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MR SPEAKER (Mr Rattenbury) took the chair at 10 am and asked members to stand in silence and pray or reflect on their responsibilities to the people of the Australian Capital Territory.

Minister for Health
Motion of censure

MR HANSON (Molonglo) (10.00): I move:

That this Assembly censures the Minister for Health, Katy Gallagher MLA, for her ongoing mismanagement of the Health portfolio, including:

- (1) the highly critical findings of the recent Auditor-General's report into waiting lists for elective surgery and medical treatment that found:
 - (a) the strategies implemented by ACT Health have not been adequate to address increased demand, and reduce the waiting lists for elective surgery;
 - (b) notwithstanding increased funding by the Commonwealth and ACT Governments in the recent years, the elective surgery waiting lists have not shown improvements, and the ACT compared unfavourably to other jurisdictions;
 - (c) the median wait was 75 days in the ACT (the Australian median was 34 days);
 - (d) more recent statistics in 2009-10 indicated a general worsening situation compared to 2008-09;
 - (e) ACT Health conducted an internal review of the outpatient services at The Canberra Hospital (TCH) and a draft report in October 2010 found deficiencies in strategic planning, inconsistent application of policies and procedures across the OPDs, ad hoc processes for managing waiting lists, and poor and inefficient communications with clinicians, consumers and staff; and
 - (f) classification of clinical urgency categories did not always reflect ACT Health's policy and procedures and therefore raised doubts on the reliability and appropriateness of the clinical classifications for patients within the waiting lists;
- (2) the recent loss of confidence in Katy Gallagher MLA as Minister for Health and calls for her to be dismissed by the ACT Visiting Medical Officers Association in a letter written by the President of the Association to the Chief Minister;
- (3) the Minister ignoring, denying and attempting to cover up elements of very serious issues in the Obstetrics Department of TCH, resulting in a highly critical clinical review, and a review into management and behaviour aspects that has been entirely suppressed by ACT Health;

- (4) the recent very poor performance of ACT's public hospitals, recording the worst results in the nation for elective surgery on the My Hospitals website;
- (5) unacceptable waiting times at the Emergency Department at TCH for urgent and semi-urgent patients, with both categories falling well below nationally recognised waiting times;
- (6) the Minister's failure to address the ACT's ongoing chronic shortage of general practitioners which is the lowest per capita in Australia behind the Northern Territory, and chronically low bulk-billing rates which are the lowest per capita in the nation;
- (7) two years of disruption and delay to developing improved hospital services in Canberra's north, caused in part by the Minister's failed attempt to waste \$77 million of taxpayers' money during the Calvary Hospital purchase fiasco;
- (8) the Minister's failure to address serious concerns raised by medical staff and patients with diabetes services in the ACT, including staff shortages, loss of morale, delays in appointing the clinical director, concerns with the diabetes service model, delays for patients to see endocrinologists and diabetes educators, and inadequate services for young adults;
- (9) dysfunctional communication with patients and families, including families of infants exposed to tuberculosis at TCH, the family of the ACT's first Swine Flu fatality, and cancer patients seeking radiotherapy who were ignored while being forced interstate for treatment; and
- (10) disruption, ongoing delays and cost blowouts across numerous health infrastructure projects totalling \$57 million in rollovers in the ACT Budget 2009-10 and \$50 million in the Budget 2010-11, including extensive delays and cost blowouts that plagued TCH car park, the still undelivered Secure Mental Health Facility, the delayed Women's and Children's Hospital and the delayed Bush Healing Farm.

Today the Canberra Liberals will be sending a message to the health minister from the thousands of Canberrans who are waiting for elective surgery, who cannot get in to see a GP, or who have waited for hours in emergency departments. We want to send a message from our overstretched staff, the ones that Minister Gallagher often accuses me of attacking but is so quick to blame once the heat is turned on her.

I want to send a message that her performance is simply not good enough. When you look at the long lists of failures and the deteriorating outcomes in health in the ACT, it is quite clear that she has simply not got the job done. It is also clear to me that broad sections of the community have lost confidence in this minister. Patients have lost confidence in the minister. Health professionals I talk to have lost confidence in the minister.

To put this into perspective, Mr Speaker, in late December last year, the president of the Visiting Medical Officers Association, with the support of his association, wrote to Jon Stanhope asking for him to dismiss Minister Gallagher as the health minister.

Mr Stanhope: That well-known member of the Liberal Party? That is the well-known member of the Liberal Party, is it? That one.

MR HANSON: Dr Hughes represents a significant number of doctors in the ACT and for doctors to so publicly call—

Members interjecting—

MR SPEAKER: Order!

MR HANSON: for a minister's resignation shows how high the levels of frustration are with her performance.

MR SPEAKER: Order! Mr Hanson, one moment, please. Stop the clocks, thank you. Members, I expect this to be a contentious debate but let us try and conduct it in a manner that is somewhat edifying. Mr Hanson has the floor and I expect to hear him in silence.

MR HANSON: Mr Speaker, thank you. Dr Hughes realises what many patients do, that after nearly five years as health minister, Minister Gallagher has been utterly ineffective and across almost every measure the health system has deteriorated.

Every week I get numerous complaints about the health system, be it from an elderly patient who has waited in pain for over a year for elective surgery, a parent of a young child who waited 16 hours for treatment in the emergency department, a GP who is getting no support from the government, a cancer patient who has had to go to Sydney after being lost by the system, nurses who have been bullied, doctors who have made complaints that were ignored or, as I heard yesterday, from the frustrated father of a son suffering from a mental illness. The complaints are constant.

Normally people are full of praise for the overstretched doctors and nurses, but often they say the same thing to me, that Minister Gallagher is just not getting the job done. Since we last met, we have seen more evidence that this is the case. We have talked at length about the litany of problems experienced by our health system, many directly caused by the minister's neglect. I will touch on them later.

Since the Assembly last sat, we have seen not just a significant doctors group calling for her to be dismissed; we have seen also the appalling results on the MyHospitals website and we have seen the damning Auditor-General's report into elective surgery waiting lists. These are the waiting lists that are the longest in the country. They are twice as long as the national average—lists with over 5,000 Canberrans waiting for surgery, 15 per cent of them waiting for over a year.

What is clear is that we have a crisis in elective surgery in the ACT, and this is a crisis of Minister Gallagher's and of ACT Labor's making. The median waiting time was 40 days when ACT Labor took office; it is now 75 days—nearly double. This does not count the year-long wait many people suffer whilst they are actually waiting just to get onto an elective surgery waiting list.

When allegations were made last year by doctors and patients that lists were being managed inappropriately so that urgent category 1 patients were being downgraded without clinical reason, the minister was in denial. She accused me, in her words, of besmirching the surgical booking areas and surgeons.

Let me turn now to what the Auditor-General found. I will quote from the report:

... classification of clinical urgency categories did not always reflect ACT Health's policy and procedures, and therefore raised doubts on the reliability and appropriateness of the clinical classifications for patients within the waiting list ... in 2009-10, 250 patients in Category 1 were reclassified and a significant number of these reclassifications (97 percent) occurred without documented clinical reasons ... Audit examined 259 records of all Category 1 patients whose clinical urgency category had been reclassified from Category 1 to Category 2. Audit identified 55 reclassifications (or 32 percent) that had no evidence of having been approved by a doctor ...

The report goes on to state that there was a:

... consistent practice by some doctors to 'stage' (downgrade) patients' clinical urgency category close to the clinical recommended timeframes for these patients.

And more damning, Mr Speaker:

This often followed a request for review by the hospitals ... In particular, downgrades of patients' urgency category, often without documented clinical reasons, raised considerable doubts about the reliability and appropriateness of the clinical classifications for patients on the waiting lists.

When I raised the concerns of the doctors and patients, the minister's response was to say that I was besmirching people. Does the minister stand by that insult or will she apologise now that the Auditor-General has found that there were indeed problems with how urgent patients were being downgraded?

This is, however, the minister's pattern of behaviour: first to deny, then to attack the messenger, then to try and cover up, and when the truth is exposed, to blame the department. This is exactly what she did in this case and it is exactly what she did in the obstetrics bullying case.

The problem is that the Auditor-General did not just find fault with the bureaucrats who the minister was so quick to blame, but she found systemic problems. I quote again from the report:

ACT Health conducted an internal review of the outpatient services at TCH and a draft report in October 2010 found deficiencies in strategic planning, inconsistent application of policies and procedures across the OPDs, ad hoc processes for managing the waiting lists, and poor and inefficient communications with clinicians, consumers and staff.

Further, the report goes on to state:

The strategies implemented by ACT Health have not been adequate to address increased demand, and reduce the waiting lists for elective surgery.

Who does the minister blame for the inadequate strategies? Is she going to take some responsibility herself or does she blame somebody else? Elective surgery waiting lists have nearly doubled since ACT Labor took office and are appalling when compared to other states. We saw this with the release of the MyHospitals website in December last year.

When looking at the categories across both public hospitals, of the 82 categories for elective surgery only six actually performed above the national average benchmark, and more than 60 categories are well below—indeed, many are the worst in the nation.

Results for emergency departments were not much better. If you look at the Canberra Hospital, where we are meant to be reaching benchmarks for urgent and semi-urgent categories, where people are seen within 75 per cent of the time frames—that is 30 minutes and 60 minutes respectively—the times that people are seen are within 47 per cent for urgent and 43 per cent for semi-urgent. This is well below normal accepted categories, well below hospitals like Liverpool in Sydney's west or St Vincent's in the city.

I remind you, Mr Speaker, that although it is 47 per cent and 43 per cent now, when this government took office it was above 75 per cent of the nationally recognised standard. Again, under ACT Labor we have seen almost a halving in the effectiveness of our emergency department at the Canberra Hospital.

These are statistics but, as an example, last week I spoke to the very upset parent of a five-year-old girl who had waited for 16 hours in the emergency department of the Canberra Hospital. He described to me a scene of chaos and misery at the emergency department. It was a scene of overstretched doctors and nurses who simply could not cope, of poor, and in some cases a total lack of, communication with patients.

His five-year-old girl had cut her hand and she waited 16 hours to get two stitches. Late last year we saw the tragic case of an 81-year-old grandmother who waited for 13 hours in the emergency department across two days after suffering a stroke. I get numerous complaints of this sort. Many people do not want their cases made public, but this is just the tip of the iceberg. What is clear is that after nine years of ACT Labor, and nearly five years of Ms Gallagher as the minister, by any measure, she has proved entirely ineffective.

These are just the issues since we have last met in this Assembly, but let me remind you of the ongoing problems that we face in our health system. We have an absolute crisis in GP numbers in this town. Behind the Northern Territory, which has some unique circumstances, we have the lowest number of GPs per capita in Australia. This is a minister who said only a short number of years ago that this was not her responsibility at all. It is only because of the pressure that has been applied by the opposition, by the community and by the media that this government decided to take some action. But it is proving ineffective and far too late to solve this problem.

I turn to bulk-billing. We have the lowest rates of bulk-billing in the nation. I ask you, Mr Speaker: who could get a bulk-billing GP in this town? We talked about the cost of living pressures on Canberrans yesterday. This is affecting their hip pocket and it is affecting their health. If you do get to a GP, you will pay more for a GP in Canberra than anywhere else in Australia.

We have seen things like the hospital car park fiasco. If anyone went to the Woden campus of the Canberra Hospital, they would have seen an absolute debacle. For the staff, the patients, the people trying to visit, that was an absolute mess-up. It was a hospital car park that was late and it was a hospital car park that went from \$29 million to \$45 million.

We should be used to this with this government. That is in fact the behaviour—that it is late, it is over budget and when they do build it, it causes massive disruption. Does that remind anybody of the GDE or the prison?

We have seen systemic bullying and workplace cultural issues across ACT Health. We have had a litany of complaints but still the minister will not release the workplace culture surveys. We saw the serious problems in oncology in patients like Vesna Nedic who were lost in the system.

Vesna was a patient who had finished her chemo. She tried to contact the radiotherapy department and got no response. She called, she left messages and she got no response. When she finally got through, she was pushed off to Sydney. Vesna heard me on the radio a couple of weeks ago and she sent me an email asking that I do not forget her and the other cancer patients who suffered and were ignored by the system. I will read that email that she sent me:

Hello Jeremy, I have heard you over the past few days on the radio talking about ACT Health. I don't know if you recall but I was the woman who spoke to ABC radio (Alex Sloan) about having to leave Canberra to go to Sydney for radiation treatment last March. I am writing to you to remind you that when you talk about all of the issues related to ACT Health, such as bullying and obstetrics, that you remember to also bring up the dreadful treatment of Canberra residents who had to seek cancer treatment outside of Canberra for reasons that were literally swept under the rug.

