of providing a more cost-effective service to the people of Canberra.

I think it is time we moved into a more complex debate about this, rather than the shouting debate we seem to be having from those opposite at the moment.

Question resolved in the affirmative.

The Assembly adjourned at 5.27 pm.

Schedule of amendments

Schedule 1

Freedom of Information Amendment Bill 2006

Amendment moved by Mr Stefaniak

1
Clause 7
Page 3, line 8—

[oppose the clause]