This is not just something that is coming from the Canberra Liberals. It is not. This is coming from cancer patients; this is coming from doctors; this is coming from a broader section of the community. It is coming from people who have lost faith in this minister.

We saw this with problems relating to diabetic services. Again, this was not just raised by one or two disgruntled people. This is a broad section of the community. They are people who are at the front line of diabetic services. The doctors came forward and complained of staff shortages, a loss of morale, delays in appointing a clinical director and concerns with the diabetic services model. We had patients coming forward talking about delays to see endocrinologists, diabetes educators and inadequate services for young adults. They would rather go to Sydney for their treatment because they would get better treatment there.

We have seen regular breakdowns in communication with patients. We have seen mismanagement of TB treatment at the Canberra Hospital and the very tragic case of young “DJ” Gill who was sent the bill for a TB test after he had deceased.

We have seen the mismanagement of the first swine flu death in the ACT. We have seen rollovers and delays in capital infrastructure. That is \$57 million last year and \$50 million this year. There have also been delays in the secure mental health facility that we have been promised in this jurisdiction for years and years. Simon Corbell first promised that five or six years ago and we still do not have it. The bush healing farm and the women and children’s hospital are all over budget, all running late.

We saw the Calvary hospital debacle. We still do not know what we are going to do with health services and hospitals in the north of Canberra. Minister Gallagher wanted to spend \$77 million on a public hospital. She wanted to offer up Clare Holland House as a sweetener. If you talk to people around town, what they will tell you is that this minister does not have a clue what she is doing. She is blundering around without a vision about what is going to be delivered in the north of Canberra and what she is going to do when it comes to Calvary hospital.

We have seen the absolute wilful negligence, the covering up, the attacking of doctors, the denials and the appalling situation with the obstetrics department of Canberra Hospital. We have been through this case many times but I—

Mr Seselja: It is still being covered up.

MR HANSON: It has to have been covered up and I actually reviewed some of my comments that I made. In August last year I feared that that would be covered up. I said that in the *Hansard*. Unfortunately, but probably predictably, that came to be the truth—that it was covered up.

After nine years of Labor and nearly five years of Katy Gallagher, it is quite clear that she is not getting the job done and we want to send the message from the doctors, the patients and the community that this minister has proved utterly ineffective.

MS GALLAGHER (Molonglo—Deputy Chief Minister, Treasurer, Minister for Health and Minister for Industrial Relations) (10.15): It will be no surprise to those opposite that I will not be support Jeremy Hanson’s motion today, and I will work through paragraphs (a) to (j) bit by bit. In fact, issues on the second page of the motion are all issues that the Liberals have been bringing here over the past year on numerous occasions and on which they have failed, so the new elements perhaps deserve the most attention. The audit report has made comments which have suggested we have not done enough in terms of increasing access to elective surgery.

I will just make it clear that the government has not responded to the audit report; ACT Health has. And as ACT Health noted in its response, the audit report failed to consider a range of evidence that suggests that such a conclusion is simply not true. No government has invested more to increase access to elective surgery, with \$90 million added to the health system over the last seven years. In 2010-11 we will

provide 10,700 elective surgery operations in our public hospitals—another record year—and a 9.5 per cent increase on the previous year's total.

Between January and November 2010 the number of people waiting beyond recommended waiting times fell by 21 per cent. In urology, which was an area where we had significant numbers of long-wait patients, we have seen a 62 per cent reduction in the number waiting longer than recommended between March and December 2010. That is a 62 per cent improvement in just nine months. This has been achieved by increasing access to surgery for urology patients and recruiting additional urologists to the region. All of these steps were put in place well before the audit began. We expect a continued improvement in the number of long waits over the remainder of this financial year as we continue to focus on improving access to surgery for people with extended waiting times.

We have our public hospitals running at full capacity for elective surgery and we have contracted services to the private sector to further increase the opportunity for people to get the surgery they need. We have committed to continue record levels of access to surgery into 2012 and 2013 in order to dramatically reduce the number of people waiting too long for care. As part of this aim, we hope to continue the partnership with the private sector and into the future to ensure that we maximise access to elective surgery. There are always improvements we can make in the way we manage and report on access to elective surgery, but elective surgery is only part of a full range of surgical services provided to the community.

Our hospitals, particularly the Canberra Hospital, have to balance the demand for surgery between emergency and elective surgery based on the levels of resources available. Responding to demand for emergency surgery will always be the highest priority, and increases in demand for emergency surgery will inevitably impact on the ability to manage and deliver elective surgery, because, to a large degree, emergency surgery involves the same staff, same operating theatres and the same beds as elective surgery.

There has been a significant increase in demand for emergency surgery in recent years. Over the three-year period noted in the audit, emergency surgical activity increased by 18.4 per cent overall and at the Canberra Hospital by over 20 per cent. This is a considerable increase over a relatively short time.

Hospital infrastructure is like an aircraft carrier; it is big and bulky, takes a long time to build and cannot expand beyond its capacity. While we have added three new theatres to the Canberra Hospital, it is not easy to absorb a 21 per cent increase in theatre activity in three years without feeling the strain. Yet our hospitals have also managed to increase elective surgery activity up from 9,300 procedures to 9,778 procedures in 2009-10.

This growth in both emergency and elective surgery is continuing, with our hospitals reporting a 10.8 per cent increase in total surgical activity over the five months of the financial year compared to the same period last year. This has not just been achieved by adding extra buildings and equipment; the main driver behind the extra work is the considerable investment we have made in attracting highly skilled and qualified clinicians to the public hospital.

The Australian Institute of Health and Welfare shows we have more than doubled the number of doctors working for our hospital over the past seven years and have also managed a 50 per cent increase in the number of nurses. These extra clinicians provide us with the capacity to meet growing demand across the spectrum of services in the territory.

In relation to outpatient services at Canberra Hospital, the access improvement program is a partnership with Canberra Hospital, and a review was initiated in July 2010 to improve the processes within outpatient services. This was an approach that ACT Health took in consultation with me to review services to identify those potential areas for improvement.

A detailed analysis of the current process issues was undertaken and followed up by documentation of a solution design. This draft companion was completed in December 2010, and it outlines a series of improvements to strategic operational and communication processes as well as including a detailed implementation plan to support the implementation of new processes. This companion was endorsed for implementation without change by the Canberra Hospital outpatient service governance committee on 7 February 2011.

In relation to the classification of categories identified in the audit report, I have already noted my disappointment that the documentation requirements for the reclassification of patients were not always undertaken in line with the policies. But, as the audit noted, there was no conspiracy to change patient classifications to make waiting lists report look better. While we accept the need to do better here—and we have already put in place an internal audit process to achieve this—the issue needs to be placed in the context of elective surgery as a whole.

The report also fails to note that the 250 cases of reclassification of category 1 patients to category 2 that were included in the audit comprised only 2.5 per cent of the total elective surgery throughput. So while we accept the need to improve in this area, the overwhelming majority of people who are waiting for surgery wait without having their category changed. This report also failed to note that almost as many patients had their waiting list category upgraded as those who were downgraded. This is important to note but it is being ignored by those opposite.

Statements by some in the media would suggest that classifications only go one way, yet 47 per cent of all reclassifications were for people having their category upgraded. Most importantly, the capacity to reclassify patients is essential to the effective management of a person's condition.

Opposition members interjecting—

MR SPEAKER: Order! Ms Gallagher, one moment, please. Stop the clocks, thank you. Members of the opposition, I asked for Mr Hanson to be heard in silence; I expect Ms Gallagher to be extended the same courtesy.

MS GALLAGHER: Our hospitals need the capacity to make changes to a person's position on the waiting list, subject to changes in patient needs. As the numbers show,

this can result in an upgrading of someone's category as well as a reduction based on the needs of the patient and their surgeon.

The letter to the Chief Minister by the president of the Visiting Medical Officers Association was riddled with inaccuracies and errors of fact. I was disappointed that the president of the association, Dr Hughes, did not check these facts before making a call for my sacking. I would think that members of the VMOA would also be upset to think that their representative is making such calls based on errors of fact.

Dr Hughes claimed that we have done nothing as a government to improve the numbers of doctors and nurses in our system. However, the data shows otherwise—a 59 per cent increase in full-time equivalent hospital nursing staff over four years, from 1,280 to 2,035 nurses. In relation to junior staff, it shows that over the four years to this financial year there has been a 53 per cent increase in interns, registered medical officers and senior registrars available for our public hospitals. Numbers of doctors have increased from 276 to 423.

Dr Hughes also said that our hospitals are the most expensive in the nation on a per patient treated basis. However, this is not a valid measure to use in determining the variation in costs between our hospitals and the rest of the nation. The Canberra Hospital provides services to people from the surrounding area of New South Wales as well as the ACT. These services included high cost services such as cardiothoracic surgery, neurosurgery, neonatal intensive care and some cancer treatment services. A more appropriate cost measure is the average cost per casemix adjusted separations. This measure, used as the primary cost indicator by the AIHW for many years, takes into account variations in the type of service provided by hospitals rather than accrued cost per patient figure.

Under the AIHW cost measure, our public hospitals reported an average cost per hospital services just 3.4 per cent above the national average. This figure is down from 24 per cent above national average reported in 2004-05 and the last time the Liberals were in government when it sat at 130 per cent above the national average. This figure is lower than the results reported for Western Australia, Tasmania and the Northern Territory and just above figures reported for New South Wales and Victoria.

Dr Hughes also claimed the government was doing nothing in relation to improving access to elective surgery, particularly for people with extended waiting times. However, over the first half of the current financial year, a total of 1,625 people with extended waiting times accessed elective surgery at ACT public hospitals, an increase of 16.5 per cent on the total reported for the previous year. The target for elective surgery procedures this year is 10,702 operations. For the first six months of this financial year, our hospitals have completed a total of 5,476 elective surgery operations, five per cent above the target for the period and 13 per cent above what was done last year. On top of this, we are providing access to elective surgery for about 300 people in private facilities in the ACT, further boosting access to care.

All of this additional activity is making a difference to the waiting list. Over the 2010 calendar we managed a 21 per cent reduction in the number of extended-wait patients on the waiting lists, and I expect an even more dramatic reduction over the 2011 year.

The improvements in waiting times have been particularly impressive in urology surgery, an area picked out for special comment by Dr Hughes, where the numbers of patients waiting longer than recommended waiting times has dropped by 62 per cent between March and December, falling from 592 patients to 224 at the end of 2010.

VMOs are a major component of the ACT public system, and their work is extremely valued by the government as a whole. I know that a number of VMOs give up their valuable time to assist ACT Health in developing new strategies to improve access to services and the outcomes of these services. I hope that the VMOA begin to get involved in some of the major reform work that is underway across the health system, because they have not played a role in the past. I think there is a valuable role for the peak organisation to play, if they were of a mind to be involved.

In relation to the other elements of Mr Hanson's motion, these are all matters that he has brought to the Assembly before. He insists on blaming the GP shortage and the bulk-billing shortage on the ACT government when he knows very clearly that the ACT government has limited levers to entice and encourage more general practitioners. Instead of Mr Hanson bringing the same motion to the Assembly every month, perhaps Mr Hanson could bring a motion—

Mr Hanson interjecting—

MS GALLAGHER: which outlined exactly how many GPs he will bring to the ACT.

Mr Hanson interjecting—

MS GALLAGHER: In fact, there is nothing to stop Mr Hanson bringing GPs to the ACT now.

Mr Hanson interjecting—

MR SPEAKER: Ms Gallagher, one moment please. Stop the clocks, thank you. Mr Hanson you are warned for interjecting.

MS GALLAGHER: The point I am trying to make is that it is very easy for Mr Hanson to sit back and bring the same tired motion that gets defeated every time it comes to this place, but he has yet to offer one idea of his own. In fact, the opposition have yet to offer one idea of their own. So I want to hear from Mr Hanson how many GPs he is going to bring to the territory. Where is he going to find them? Will he resign when he does not meet that target? These are the things that Mr Hanson needs to stand up with now.

It is too long; he has had three years of bringing the same stuff to the Assembly. During that time he has not come up with one idea of what he would do or what challenge he would set himself. So where does the elective surgery list have to be? If it gets over 5,000 will he then resign? Is that the measure? What are the standards you are going to apply to yourself, Mr Hanson?

Opposition members interjecting—

MR SPEAKER: Ms Gallagher, one moment please. Stop the clocks. Members, I have now asked repeatedly for Ms Gallagher to be heard in silence. The next member who interjects will be warned, to join Mr Hanson.

MS GALLAGHER: That is what members of the community are interested in hearing too. It is all very easy to get up and whinge and moan and criticise, but when it comes to actually having an idea of your own, having a think about what you would do, providing a constructive role in the reform of the health system that is underway—and there are plenty of opportunities to do that—Mr Hanson has chosen to do the opposite. He has chosen not to play a constructive role and not to have an idea. It is all too easy for Mr Hanson to ignore the complexities, the issues, the demand, the workforce—all of the components that make up the health system—and just point the finger at somebody else.

MR SESELJA (Molonglo—Leader of the opposition) (10.30): I think in the latter part of Ms Gallagher’s speech she touched on what the community wants. The community wants a health system that is serving them much better than the current health system. The community wants elective surgery waiting lists that are not double the national average. If you look at what the community wants, the community wants better health services. They are not getting it from this minister.

There are a range of reasons why this censure should be supported today. First and foremost is the poor performance of the ACT health system under the leadership of Katy Gallagher. We can look at a whole range of measures but when we look at elective surgery, for instance, we see that we are worse than New South Wales. Under Katy Gallagher, the system for elective surgery is performing worse than the one in New South Wales.

We do get used to the ACT Labor Party saying, “At least we are not quite as bad as New South Wales.” On a number of measures, you are worse. The performance is worse. So we can look at the terrible performance. The community is telling us, the community is saying to us, “There are all these problems in health and Katy Gallagher does not seem to have the answers. She always seems to blame someone else. She seems to cover things up.”

We will get to the bullying and the way that was handled, but she does not seem to have the answers. Surely after five years in the job she should have some idea of how to fix some of these problems, but she has not. And it is extraordinary that the minister says, “We are having the same motion again.” We are not. Yes, there are some elements, because it has been a long litany. This censure motion could have been a lot longer. There is only so much that you can actually include.

But let us look at what is actually new. She is effectively conceding the point that the health system is not doing very well. “But let us not talk about that.” What is new here? We have got an Auditor-General’s report that is damning, that confirms that what Katy Gallagher was telling us on elective surgery is wrong.

We have the head of the VMOs in the ACT calling for the minister’s resignation. That is a rare thing. That is a rare thing, for the head of a professional body to be calling for

a minister's scalp. I do not remember the last time that occurred. That is not an everyday occurrence. I do not think we can simply dismiss that. Peter Hughes is a respected member of our community and a respected member of the medical profession in the ACT and around Australia, and he has got to a point of such frustration with the minister's performance that he has called for her resignation.

This is not something to be taken lightly. This is something that we in the Assembly should take very seriously. Is the counterargument that Peter Hughes does not know what he is talking about? Is that what the counterargument is? I have not actually heard his credentials questioned. Maybe they would like to. I am sure that Peter Hughes, as head of the VMOs, would stand up to scrutiny against Katy Gallagher. I am sure that he would not mind comparing credentials in this area.

So we have got the head of the VMOs calling for the resignation and the Auditor-General with a damning report. And this report goes to what happens on the ground and goes to the lack of strategy and the lack of oversight. We heard in question time yesterday the minister effectively saying, "Yes, this has been in place for a few years and it turns out it was not really being followed." Whose fault is that? Whose fault is it if you put in place a policy that just gets ignored? Who takes responsibility for that, the individual doctors? Does a bureaucrat somewhere take responsibility or does the minister, who has been in charge for five years, has overseen the policy and has never bothered to ask the question?

This is the question that the minister has not answered. How long did she know these policies were not being followed? Was she just blocking her ears? It did not take long for the Auditor-General to find out. Sure, the minister could have found this stuff out if she had asked the question. The issue has been raised. It has been put on the agenda in this place and was denied. It was not that long ago that we had a debate about categories of elective surgery and about the serious claims about downgrading of patients to make the categories look good.

But what did the Auditor-General find? In particular, downgrades of patients' urgency category, often without documented clinical reasons, raised considerable doubts about the reliability and appropriateness of the clinical classifications for patients on the waiting lists. So the one thing the minister had going for her, the one defence she was putting up, is false. It was the result of downgrades. It was the result of undocumented downgrades. It was the result of the apparent policy in place not being followed. But for years, the minister was doing nothing about it. What kind of minister do we have who just ignores these things, who does not even ask these questions?

We could go on. The Auditor-General found that, in 2009-10, 250 patients in category 1 were reclassified. It is great auditor-general speak, because auditor-generals do not over read things; they tend to under read. And here we have it: 250 patients in category 1 were reclassified. How many of these reclassifications were significant? Ninety-seven per cent! A significant number, some might say an overwhelming number, some might say almost all, occurred without documented clinical reasons—97 per cent!

So we have got a minister who did not bother to look. When these things were raised she denied it. "That was wrong." She was wrong, again. And we see that pattern of

denial and cover-up and then blaming someone else. "It is Peter Hughes' fault. He has got some agenda." Sometimes it is just time for ministers to take responsibility.

I think it is worth touching on the disgraceful handling of the bullying complaints by this minister. I think the way that was handled, those serious claims of bullying and harassment, and the way that has been covered up by this minister and continues to be covered up by this minister, is a terrible reflection on her performance. What have you got to hide, minister, that you keep hiding this report? Why would you not want to let it see the light of day? What does the minister have to hide?

We saw the pattern of behaviour reflected in the bullying. The first thing was to say, "No, there is no issue here. They are wrong." It was then to attack their motives. And then it was to cover it up. That cover-up continues.

We heard yesterday that the government is going to restructure the public service. They are going to have all these you-beaut new structures. And one of the things identified by Dr Hawke was cultural issues. You do not fix that by changing the structure. You fix that through leadership. You can only fix that through leadership. You can do all the structural changes you like. If you do not have at the time, from the minister, leadership, setting the example, then all the structural changes in the world will not improve performance.

When a minister leads from the front by denying there is a problem, by blocking her ears for years, by covering up the problem and then, when it is exposed, in this case by the Auditor-General, by blaming everyone else and claiming she did not know, what is the message that is sent down the chain? The message is sent: "Cover-up is okay. Instead of making the hard decisions to improve things we will cover it up."

That is why this minister should be censured. Her performance has been an abject failure and continues to be so.

MS BRESNAN (Brindabella) (10.41): The Greens will not be supporting the Liberals' censure motion today. I am concerned that Mr Hanson's interpretations of events as he has listed them in this motion miss the mark, as the Greens believe the truth of each matter is much more complicated than the Liberals suggest. I am concerned that the oversimplification of matters limits the public's access to the truth and ability to make an educated assessment of the state of affairs.

Indeed, it is time to publicly address some matters which MLAs are often unwilling to address for fear of the political and PR power that some external organisations hold. Some scandalous behaviour has been occurring but not the type of scandal that Mr Hanson purports. Indeed, his public statements assist in perpetuating the key problems. It appears that over recent months Mr Hanson has been able to ride the political campaigns that some groups have without anyone else holding him accountable for the statements he is making, for fear of retribution from those powerful lobbyists. There are those that represent private health and those that represent public health, and indeed Mr Hanson has picked a side.

Looking first at clause 1 of Mr Hanson's motion and his comments regarding elective surgery, I acknowledge that those comments by the Auditor-General, which he has

picked out, are factually correct and that they are listed in the audit report. I also acknowledge that the current policy is not being implemented as it should and the people who suffer are consumers. But statistics and waiting times do not in themselves tell the whole story. There is a much bigger picture that Mr Hanson has not picked up on or reflected truthfully in his motion.

I agree that the statistics for elective surgery are not positive and I am concerned about the impact this is having on those patients that are waiting for elective surgery. Without good health, a person's quality of life is significantly diminished, and waiting to have surgery can be an incredibly painful experience, not just physically but emotionally. So I concur with the statements made that the waiting list does require improvements.

The question we must address is why Mr Hanson, I believe, has purported that there is a conspiracy theory behind this and that the department is doctoring people's classifications in order to make the waiting list look better. The Greens do not agree with this conspiracy theory and there is no evidence to suggest that this is the case.

I understand that operating theatres are not being managed efficiently. The Auditor-General has advised that ACT Health is doing some good reviews on this area and acknowledged in a briefing with Mr Hanson and me that this was the case. The Auditor-General also advised that she believed that the Department of Health was taking the findings and recommendations from her report very seriously and that the minister had committed to the recommendations and invited further audits of the issues in the future.

There is, however, an elephant in the room that we have not yet adequately discussed, and that is the manner in which some doctors contribute to or indeed cause longer waiting times for patients. This has not been addressed by the audit because it is outside its remit and has not been mentioned by Mr Hanson, not once.

Over the past year, I have had conversations with key stakeholders and received briefings on the issue of the waiting list, which has included joint briefings with Mr Hanson. This included the Auditor-General and the head of surgery at the Canberra Hospital.

I do not wish to disclose comments made by particular parties as their confidentiality must be respected. However, in summary, experts both internal and external have put it to me that one of the key problems is some of the private doctors in that they are not willing to share their patients, even if they are unable or unwilling to perform a surgery within the required time. I am not saying this is the case with all doctors—and indeed it is not—or that it is the only cause of problems with the elective surgery waiting list but I have been told that some doctors are not being fair to their patients and that a key way to improve the elective surgery waiting list is to enforce a shared list between doctors.

Other issues that have been raised include that some patients cannot have their time category met because doctors book in more patients than they are able to service within their operating hours. Taking leave and not passing on patients or having too many patients are not recorded as clinical reasons. Doctors list more patients as

category 1 than could be clinically classified as meeting the category. Doctors not following elective surgery waiting list policy or taking ownership of the policy make the situation very difficult. The situation is made more difficult because VMOs are in a very strong position in the ACT and they know it.

Given all this, and I know Mr Hanson has this information too, I find it incredibly hypocritical of Mr Hanson to base this motion today on a letter from the head of the VMOs to the Chief Minister calling for Ms Gallagher to step down. The manner in which Mr Hanson's motion mimics Dr Hughes's letter is startling and Mr Hanson must be held accountable for the public statements he makes. Mr Hanson acts as a tool for the VMOs.

While I agree that there have been some problems identified in our public health system that include the elective surgery waiting list and cases of bullying, I have also come to believe that two organisations representing private doctors have, in conjunction with Mr Hanson, nurtured public debate in an inflammatory manner as a result of their views on public health issues, including salaried medical officers. There is doctor politics occurring. Mr Hanson has picked a side on a fear that, if no-one is willing to speak out against it, the public patients will remain unaware of the truth and will not see improvements in public health services.

In fact, Dr Peter Collignon, who is head of ASMOF, gave evidence to the Calvary inquiry with reference to VMOs and staff specialists and their working together. And he said:

In fact, I almost did not come to Canberra when this place had a reputation for the VMOs and staff specialists hating each other. I heard of one episode where somebody's tyres were slashed.

There was a lot of animosity—so much so that when I was still a registrar I took advice from somebody that left Canberra who worked at Westmead where I was at. I said, "Should I go there? I want to be a staff specialist. The sorts of things I want to do, which is teaching research, you can't do as a VMO very easily." He told me, "Yes, when I was there it was a problem that had gone." I must say that is the case.

...

I might say that all these things are complicated, but even with this obstetrics issue, the bullying stuff at Canberra—not that there is not behaviour that needs to improve—some of it is this VMO-staff specialist business, not having staff specialists running the units and having VMOs running them again. I think it is quite appropriate for VMOs to run some units. My bias most of the time is that it is likely to be staff specialists because you are just there all the time and it is difficult.

Take for example the case, as has already been mentioned, of the obstetrics review where the Liberals proposed a board of inquiry. Key representatives from the doctor organisations, including Dr Foote, talked to the Greens and said they were happy to see the inquiry process that we had proposed go through instead of the board of inquiry. In fact, they much preferred it. And yet Mr Hanson continued with his media views that these organisations were very willing to criticise the proposed inquiry process.

I would like just briefly to address each of the clauses that Mr Hanson has listed. With regard to clause 2, I believe I have already addressed this. I have also responded to clause 3. In response to clause 4 about the MyHospitals website, it must be acknowledged there is criticism of and support for this website. In fact, the AMA's national body were critical of it. Needless to say, there are a variety of views on this.

With regard to clause 6, the GP shortages, this is something which is impacted by federal policy, greatly impacted by it, and that has to be acknowledged. With regard to clause 7, we support public health facilities being in public hands. With regard to clause 9, we do agree there have been problems of communication. However, a public apology was made by the health minister in the case of the swine flu. And in the case of TB, the person actually was not aware that they had TB. That needs to be acknowledged.

With regard to clause 10, recently the health committee went to TCH and we were actually informed—that included Mr Dospot, Ms Porter and I—that the car park was ahead of schedule. There have been some delays with the women's hospital. That has been because they wanted to get the birth unit right, and that is what we have been informed by constituents as well. So we do support getting that right.

With regard to the bush healing farm, it is interesting that the Liberals have included this because they pursued a particular, I would say, dog-whistle style of questioning in estimates which suggested they did not believe that it should be located where it is. So I think that needs to be taken into account.

I am becoming quite dismayed by the way in which issues are being portrayed. Voices to the contrary are being drowned out, as are opinions, by particular views. And I think the main people who suffer in this are consumers.

We need to remember that the health system is not just about waiting lists; it is not just about emergency department times. In fact, a number of organisations have criticised these key reporting figures. It is about much more. It is about a whole lot of other services and the continued focus of Mr Hanson removes this.

MR STANHOPE (Ginninderra—Chief Minister, Minister for Transport, Minister for Territory and Municipal Services, Minister for Business and Economic Development, Minister for Land and Property Services, Minister for Aboriginal and Torres Strait Islander Affairs and Minister for the Arts and Heritage) (10.51): As Ms Gallagher has indicated, the government will not be supporting this motion. The motion really is completely confected, utterly confected. I must admit that the opposition's approach to issues around health has now been reduced to a censure motion every sitting week—a censure motion against the minister in almost every sitting week. I do not know how many censure motions there have been now, but certainly there was an attempt at a censure motion in the last sitting week, there is one now and there was one a few weeks before that. It has now been reduced to the absurd.

Every time the Liberals walk into this place, in every sitting week, they give notice of a censure motion against the Minister for Health. It is derisory. At one level it reflects

the lack of engagement by the Liberal Party on issues around health. That would require of Mr Hanson that he actually do some work and seek to understand some of the issues in relation to health and healthcare. Heaven forbid that any member of the opposition, most particularly Mr Hanson, would present to do any genuine or real work in their particular position. It is so much easier just to attack or oppose—to be oppositional, to be political, to play politics. That is all Mr Hanson does.

For every time to date when Mr Hanson has stood to speak on issues around health—the most significant issue facing the community—just take a moment to go back, get a copy of the speech and read it. See if you can identify through his speech—anywhere in it—any depth of understanding of the complexity, the range and the nature of the issues which the Minister for Health deals with in relation to the management of the health portfolio, the largest, most difficult, most complex and most significant area of government administration.

It is quite clear that every time Mr Hanson opens his mouth he simply displays his complete ignorance of issues in relation to health. He displays his absolute and complete ignorance and shows himself to be unfit to ever, hopefully, be a minister for health in an ACT government. Pity poor Canberrans if Jeremy Hanson ever gets to be a member of a government. Indeed, if he ever gets to be a member of a government, whether he becomes a minister for health or not, it would be a sad and dark day for the people of the ACT.

One of the catchcries that has been spattered through the two speeches that have now been given by the two members of the Liberal Party who have spoken, Mr Hanson and his harassed leader, Mr Seselja, has been an alleged or apparent propensity—

Mrs Dunne: Yes; I think you probably know harassed when you see it.

MR STANHOPE: You would think that Mr Seselja, after eight weeks in bed, would come back a little bit refreshed and a little bit energised to do the job—and similarly for Mr Hanson. Eight weeks off, doing nothing—lying on the beach, lying in bed. Good old Zed in bed.

I must say that yesterday there was a remarkable set of questions for Mr Corbell from ministers, asking him why he had not, by a particular date, signed certain questions on notice—asking what was his explanation. I regret that I did not receive some; I had a few that were a bit late too, and I was waiting for the question. At least I could have given the answer: I actually instructed my officers not to waste their time, because there were no Liberals here at work to read them and they had other more important things to do. I suggested to them that there was no sense in them working overtime on the hundreds of questions they received from committees and members—that they would be better off to wait until the Liberals got back to work after their eight-week break. The imagery of hardworking public servants working overtime answering questions for members of the opposition who were not here because they were all down at the coast, lying on the beach, really struck with me rather a false chord.

Mrs Dunne interjecting—

Mr Coe interjecting—

MR SPEAKER: Order!

Mrs Dunne interjecting—

Mr Coe interjecting—

MR SPEAKER: Order!

MR STANHOPE: I was making the point, until I digressed—

MR SPEAKER: Chief Minister, one moment please. Mr Coe and Mrs Dunne, you are both warned for continual interjection across the chamber. I have asked a number of times now for the debate to be conducted in some sort of manner where the speakers can be heard. Chief Minister, you have the floor.

MR STANHOPE: But I did digress. A constant, clamouring claim that the Liberal members that have engaged in this so-called debate have made is that the minister is covering up, that she is blaming officials, that she is blaming Dr Hughes, that she is blaming staff, that it is always somebody else's fault. I have to say, as I have observed this debate, most particularly through the most recent Auditor-General's report, that the minister has, to a fault, defended staff at the hospital. She has defended the hardworking staff in the waiting list area; she has defended the doctors; she has defended the administrators; she has defended the senior staff and the managers responsible for managing these particular issues—those managers, those senior staff, those executives that are responsible for ensuring that policies and practices are implemented.

I have suggested to the minister that I think she has perhaps defended them just a little too much. At one level, there have been failings. We accept that and acknowledge it. The minister has been absolutely rigorous in her loyalty to her staff at every level—a commendable loyalty, a sense of loyalty that is not shown by the Liberal Party, and never will be, as they constantly attack staff in public service. We should reflect on that.

At no stage has the minister sought to deflect responsibility. At question time yesterday she said that she accepted full responsibility. It is odious, wrong and false to suggest that the minister has in any way sought to deflect any responsibility, to lay blame or even to seek some of her senior executives to take some responsibility. I hope they are; they should be. They deserve to be; they deserve to be asked to do so. But they have not been, as a result of the minister's utter loyalty towards her staff. I do hope, I have to say, that there are some senior executives in Health that are reflecting, and reflecting deeply, on some of the issues that have been revealed.

Just look at the record of achievement of the minister in this portfolio and then reflect on the nonsense, the absurdity, of this motion that the minister be censured as Minister for Health. This is the best Minister for Health we have had, with an absolutely stunning record of achievement. Just look at the record of achievement; go through it, assess it and look at the fantastic outcomes. At the end of the day, as

serious as the issues revealed in the Auditor-General's report are, they essentially go to issues of process.

Have a look at some of the outcomes, some of the issues that the minister raised in her response to this particular motion. Look at the outcomes achieved in our public health system, most particularly through our public hospitals—easily the best in Australia in the delivery of outstandingly high-quality health care. Across the board, we deliver to our citizens the best health care of any jurisdiction in Australia, bar none. Those are the outcomes. You know they are, and it would be appropriate for you, from time to time, to acknowledge the quality of services that are delivered here within the territory and the responsibility which this minister, Katy Gallagher, the Deputy Chief Minister, can claim for delivering those outstanding results—accepting always, as we do, that there is always more to be done and there are areas where we do need to improve our performance.

In response, just let me dwell on the nonsense that has been proposed to support this particular motion. There has been no effort, in supporting the motion, to draw a link between an Auditor-General's report and the minister's performance—absolutely no attempt or effort actually to connect the two. It is just an opportunity for a bit of opposition for opposition's sake, a bit of knocking down, a bit of point scoring. It is another censure motion in another sitting week. How predictable and how boring. Once again, it is an easy, convenient way for Mr Hanson to avoid doing any work or seeking to understand exactly what is involved in running a health system. By every utterance, every time he opens his mouth, he clearly displays the depth of his ignorance in relation to issues around governance and the management of a health system.

We have as a major achievement—driven entirely by the minister—the ACT capital asset development plan, currently a centrepiece, a massive program. We have the opening of additional operating theatres and an additional 43 hospital beds funded in the last year. We have now overtaken and made up for the 123 beds that the Liberals closed, which was the starting point when we came into government. Never forget that.

Ms Gallagher: It was 114.

MR STANHOPE: It was 114. We had to open 114 beds before we could start the process of rebuilding the health system. In the last year, we completed and opened a new six-bed mental health assessment unit and the walk-in centre at the Canberra Hospital—Australia leading. There was the completion and commissioning of a 16-bed critical care unit at Calvary Hospital. (*Time expired.*)

MR COE (Ginninderra) (11.01): I support Mr Hanson's motion to censure the health minister because the people of Canberra deserve better than the health services this minister presides over. For too long the people of Canberra and the region have suffered at the hands of a health minister who refuses to take responsibility for her actions.

The only person here who seems to take responsibility for Ms Gallagher's actions is in fact Ms Bresnan. It is Ms Bresnan here who is running defence for Ms Gallagher. I

find it pretty special that here we have Ms Bresnan going through, point by point, this motion defending Ms Gallagher. Not once was she critical. Not once did she say, “Perhaps that is partly true.” Not once did she say, “You know what? Ms Gallagher needs to step up.”

At what point do the people of Brindabella get value for money for their crossbench member in Ms Bresnan? What did Ms Bresnan add to this debate when it comes to the future of health? Instead, we saw an extraordinary preoccupation with Mr Hanson. It is probably verging on an obsession for her. We had all these conspiracy theories about what Mr Hanson is doing or not doing. We had all these conspiracy theories about Mr Hanson getting involved in everything under the sun. At some point we would like the crossbench to serve as a crossbench.

It may well be that the Greens are giving Ms Gallagher more loyalty than her own party members in the Labor Party are giving her, but the fact is that at some point Ms Bresnan needs to contribute to the debate something other than blind defence for this government.

Obviously over the summer break there has been some powwow between Ms Bresnan and Ms Gallagher—or perhaps Labor and the Greens, or at least factions within the Labor Party and the Greens—to say, “Give me some support, because at the moment I am running on empty in my own cabinet or my own caucus.” We all know that the trouble up on level 2 is absolutely rife. We know that the officers are not communicating; we know that within each office there are problems. We know that there are all sorts of factional issues. Yet we come in here on any given—

Ms Gallagher: Point of order, Mr Assistant Speaker.

MR COE: She has not got the call quite yet, so I will continue. The level 2 problems are absolutely extraordinary. In fact, Mr Hargreaves—

MR ASSISTANT SPEAKER (Mr Hargreaves): Mr Coe, please resume your seat. Minister, you have a point of order?

Ms Gallagher: Thank you, Mr Assistant Speaker. We are three minutes in and Mr Coe has not made it to the subject of the motion today. He is rambling on around his concerns with the Greens. I think he needs to be relevant to the motion before the Assembly.

Mr Hanson: On the point of order, Mr Assistant Speaker, I would just point out that Mr Stanhope, in his speech, spent the first 6½ minutes not referring to the motion, but referring to the Liberal Party’s fictional activities throughout the break. If you had held Mr Stanhope to account, it would be fine to then hold Mr Coe to account, but if you want to apply a consistent measure, then I think that Mr Coe is quite within the standing orders.

MR ASSISTANT SPEAKER: Thank you very much, Mr Hanson. Clearly you were too preoccupied with making your speech to notice that I was not in the chamber, so I was not able to do anything about what Mr Stanhope may or may not have done. I ask

Mr Coe to bring himself to the subject of the motion, please. It is all well and good to wander off into the nether regions sometimes, but I ask you to get closer to the subject, please.

On one other issue, let me say that there was such a cacophony of sound coming from the opposition that I remind them that the Speaker has got three warnings current. I will not be as tolerant as Mr Rattenbury, so I remind you of that. All three of you—Mr Hanson, Mrs Dunne and Mr Coe—are currently on warnings. This is a very serious debate, and some gravity might be just in order. Mr Coe.

MR COE: Thank you, Mr Assistant Speaker. Of course, the health minister sits in cabinet. As a cabinet member she would, of course, want loyalty, and she would want the respect of her colleagues, whether it be her four other cabinet colleagues, the six other government colleagues or indeed the 11 in total coalition colleagues, including herself. I wonder whether she is getting that cooperation at the moment. I wonder whether they are all talking in the same language about how they will move forward—in the words of Julia Gillard—how they will progress the health agenda and how they will implement the government agenda. Indeed, who will lead that government is something that I think is also causing a few issues up on level 2 at the moment. I wonder whether those issues are in fact distracting Ms Gallagher and other ministers from actually doing their job.

When it comes down to it, we do not expect that a health minister will be a registrar, a nurse, a doctor, a surgeon or a bureaucrat, but we do expect a minister that will oversee her department and make the tough but necessary decisions to ensure that each member of the department is empowered to do their job. We have the utmost confidence in the professionals who work in health in the territory. We believe they have the expertise and the experience to deliver the best health services in Australia. However, due to the poor framework in place and her inability to make decisions, the health minister is not giving her staff the best opportunity to do their job.

The recent report by the Auditor-General—report No 1 of 2011, *Waiting lists for elective surgery and medical treatment*—is further evidence of just how bad the situation is. We know that these issues are complex and there are many variables and stakeholders within the health department and health portfolio. In fact, it is this complexity which means the leadership and management of the system is all the more important. This complexity is not lost on the Auditor-General either. The auditor understands the nature of such areas of government and takes into account those very issues.

The key findings of the Auditor-General's report include:

ACT Health's implementation and the monitoring processes were not managed well to deliver the intended outcomes.

Current practices in compiling the waiting lists have compromised the policy intention of promoting clinically appropriate, consistent and equitable management of elective surgery waiting lists. In particular, downgrades of patients' urgency category, often without documented clinical reasons, raised considerable doubts about the reliability and appropriateness of the clinical classifications for patients on the waiting lists.

The report stated:

In the absence of required documents, Audit was unable to form a view on the validity of the clinical reclassifications.

It said:

There were deficiencies in processing patients on to the elective surgery waiting list.

And further:

Recent reviews commissioned by the Department indicate significant issues concerning the delivery of surgical services and management of operating theatres, which have contributed to the long waiting lists.

The issues go on and on, and the minister's denials go on and on too. This minister pretends to take responsibility and says the buck stops with her, but, like the Chief Minister, refuses to actually take her share of the load. The latest report by the Auditor-General is not the first report, professional association or stakeholder group to come out and say things have to change. For years now, Mr Hanson has been suggesting ideas for implementation and highlighting concerns with the running of the Health portfolio.

The residents of Canberra and the region deserve better than what we have in health minister Gallagher. We have had a minister who signs on to agreements without even looking at the details. Why? Because this minister thinks that anything must be better than what they offer at the moment.

This minister is desperate to pass the buck on to another funding body, another bureaucracy, another management team or another minister. However, the first national health agreement, the one championed by Prime Minister Rudd, which we blindly signed on to, was thrown out the window, along with the buck-passing of Ms Gallagher. Now she has signed us up to another agreement. However, like all government initiatives, the devil is in the detail and we await exactly what the health minister has given in-principle support to.

Recently we heard of how the president of the ACT Visiting Medical Officers Association has stated that he has lost confidence in Ms Gallagher's ability to serve as health minister. This sort of statement does not happen very often. It is not a common occurrence for a distinguished person representing a body such as the VMOs to come out and make the statement he did.

What do the minister and the Chief Minister do? They engage in the usual game of trying to play the man, to discredit the position. For ministers that regularly harp on about or accuse us of playing politics or having a go at individuals, the Chief Minister and the Deputy Chief Minister are experts at hiding behind public servants or flexing their muscles to bully individuals.

Yesterday in question time they tried to divert the attention of the media and cause a rift in the VMOs Association by questioning how many people are actually of that view. Yesterday Ms Gallagher said there were only five or so doctors in Canberra that are upset with her performance. Only five or so? Her extreme arrogance is disgraceful and it is users of Canberra's health services who suffer because of her unwillingness to face the facts.

There is a whole host of reasons why the president of the ACT VMOs might come to the view he did. Perhaps it is a fact highlighted in the Auditor-General's report, including:

... the median wait was 75 days in the ACT (the Australian median was 34 days) ...

... the median waiting time for Categories 2 and 3 patients on waiting lists were both increased from the previous year.

And:

Analysis of the waiting lists of four specialities selected for review and of selected surgeons for these specialties indicated that the estimated waiting times for all patients, except the majority of Category 1 patients, would continue to be well beyond the recommended timeframe and target set by ACT Health and, where relevant, the Commonwealth Government for each category.

These issues are real and are a concern to the people of my electorate, Ginninderra, the rest of Canberra and the many thousands of people outside the territory that depend on our health services and our health minister. When it comes down to it, her record is very clear: demand for elective surgery and medical treatment has grown rapidly over recent years, there has been an increase in the number of elective surgeries in 2010-11, comparable to the same period, outpatient services have grown by 23 per cent over the three years to 2009-10 and demand for emergency surgery has increased by 18.4 per cent.

Given all these facts, what has she actually done to address these problems? What actual or tangible differences have been made on the ground to address these concerns over the five years? I support Mr Hanson's motion and call upon the Chief Minister to put someone in the role of health minister who will take the portfolio seriously, who will take responsibility for the issues and challenges and who will deliver to taxpayers the services they deserve.

MS LE COUTEUR (Molonglo) (11.14): I am particularly interested in speaking in this debate today because, unfortunately, I spent quite a lot of January doing what could be described as action research in the emergency ward of Calvary hospital. The significant men in my life, my father and my partner, both spent time in that institution, so I feel, more than usually, inspired to talk about it. My father, who obviously is an elderly gentleman, basically ended up in hospital because of an inability to get a specialist appointment in time. We were trying in November and the earliest specialist appointment we could get was in February. He ended up being

admitted to hospital in the middle of December, then he was out for a little bit, back in again, and then out and in again.

I guess the point about my father is that the hospital looked after him very well, but the hospital is only part of it. If we had had more specialist resources he would not have been in hospital, which would have been a plus from everybody's point of view. The service he got there was very good, including follow-up phone calls when they found other things from tests which had not been finished.

My partner was not admitted to hospital, which I was very pleased about. What he presented with were obviously quite different symptoms and he was dealt with quite differently and appropriately. I would have to say that, while spending less time hanging around the hospital would have been a plus, the service that we got in both instances seemed to me to be—while not always as quick as I would have liked—appropriate given the totally different circumstances of the two presentations.

A number of my friends went through Canberra Hospital and the associated parts of it in January. It got to the stage where I actually had said to a number of people that it was okay if they were sick in January. That was fine because I had plenty of spare time, but come February when we are back, they had to stop being sick. I have to say that, fortunately, that has to quite an extent happened.

Getting more into the actual details of this debate, I would like to point out to Mr Coe that Ms Bresnan has not been supporting Ms Gallagher. What she has been trying to do is set the record straight and talk about the actual issues in this debate. It is about promoting good health, good health outcomes. That is what we are trying to do. We are trying to create a health system where constituents get the best services.

Our issue is not whether Katy Gallagher is the health minister or is not the health minister. Our issue is good public health and good health for the ACT. We think it is important that if we have a policy and accountability debate we do it with information rather than just saying, "She said this, she did not do this—she whatever, she whatever." That is not helpful.

Ms Bresnan did in fact acknowledge in her speech that there were problems with the health system. She talked about the information in the Auditor-General's report, including that current policy is not being implemented as it should be. If it is not being implemented then it is patients who suffer the most. There are communication problems. We acknowledge this. We also acknowledge, of course, that the current waiting times require improvements, and I would acknowledge that from recent personal experience.

Mr Hanson has chosen to ignore other information in the Auditor-General's report and provided in a briefing. Mr Hanson also mentioned that nurses were being bullied. If, in fact, he is referring to the nurses in obstetrics, it should be noted that the ANF preferred the Greens' proposal about how the bullying inquiry should be handled—in a sensitive and delicate manner rather than the board of inquiry which the Liberals proposed.

Mr Seselja also said that there was a cover-up in the elective surgery downgrades which were appearing inappropriately. The evidence that he uses to back this up is that 97.1 per cent of category 1 downgrades did not have documented clinical reasons to back up this change. What Mr Seselja did not include in his comments was that it appears that some surgeons may be acting inappropriately in that they are downgrading patients without having clinical reasons. This may be around holding on to patients over the time limit, so they are acting not totally in the interests of patients in general.

The other thing that we should take note of in this debate is that it has all been about the hospital system. The hospital system is only part of the health system. It would be really good if Mr Hanson, and the Liberal Party in general, showed as much interest in the other parts of the health system as the hospital system—rehabilitation services, dental care, mental health, aged-care services, falls clinics, amputees, counselling et cetera—and the wider preventative issues.

I was just reading at random this week's *City Chronicle*. The article on page 2 under the headline "Heart disease risk increases in students" talks about students being overweight or obese. They are not having enough fruit and vegetables. They are not having enough exercise and their diet is not as good as it could be. These are issues that we should be talking about in the Assembly for the good of the health of Canberra.

As you all know, I have talked a lot about active transport in my time in the Assembly, not just because it is good from a planning point of view and for peak oil. It is good from all those points of view, but it is also really good from a health point of view. If we can have the people of Canberra having healthy, enjoyable, time-efficient exercise, which is another description of active transport, we will be happier, we will be weller and fewer of us will be going to hospital. I think we can all agree that fewer of us needing to go to hospital is an outcome we would all like to see.

I would also point out that health professionals and groups across the country, and in fact internationally, all agree that the current measures for assessing provision of services tell us little about what the services do. Waiting lists or emergency department waiting times do not tell us a lot about outcomes. They do not tell us much about whether there is public benefit from the services, whether people get better or whether people were in this part of the system inappropriately.

The Australian Health Care Reform Alliance has recently spoken about these issues in response to the federal health-related reforms. I note that in the United Kingdom they are getting rid of their previous requirement, which was that all emergency service patients be admitted or dealt with within four hours, because it simply did not help them.

In conclusion, I would like to say that the Greens are focused on getting the best health outcomes for the people of the ACT. Getting a good hospital system is part of that. Getting a good health system, getting a good planning system, getting a good transport system—they are all part of it. We, and I am sure all of the ACT, would like to see better outcomes, but this motion is not the way to achieve that.

MR HANSON (Molonglo) (11.22), in reply: I thank some of the members for their contributions, certainly Mr Seselja and Mr Coe, but I will turn to some of the extraordinarily bizarre comments made by some of the other members.

I turn firstly to the Chief Minister and his defence of Katy Gallagher. He did not actually refer to the motion. He did not go into one element of the detail of the substance contained in the numerous points of the motion. It was a motion that was designed to make sure that the details were there—that it was not just some esoteric motion—and it contained an enormous amount of facts. But we heard nothing but vitriol and attack on the Canberra Liberals.

I just point out that the attack included: “All you do are censure motions. Censure motions are boring.” And, as the Chief Minister said that, what arrived on my desk in front of me was a censure motion from the government of the manager of opposition business, Mrs Dunne. So, as Mr Stanhope was attacking us for having the temerity to put in a censure motion, one landed on my desk.

Let me make the point that, despite the extraordinarily bad performance of this minister, this is actually only the second time that we have moved a substantive motion against her, and the reason that we have done this as private members’ business—rather than, as we would have, at the first opportunity yesterday—is that the last time we tried to move a substantive motion, the Greens would not even let us speak. I sought leave to move a motion, but, no, they would not allow that. The Greens and Labor conspired to prevent debate in this house, so we are having to do this now—a complete break of convention.

What we are seeing from the Greens and the government is a failure to have a debate in this place when it comes to censure motions, and that is why we had to have this as private members’ business.

I think probably the most extraordinary speech, though, was that from Amanda Bresnan. I think, now, that a decision might have been made by the Greens that they are going to unleash the ideology that they have kept hidden for the last two years. Rather than holding the government to account, acknowledging the motion, dealing with it and recognising the failings of the minister, Ms Bresnan actually sees it as some sort of right-wing conspiracy, some movement that I have to back the doctors.

Mr Barr interjecting—

MR HANSON: If you had been here, Mr Barr, you would have heard some of the comments she made.

This is where you are heading with this coalition with the Greens. I think Mr Barr would be quite disturbed that I am actually acting as a tool for the VMOs; that this is all part of some private health conspiracy—

Mr Barr: You are acting as a tool, Jeremy, but I am not sure—

MR HANSON: that we are acting on behalf of—

MR ASSISTANT SPEAKER (Mr Hargreaves): Stop the clock. Mr Barr, I would ask you to withdraw that remark, please.

Mr Barr: Sorry, Mr Assistant Speaker. I withdraw.

MR ASSISTANT SPEAKER: Thank you. Mr Hanson, you have the floor.

MR HANSON: What we are getting from the Greens now is ideological nonsense. They have got quite clearly an agenda that they are running and the agenda is to try and drag the health system to the left, to make it all about delivery of public health and to ignore the important role played by many private health practitioners and VMOs, and many surgeons, who work in both the private and public health system.

Based on today's performance, based on the Greens' refusal to let us debate the previous censure motion on Minister Corbell, based on the remarkable points in question time yesterday, I think that we have got to a point now that the separation between Minister Gallagher and the Greens is actually closer and narrower than that between sections of the Labor Party.

It is extraordinary what we are seeing here in this Assembly. Now, quite clearly, the only party that is even having a pretence of holding this government to account is the Liberal Party. The Greens have abandoned all pretence that they are a crossbench and are now in lock step with the government, particularly between Minister Gallagher, Amanda Bresnan and Meredith Hunter.

What we should be doing is debating and talking about the failure of the minister when it comes to health. The minister seems to think and the Greens seem to think that I am making this up, that this is just what Jeremy Hanson says. But it is not. The doctors are saying this and we have seen it from the VMOs. It is quite clear that those opposite, particularly Katy Gallagher, do not like Peter Hughes; but he represents a significant number of doctors in this jurisdiction and those opposite cannot ignore that. They cannot ignore the Auditor-General's report. Caroline Le Couteur said, "Where is the detail?" Read the Auditor-General's report, Ms Le Couteur, and you might actually see some detail on how bad the management of the list has been in this territory—and this is the management of the list that Katy Gallagher said was not a problem but we find is a real problem, and not just in the downgrading.

The results give us the worst elective surgery waiting times in the country—twice as long as the national average. It is not just me saying this; it is patients. I read out comments from Vesna Nedic. There have been numerous comments made—and I know because many of the complaints that come to me also go to Ms Gallagher, and I write to her frequently about complaints of the system from patients. So complaints are certainly not just coming from me. I am not just making this up.

Let us look at all the issues that we have considered over time in the Assembly, and in recent times. The lowest number of GPs per capita after the Northern Territory: do I make that up? The lowest bulk-billing rates: are they Jeremy Hanson's fault—and the highest costs for visiting a GP, and the problems in obstetrics? Remember the clinical

review of obstetrics that found there were real problems and systemic reticence to deal with these problems? Do you remember that? Did Jeremy Hanson make up that clinical review? We would love to have the public interest disclosure review, because we know what that would say, and we know—I think we suspect—why Katy Gallagher is so desperate not to have that put forward. Communications with patients, swine flu death, the TB incident, Vesna Nedic again and the numerous others: am I making these up? The culture of bullying that we have seen? The refusal by the government to release the cultural surveys? Diabetes services? Were the doctors and the patients that complained on that occasion all agents of Jeremy Hanson as well, as is alleged by Jon Stanhope?

Mr Barr: I have never heard someone mention their own name so many times in one speech. It is extraordinary—talking about yourself, yes.

MR HANSON: The reason that I was talking about—

MR ASSISTANT SPEAKER: Order, members!

MR HANSON: The speeches that occurred in this place, from Jon Stanhope, from Katy Gallagher and Amanda Bresnan, on the motion of censure of the health minister did not refer to the diabolical state of the health system in certain areas, or Katy Gallagher's performance, but were a vitriolic attack on me. I think that that needs to be measured, because if there had been a defence of the minister, if these people opposite and on the crossbench were able to defend the minister, they would have done so, instead of launching what was a remarkably vitriolic and ideologically driven attack.

Were the capital works delays a fiction as well? Was the failure by Katy Gallagher to actually deliver new hospital services to the north of Canberra, and the Calvary hospital fiasco that occurred, somehow a problem of the Liberal Party?

The minister needs to start taking responsibility, because what we saw yesterday in question time, what we have seen from her today, what we have seen from the Chief Minister and what we have seen from the Greens is that this is not Katy Gallagher's fault. She is the minister, and yesterday when forced to in question time she said, "Yes, I am responsible; I accept responsibility." But, when it comes down to it, she blames the Auditor-General: she does not understand what she is doing, according to Katy Gallagher, based on some of the responses yesterday. She blamed the doctors that complained. It is everybody's fault except Katy Gallagher's.

The question is: what would I do differently? Let me give you a clear example of what I would do. Firstly, when problems arise in the health system, I would not deny that there were problems and then attack the messenger. I would not then try and cover up what has occurred, and I would not blame everybody else when the reality of the situation is finally uncovered. I would be open and I would be honest.

Mr Stanhope: You'd resign, would you?

MR ASSISTANT SPEAKER: Order!

MR HANSON: This is what I think doctors want the minister to do, isn't it? The doctors want the minister to resign, and perhaps based on Ms Gallagher's performance you should have listened to Peter Hughes. The Chief Minister should have listened to Peter Hughes, and the people of the ACT might be far better off if that had been the case.

In closing, I would say that I have put together a very fulsome motion that covers a broad range of issues. When you look at the number of people who have raised concerns, when you look at the evidence and the outcomes, I think that we have put forward today a very clear message from the people of Canberra—a message the Greens do not want to put forward and the government itself is not listening to. The message is that, when you look at the outcomes, when you look at the results, when you look at the evidence, the Minister for Health, Ms Gallagher, has simply failed to get the job done and she deserves to be censured by this Assembly.

Question put:

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

The Assembly voted—

Ayes 5

Noes 10

Mr Coe	Mr Smyth	Mr Barr	Mr Hargreaves
Mrs Dunne		Ms Bresnan	Ms Hunter
Mr Hanson		Ms Burch	Ms Le Couteur
Mr Seselja		Mr Corbell	Mr Rattenbury
		Ms Gallagher	Mr Stanhope

Question so resolved in the negative.

Multiculturalism

MR HARGREAVES (Brindabella) (11.36): I move:

That this Assembly notes and recognises:

- (1) the success of the 2011 ACT Multicultural Festival in promoting harmony and respect within the ACT community's many different cultural, religious and ethnic communities;
- (2) the Stanhope Government's leadership in promoting harmony and respect within the ACT community's many different cultural, religious and ethnic communities; and
- (3) the welcoming nature of the ACT community with respect to refugees from war torn lands overseas, in particular the declaration by the Stanhope Government of Canberra as a "Welcoming City".

I am aware that there is some consideration going on about possibly amending this motion. Mr Speaker, I need to record that I will not be particularly happy if the

amendments that I have seen so far actually appear on the floor, because they misunderstand the nature of this particular motion. I can understand some people having relevance deprivation when they see the words “the Stanhope government”. However, I was quite prepared to entertain an amendment which would have taken out those three words and inserted “ACT”.

I do not believe people have an understanding of what this motion is about. And I do not think the understanding will be enhanced much if those members who are in charge of the amendments continue to talk amongst themselves.

Mr Doszpot: Just trying to give you time to talk about your efforts, John.

MR HARGREAVES: I note that Mr Doszpot is to put forward an amendment, and I also note for the record that I have not been consulted, as the mover of this motion, on the contents; nor have I had a conversation with him about whether or not we could work together on it, because he has not bothered to do it.

What I want to do is to address the three elements of this motion in turn. I think it is important that at this time, after the Multicultural Festival, we should appraise our position as a community. The festival held last weekend had about 140 to 150 people actually attend.

Mr Smyth: Thousand.

Mr Barr: Thousand.

MR HARGREAVES: 140,000 to 150,000; I beg your pardon. Thank you very much, Mr Barr and Mr Smyth. Quite clearly, you were both there. Others who missed it quite clearly were not there. The record attendance at any festival is 165,000 people, so squeezing it into three days has not had a major impact on people’s involvement and celebration of things multicultural. I was absolutely taken by the number and types of people from different ethnic communities that wandered about the place enjoying and celebrating each other’s differences and uniqueness.

The key words in the first paragraph of the motion are:

... harmony and respect within the ACT community’s many different cultural, religious and ethnic communities.

It is not only about respect and harmony; it is about recognising that harmony and respect within the cultural, religious and ethnic communities. Right now, we are experiencing a bit of a challenge yet again, a bit of a threat to try to divide the religious communities in this country. I noticed that the petition that went to the federal Senate, put in by Senator Humphries, was in fact put in about 45 times by 38 different members and senators.

I expressed my disappointment that Senator Humphries put it forward because I do know of his commitment to the multicultural community here; I have paid respect to that on many occasions and will continue to do so. I think it is unfortunate that he and

37 other people felt that the freedom of speech through the presentation of the petition in that house, or the lower house for that matter, was more important than trying to prevent discrimination on the basis of religious grounds. I think that is sad and it is a shame. But the bigger one is that this could happen in the context of parliamentary privilege. The fact that it was put forward 45 times on behalf of only three people should be seen in context. I think the media has beaten this up out of proportion, quite frankly. I do not believe that this is a sentiment which is afoot here in Canberra. And the Multicultural Festival, in fact, was testament that it is not.

I would like to read from a letter that was given to me from the Mon community, to give you an idea of how important this is to the smaller communities in Canberra. You will excuse the English because it is not very good. I will read it as it is. It says:

It is Canberra's summer. It is a beauty of Canberra. Over 60000 faces of people from around the region helped to celebrate the National Multicultural Festival. I helped cooking for Mon Stall with other Mon families and leaders.

I make the point to you, Mr Speaker, that this is a very small community. It has only got 200 to 300 people in it. The letter continues:

We dress up in red T-shirt on "Mon Food". We sold out our stock and made over \$5,000.00 for the day.

Five thousand dollars to that community is a bucketful of money. He goes on to say:

I am, now a father, a community member of the Mon and I am proud to be a Mon. My kid and other kids were dancing for the best image of the day ... Our president, Nai Tin Aye stands by near the shop for all helps. Secretary Nai Loka and his colleagues work from 6am to til 12 pm late night. It is proud to be Mon for all.

He goes on to say in the next paragraph:

It is proud to be a Mon in Canberra.

He then says:

Nai Din Pla, stall's coordinator setting up, cooks, and run around for all day. He never tired for doing anything in the shop. The stall is packed with 20 persons for the day.

That is 10 per cent of the community. He then goes on to say:

I am proud to be Mon in the town.

Mon music, dance and food impressed Australian. We hand out paper of 'What is Mon', to our guests. They know us by now.

Here is a community, a tiny community, that now has a place in the sun in this community. That is what it is about. He said:

It is proud to be Mon and a day of full pride for all.

He finished by saying:

I am proud to be Mon and many all do.

That is what the Multicultural Festival is all about, Mr Speaker. It is taking people who are different from us and giving them a reason to be seven foot tall and bulletproof, and for once a year to celebrate their uniqueness amongst their fellows who are doing exactly the same thing. If you walked through that concourse on the weekend, you would have seen exactly what I am talking about.

The second part of this motion, which I know will cause difficulty for some people, is about this community's leadership in promoting harmony and respect within our many different cultural and religious communities. I was trying to say that, almost uniquely, the ACT stood up against the discrimination against a series of cultural groups over the years, and in recent times it has stood up for the Islamic community.

I can remember demonstrating in City Walk against detention centres when there was no other politician from this place to be seen. There were no federal politicians to be seen. But we still did it. I went to ministerial councils and had to fight the lot. The only support I got for the abolition of the English test, the abolition of detention centres and the recognition of the right of people to practise their religions, was from Tasmania. I had to fight the then Liberal chair over it all, and I got rolled. I did not like being rolled because we were right and they were wrong.

The third part of the motion refers to the welcoming nature of the ACT community. Jon Stanhope declared this city a "welcoming city". He could do so because he had the authority of the chief ministerial position. Jon Stanhope has stood up in the national community and defended the cultural communities. But he has done that in representing this community, because this community has expressed itself to be a welcoming city.

I noticed that one of the suggested amendments calls on the government to consult with local multicultural organisations to do various things. What part about two multicultural summits, 16 roundtable discussions with different ethnic and cultural groups and the fostering and support for the Canberra Multicultural Communities Forum don't people understand? For example, it calls on the government to do something. The government has been doing this for six years. If the amendment said the government should continue to do this, I would support that, but it does not. It calls upon us to do something as though we have done nothing.

When I was standing up for the Muslim community in Canberra, I did it at the beginning by myself. Later on, when it became in vogue, those other people who were suffering from relevance deprivation jumped on the bandwagon. I, for one, think it is an appalling state of affairs.

I have now been given a copy of Mr Doszpot's amendment. I think it is an appalling state of affairs that Mr Doszpot would put forward an amendment without having the courtesy to talk to me prior to doing so. He goes on about having a multipartisan

approach to this particular portfolio. I have invited him, I have shared the stage, I have invited Liberals, I have invited the Greens, to take part in almost every function that I had in my capacity as Minister for Multicultural Affairs and afterwards. Now, all of a sudden, it is okay for an amendment to be dropped on the table to me with no consultation about it whatsoever.

Mr Doszpot: You're telling porkies again.

MR HARGREAVES: Mr Speaker, Mr Doszpot suggests that I tell porkies. He cannot suggest that I have been consulted on this amendment.

Mr Doszpot: My office consulted with you this morning.

MR HARGREAVES: He has not consulted me on this amendment, and it is not good enough at all. Because of relevance deprivation, and that is all it really is, you have to have a slice of the action. What is wrong with supporting a motion which is saying that our Multicultural Festival is a great thing for celebrating cultural diversity? What is wrong with supporting a motion which says the ACT community was standing out there, at one point, alone, to get rid of discrimination? What is wrong with supporting something which says this is a welcoming city? Mr Doszpot's amendment takes out the notion of a multicultural city. Mr Speaker, I understand I can talk to his amendment when he moves it.

Mr Doszpot interjecting—

MR SPEAKER: Order! Mr Doszpot, you will have a chance to give your response in three minutes and 35 seconds. I would ask you to listen to Mr Hargreaves in silence, as challenging as that is.

MR HARGREAVES: Mr Speaker, I understand that I have an opportunity to speak to this amendment later on.

MR SPEAKER: Yes, you will.

MR HARGREAVES: I have only just seen it, so I will address my remarks to it at that point.

I had hoped that members would have seen this motion that I have put forward for what it was. This is not a grab for glory for John Hargreaves. This is to celebrate our multicultural community and celebrate the way in which the ACT community has taken people under their wing. What part of telling the north African people from Taree who were rejected that they could come here is a bad idea? What part of Mr Stanhope's invitation to create a processing centre here is a bad idea?

That is what this is all about. And it is not about us. It is not about people in this chamber; it is about the people out there. It is about people like Kathy Ragless, who has now got a well-deserved AM for her work, not only with Companion House but in the community, behind the north African soccer groups, and the fact that she has paid out of her own pocket to go and work in refugee camps in Thailand, Burma and places

like that. We cannot really talk about the refugee community without talking about Geoff McPherson and Kathy Ragless. That is what this motion is about. Instead, I have been sidetracked by an amendment which seeks to grab some of the glory. There is no glory for this Assembly; it is about the community.

When I travelled overseas in a ministerial capacity, to China, they congratulated me there on our Multicultural Festival. I was congratulated again by a whole series of Middle Eastern ambassadors here for being instrumental in bringing some of the normally antipathetic embassies together to have a chat about their particular day.

Mr Speaker, we have got the embassies involved, we have got the actual communities involved and we have got, as you saw, nearly 150,000 people involved. It is not a case of saying things like, "The importance of fiscal management so that this festival can continue and grow in the future." What part about reducing it from \$900,000 to \$400,000 is not fiscal management and responsible fiscal management? What is wrong?

The amendment refers to "the welcoming nature of the ACT community with respect to refugees and asylum seekers". I happen to know that that was an afterthought. None of those items were discussed with me.

I have to say that I am dreadfully disappointed. I had hoped that we could have seen some cosmetic amendments from those opposite and from the crossbench. It appears that those cosmetic amendments are not acceptable to these people. I think, Mr Speaker—

Mr Doszpot: We wanted to make substantial amendments to a cosmetic motion.

MR HARGREAVES: Sniping at me from the other side of the chamber does not wash. I am sorry, it just does not wash. I actually now question Mr Doszpot's commitment to the multicultural community. I actually also question his undertaking to do things in a multi or bipartisan way, because he certainly has not exhibited that today. I have to say to you, Mr Speaker, that I am disappointed by Ms Bresnan's approach as well. I have to say I am very disappointed in it because she did not give me a reason for supporting the Liberals' position. (*Time expired.*)

MR DOSZPOT (Brindabella) (11.51): I thank Mr Hargreaves for his motion. No doubt, the issue of the importance of our many cultural, ethnic and religious communities that make up the vibrant and rich fabric of our proud city is a topic that is worthy of sincere acknowledgement and one that we should have more serious discourse on in this chamber. Suffice it to say, it is that time of the year when we are somehow forced by our colleagues across the floor—normally instigated by Mr Hargreaves and Ms Burch—to pat ACT Labor on the back for a job well done with their management of the National Multicultural Festival. Either way, both instances have now become an annual tradition.

I question the Stanhope government's sincerity in putting forth this motion, as Mr Hargreaves seems to be referring to an ACT multicultural festival and not the National Multicultural Festival that we all know. It just shows you how much

Mr Hargreaves knows about his own party's festival that he is so proud about. Then again, a 10-day event celebrating cultures from all around the world whittled down to a 2½-day festival with signature events, as Ms Burch puts it, perhaps implies a demotion of status. Mr Hargreaves has let the proverbial cat out of the bag—ACT multicultural festival and not National Multicultural Festival. Another theory might include the possibility that he has put this motion forth as a way to defend the legacy of Al Grassby, as he is so fond of doing around this time of the year. I add that this is perhaps the third February sitting tradition that we seem to have had in this Assembly.

In paragraph (2) Mr Hargreaves makes reference to promoting harmony and respect within the ACT community while he well and truly knows that he, personally, has been the main culprit in causing disharmony and lack of respect within the multicultural community through the commissioning and installation of a statue of Al Grassby in the foyer of the Theo Notaras Multicultural Centre. This initiative of Mr Hargreaves has caused and is still causing major controversy in our community and is still an open sore—

Mr Barr: No, I don't think your resident galah in the pet shop is talking about the Grassby statue.

MR DOSZPOT: Thank you, Mr Barr. It is still an open sore for many of the ACT community who have been calling on the ACT Labor government to formally apologise to the Mackay family for what remains one of the most shameful episodes in Australian political history. While the presence of Al Grassby's statue remains in the foyer of the Theo Notaras Multicultural Centre, it is a stain on the ACT's multicultural history.

Mr Hargreaves not only refused calls for the statue's removal or to apologise to the Mackay family while he was the Minister for Multicultural Affairs, but he now from his backbench position taunts the multicultural community with talk of promoting harmony and respect. My office still receives phone calls from constituents urging me to get Mr Hargreaves and the Labor Party and the Chief Minister to address the issues that they have been calling on them to address since 2005.

Mr Hargreaves's motion is convoluted at best, to the point of implying that the Multicultural Festival is synonymous with the cultural, ethnic and religious diversity of our city. It is fallacious reasoning, and the attempt to gel the Stanhope government with the festival and with our city's diversity is sinister in its opportunism. Truth be said, it was the Canberra Liberals through the Carnell government that established the Multicultural Festival in Canberra. Mr Hargreaves made no mention of that—it was all just patting on the back his fellow party members and the ACT government because he thinks that is the way to do it. It is because of Mrs Carnell's foresight that we have today a tradition of diversity and openness in our city.

At a time when notions of multiculturalism are being touted in countries like the UK, Germany and the US as failed projects, it is important that we do not treat this topic in piecemeal fashion in the manner our colleagues across the floor are proposing today. With approximately 25 per cent of Canberrans being born overseas and 15 per cent speaking a language other than English at home, we owe it to these Canberrans to not

be opportunistic on this matter, especially after a festival showcasing the proud pluralistic heritage of our city.

In short, we are one community, Mr Hargreaves; we are one community. In the true spirit of belonging, there is no us and them. You seem to imply that they are different to us. We have one community; there is no us and them; there is only us. This is a point that the Stanhope government has sorely missed. Commenting on the festival in 2009, Ms Burch noted:

It offers opportunities for cultures that are many thousands of years old to share with us their food, song and cultures that have diversified and changed over time. They bring that to us in our contemporary society.

If the government is sincere about us being an international city that celebrates diversity and acceptance, why is Ms Burch alluding to an “us and they” view of Canberrans? Clearly by “they” she is referring to members of our community whom she defines as not contemporaneously Australian or not like her. In true ACT Labor style, nine months after her statement, the Stanhope government promotes her to be the Minister for Multicultural Affairs.

This motion is mired in subliminal jingoist political correctness by which the means have destroyed the end goal of a truly pluralist society. We live today in a world that is multicultural and multi-religious and where there are more of us living in the same geographically defined space with a plethora of different values, perceptions, experiences, wealth and the like. It is through engaging with these differences through everyday contact and the exchanging of ideas and experiences that we indirectly moderate each other’s behaviours towards being respectful and accepting.

What Mr Hargreaves and ACT Labor fail to grasp, or cannot find the words to articulate, is that it is through constant contact and exchange that people of different backgrounds develop a sense of trust and respect. Just go back to the fact that the ACT government cut the Multicultural Festival from 10 days to 2½ days. The reason for that was a budget blow-out that should not have happened in the first place. But the budget blow-out then impacted on people of hundreds of nationalities having to cut all of their celebrations into this compacted 2½-day period. If you have a look at the situation that occurred over the last two weeks, most of the festival activities had been going on for a week and a half before the actual festival that we had for 2½ days.

Greater diversity in a society where all belong and have an equal share in the deserts of our city’s achievements is something that we must applaud and strive for. The success of events like the Multicultural Festival is mainly due to Canberrans themselves and not solely because of the Stanhope government, as Mr Hargreaves would like us to think. What is being proposed in Mr Hargreaves’s motion is the mythical notion that the present multicultural success of our community is credited on the back of overt ACT Labor manipulation. That is preposterous. What this motion fails to recognise is the common identity that we all share as Canberrans, and it is because of this that we are able to be an accepting community, Mr Hargreaves. It is because of this that events like the Multicultural Festival enjoy wide acceptance.

The subject of Mr Hargreaves's motion today is important. Issues of cultural and religious diversity are topics worthy of this Assembly's attention and time, and I thank Mr Hargreaves for his motion. That said, the Canberra Liberals find it difficult to agree to the inherent spin in his motion. On the back of the Multicultural Festival, credit should be given squarely to our community for their generous support in making such initiatives so well received. In respecting this, we need to note the important role of the National Multicultural Festival in promoting mutual respect and understanding in our community, the importance of fiscal management so that this festival can continue to grow into the future and the importance of ensuring that Canberra continues to develop as a cosmopolitan and accepting city.

Equally, we cannot rest on our laurels and rely solely on Ms Burch's signature events for the future sustainability of the festival. The rich diversity of our city needs to be fostered through further exchanges and dialogue. Hence, Mr Speaker, I move the amendment that has been circulated in my name:

Omit all words after "That this Assembly", substitute:

"(1) notes:

- (a) the important role of the National Multicultural Festival in promoting mutual respect and understanding in our community;
- (b) the importance of fiscal management so that this Festival can continue and grow into the future;
- (c) the importance of ensuring that Canberra continues to develop as a cosmopolitan and accepting city; and
- (d) the welcoming nature of the ACT community with respect to refugees and asylum seekers; and

(2) calls on the Government to:

- (a) consult with local multicultural organisations to develop new Festival events and concepts;
- (b) foster increased exchanges and discussions among the diverse ethnic, religious and social groups within our community;
- (c) report on the above initiatives prior to the September 2011 sitting; and
- (d) include the promotion of social inclusion and interaction into the vision of the Multicultural Festival."

MR SPEAKER: Mr Doszpot, do you wish to speak any further?

MR DOSZPOT: Mr Speaker, I think I have covered most of the issues I wanted to talk to, but I will draw attention to paragraph (1)(d), the welcoming nature of the ACT community with respect to refugees and asylum seekers, and also paragraph (2)(d),

including the promotion of social inclusion and interaction with the vision of the Multicultural Festival. Mr Hargreaves has made a big to-do about the fact that he has not been consulted about these amendments. His office and, in fact, Mr Hargreaves himself were consulted by my staff.

Mr Hargreaves: No, I wasn't.

MR DOSZPOT: He was given a copy of what we had. Certain amendments have come into play, as often happens in this place, and I have no apology to make in moving the amendment as it stands in my name.

MS BRESNAN (Brindabella) (12.02): I thank Mr Hargreaves for bringing this motion on today. I think the ACT is a welcoming place for the many ethnic communities who have made this place their home. The ACT does have a history of promoting cultural diversity, be it through supporting migrant communities to settle here or by providing essential services to refugees and asylum seekers. There are countless volunteers who live here in the ACT and give their time and energy to supporting some of our most vulnerable citizens.

I will not mention all the services and community groups in Canberra who provide support for refugees and asylum seekers, but I will mention a few groups who need particular mention in debating this motion today. Mr Hargreaves has already mentioned a couple of those groups. Companion House is an essential provider of counselling and health services for refugees and asylum seekers who have experienced trauma. As we know, a number of refugees who come to this country and to the ACT have been through fairly horrific circumstances which we can only imagine; it is important that we provide these services to them so that they can become a part of the community and become contributing members of the community.

In going to a number of events which have been run by groups such as Companion House and Canberra Refugee Support, let me say that it is absolutely wonderful to see the contributions they make, particularly those of young people. That needs to be acknowledged.

That leads me to Multicultural Youth Services, a base for many young Sudanese, Burmese and other refugee young people who are newly settled into the ACT. They provide housing support and mentoring for many young people. Canberra Refugee Support provides countless hours of free support and is often the first port of call for people settling here. As Mr Hargreaves has already mentioned, it provides a huge amount of hours through voluntary services to people from a variety of backgrounds who come to the ACT. I want to mention a particular scholarship program they run, which I have mentioned before, and the contribution young people make. That program they run is a particularly wonderful program because it does provide young refugees with the opportunity to study and to go on to further areas in the community. I think that is a wonderful thing to see.

These services, and many more, give refugees and migrant communities support to make the ACT their home. The ACT, as I have already said, is indeed a welcoming place and has a long history of respect for cultural diversity. This is not just through

the work of government but also through members of the Assembly and many community groups. I will acknowledge that it is not one group or one party that has made a contribution. I acknowledge the work of the current ACT government, but also that of past governments, and that includes Liberal governments, to the contribution that has been made to promoting multiculturalism in the ACT community—and also, as I said, the work of community groups. We have all spoken about that; we all recognise that.

There are a huge number of people who make a contribution to promoting multiculturalism and helping people who come from refugee backgrounds, who come to this country from overseas. It is not just one group of people; everybody makes a contribution, and that needs to be recognised.

The National Multicultural Festival does work to promote harmony and social cohesion in our community. The festival continues to be a wonderful representation of ethnic diversity in Canberra. However, as Mr Doszpot's amendments point to, the festival could go further and broader. Multiculturalism is a process that is continually changing. I believe that Canberra has an opportunity to develop new pathways and build on how multiculturalism is expressed through forums, and a variety of those forums.

I believe it is a wonderful thing that we see that one of the biggest events in the ACT in terms of community participation is the Multicultural Festival, but I guess multiculturalism is more than just a surface representation, more than just experiencing food or seeing a dancing group. There is a lot more that goes with that. In order to develop through harmony and understanding our community, it is actually about getting down to those deeper levels.

That is all that we are trying to achieve through these motions, or at least that is all I am trying to achieve by supporting Mr Doszpot's motion. It is not trying to denigrate anything that Mr Hargreaves or the ACT government have done, or anything that is in there. It is just about expanding on that and acknowledging that there is a lot more we can do. The Multicultural Festival is a wonderful thing, but we can go a lot deeper and make this a truly inclusive community. That is all that this is about today.

Although the festival was a success, it does not necessarily flow through to other parts of Canberra or other times. I have just made the point that it would be a positive move to include multicultural aspects in other festivals.

It is also, as Mr Doszpot's amendments state, about fostering exchanges and discussions among diverse ethnic, religious and social groups. One group of programs that the ACT Greens are very supportive of and have been looking into is programs and schools which look at different religions, looking at what is different but also at the many similarities that we share. These programs have run in New South Wales and have been hugely successful in encouraging respect and understanding. This is the sort of thing that we are thinking of when we look at these amendments which have been put forward.

These are the sorts of things we need to consider in connection with the Multicultural Festival not being the only way of promoting multiculturalism in the ACT. And while

the food and dance spectacular at the Multicultural Festival is a great experience for the observer, ethnicity and cultural diversity should not merely be something abstract to be admired from a distance or in separation.

One very good example is from the United States—the Smithsonian Folklife Festival in Washington DC, which celebrates community diversity and inclusion in a number of ways. The folklife festival “encourages visitors to learn, sing, dance, eat traditional foods and converse with people presented in the festival program”. The festival includes daily and evening programs of music, celebratory performance, crafts and cooking demonstrations, storytelling—which I think is an important thing—illustrations of workers’ culture, and narrative sessions for discussing cultural issues. It is all about furthering their understanding of multiculturalism. It is inclusive, participatory and interactive. It provides a promising practice where different mediums are used to educate and promote social inclusion.

I understand that this is a complex production, which requires a large team, funding and expertise, but it provides direction as to how we can energise and conserve multiculturalism in the ACT and set an example for the rest of Australia.

I believe it is essential that social inclusion and interaction are built into the vision of the festival. I believe it is time for the festival’s vision to mature to include interaction and participation as the main themes to be built on. While it is a wonderful thing to experience food from another community, as I have already said, it would be good to see the festival providing a more interactive experience. Including events such as Chinese New Year and Greek Glendi does add to the festival, because we get to experience very important occasions in the calendar for people from different communities, but that is again about expanding on that particular surface experience.

Multiculturalism is about celebrating and maintaining cultural diversity in our community. The Multicultural Festival has taken a large step towards showing that multiculturalism is alive and well in Canberra despite some politicians in Australia and overseas stating how it is a policy which has failed.

I will just refer to a couple of issues Mr Hargreaves mentioned which have received quite a bit of attention in the last couple of days. Mr Hargreaves mentioned the petition which was tabled by Senator Humphries. I think it is worth noting that in the media today we saw that the petition has actually been tabled on quite a few occasions by politicians from a whole lot of different parties—Labor, Liberal, National and independents. I think that should be noted.

I also note the questioning of allowing the families of people tragically killed while travelling by boat to Christmas Island to attend a funeral as a particularly appalling episode in relation to refugee issues. I will note that it was very positive to see Joe Hockey—as well as politicians from Labor, obviously—speak out in favour of people attending the funeral. It was good to see Joe Hockey support that, and I acknowledge that he did that.

The ACT Greens believe that local multicultural organisations and communities need to be consulted regarding the production of the festival. It is important that politicians

do not dictate the terms of the festival and that the festival remains in community hands and local community groups are given priority to perform design activities.

I will just refer to Mr Doszpot's proposed amendment to Mr Hargreaves's motion. The Greens will be supporting it. I will just note again to Mr Hargreaves that it is not about actually denigrating anything that is in his motion; it is just about acknowledging that the Multicultural Festival makes a great contribution to multiculturalism in the ACT but there are other things we can do. I think in particular of fostering exchanges amongst different religious and social groups—I have already mentioned a program which can expand on that—so that we are getting down to a deeper level in terms of the understanding that we have of different cultures.

I return to the point I made about social inclusion. That is a very real point, particularly for older people from multicultural backgrounds, because it is often harder for them, particularly if they come out with family members. In relation to this, I will acknowledge the work of Sam and Chin Wong not just in promoting multiculturalism but in their work through the older persons network which they have established, which is a very important example of and means for encouraging social participation.

Then again, this is just what we are trying to reflect in that. In relation to the first notes which Mr Doszpot made, mutual respect and understanding, or having harmony and respect, present the same emotion or the same tenor in terms of what they are trying to say.

As for fiscal management, I think it is important that we acknowledge that there have been some issues around the Multicultural Festival. We did see that. The fringe festival is no longer a part of it. I think that was a really important part of the festival; it is a shame that it is not there. We do need to acknowledge that we have to look at these issues. It is about ensuring that it continues into the future and makes a significant contribution in terms of festivals in the ACT.

We have mentioned refugees in this, as Mr Hargreaves did. It is all those issues which I have already mentioned in terms of the services that groups provide and about making sure this is a welcoming place. I do acknowledge that Mr Stanhope came out and made that statement. But again there are a lot of people in the community who have been very welcoming in terms of refugees and have actually made that statement in light of some of the political debate which has been happening in this country. It is not just limited to one group or one person who is doing that; there are a whole lot of people.

Again, I thank Mr Hargreaves for the motion. Today the Greens will be supporting Mr Doszpot's amendments. We thank him for putting them forward. There was discussion between the different offices. Obviously, I was down here in the chamber when a lot of that was going on, but there were discussions that went on between the offices. I am sorry if there has been some misunderstanding at Mr Hargreaves's office, but there was never an intention to put anything up without his knowledge; we had consulted with him about this, and also with Mr Doszpot's office.

MR HARGREAVES (Brindabella) (12.15): Thank you very much—

MR SPEAKER: This is on the amendment, yes?

MR HARGREAVES: Yes, this is on the amendment.

MR SPEAKER: Thank you.

MR HARGREAVES: I acknowledge the comments made by Ms Bresnan and I acknowledge the comments made by Mr Doszpot. I would like to make a couple of comments on them.

I cannot believe how besotted Mr Doszpot is with the Al Grassby statue. I just cannot believe it. Obviously he misses the point about having recognition of anybody's contribution to life in their city or in their country. Every single person I know has a light side and a dark side, every single one of them. And I point out once again in this chamber nothing was proven. In fact, Mr Grassby was exonerated on all of it. And I have the transcripts to prove it.

Furthermore, Mr Doszpot said it was me trying to support the Al Grassby statue. I made no mention of that statue in my speech. There is no mention of it in the motion. Mr Doszpot talks about that statue creating disharmony in the community. I have not heard it. Let me just tell you I am—

Mr Doszpot: You have not listened, John, you have not listened.

MR HARGREAVES: Would you be quiet for a minute please, Mr Doszpot. I heard you in silence and I would like the same courtesy please.

Mr Doszpot: That is unusual for you.

MR HARGREAVES: It is not unusual. You just wake up.

I am aware that the Mackay family have difficulties with the statue and I regret their discomfort. And I have said that a number of times. I have had no community contact to say it was the wrong thing to do. Yet again I say to this place: when the notion of a celebration of Mr Grassby's contribution to multiculturalism came up, I spoke to the multicultural community on 16 occasions and not one of them suggested to me it was not a good idea.

When it started to come out of the ground that the Mackay family was upset—and I had no knowledge of them even being in the city, none at all—was I going to go against the 16 sessions of community consultation because a family got upset about a particular aspect of a particular individual's life, which was in fact not proven in court? No, of course I was not. I concentrated on the contributions to the multicultural affairs of this country by the father of multiculturalism. But I am not going to justify that statue any further. Mr Doszpot, for God's sake, ought to get over it and understand that it is a celebration of multiculturalism and in certain people's minds that is the way it goes.

He said he had been calling for a formal apology and people had been calling for a formal apology, I had not heard one call for it until today. And I think that Mr Doszpot has been disingenuous in all of this. He went into semantics about the notion of national versus ACT. That is bad luck. It was just semantics. And for a speech which was supposed to be of some emotion, then it was just semantics and it denigrated that speech. There was no need for that sort of silliness involved in it.

Ms Bresnan referred to the multicultural youth services and I thank her for that. We need to note that it was under this government, when I was a minister, that we had the multicultural youth summit. That was called consultation with the community. That was about ensuring that we develop, because we were talking to the young people. That was about promoting mutual respect and that was about consulting local multicultural organisations and talking about succession planning in the multicultural communities. That was what that was all about. It was hands-on consultation. It was not acknowledged by those opposite or those on the crossbench, I think sadly.

I acknowledge Ms Bresnan's recognition of Sam and Chin Wong in the older persons' communities within the multicultural community. I acknowledge that. But I also have to say it was this government that trialled a bus service to try to remove the social isolation of that group. Where is the recognition for that? It is nowhere.

All of the things in Mr Doszpot's amendment have been done and continue to be done. I have to tell you, I would not have had to do the second and third part of that motion if it was not for the federal policies that existed when I first became the minister for multicultural affairs under the community services portfolio. It was the policies of John Howard and Kevin Andrews, who chaired a ministerial council—and I was on it—which absolutely had me shaking with rage about their treatment. And the kids overboard saga—it was all proven to be rubbish. The difference between John Howard and Kevin Andrews' approach to life and Pauline Hanson's was absolutely zero. And it was that which motivated me to go on and start pushing things in the multicultural community in this town. And it has worked. It has worked a treat.

The Multicultural Festival is the most obvious expression of it but there are other ways in which we look at it. The creation of the Muslim Advisory Council is a way of connecting with a community under threat. I have made public statements that if people intend to victimise the Islamic community they need not come to this town. It is making strong statements like that.

Ms Bresnan says, "I do not mean to denigrate it." I have to tell you, it does denigrate it. I feel it is denigrating it and I take great offence to it. And I have to tell you it is going to take me quite a while to heal over this one, because I think it is a disgusting piece of me-tooism: "What about me?" It is called relevance deprivation.

You can accuse Johnno of many things but not being able to count ain't one of them. I can count. I am reminded actually of Mr Hanson accusing the Greens of getting into bed with Labor. This is a really good example of how it does not work, and I say that with some jocularly actually. I do not mean that to be a barb. But I can count. I know the Greens are going to support Mr Doszpot's amendment. However, as I said earlier

in my opening speech, they are missing the point on many parts of the motion that I had.

So what I have done is prepare amendments to put into Mr Doszpot's amendment those elements which I felt to be critical of my own. I formally move those amendments circulated in my name.

MR SPEAKER: Mr Hargreaves, you will need leave to move them as a group.

MR HARGREAVES: I seek leave to move these amendments circulated in my name.

Leave granted.

MR HARGREAVES: I move:

- (1) In paragraph (1) (a), omit the words "mutual respect and understanding in our community", substitute "harmony and respect within the ACT's many different cultural, religious and ethnic communities".
- (2) In paragraph (2)(a), insert the words "continue to" before "consult".
- (3) In paragraph (2)(b), insert the words "continue to" before "foster".
- (4) Omit paragraph (2)(c).

I will very quickly talk to them. Some editorial treatment on paragraph 1(a) may very well be needed because I may have inadvertently taken out the word "promoting". I would like to have it reinserted, if it makes sense. So with members' leave, I would ask that the Clerk actually advise the Speaker on the proper editorial treatment so that it makes sense. And I thank members for that concurrence. I take the flickering of eyelids and the nodding of heads as assent. So thank you very much for that.

I wanted to put in there specifically the phrase "the ACT's many different cultural, religious and ethnic communities". I wanted to have it deliberately put in there because cultural strife has its roots quite often in religious strife. We are seeing it happen around the country and we are seeing it happen around the world, and I think we need those words in there.

I believe I have demonstrated to you that we have been consulting, we have been promoting and we have been fostering, and I have given you multiple examples of how that has gone on over the last six years or more. So I would seek members' agreement to include the words "continue to", because the implicit suggestion is that we have not been doing it. And that is just plain not true.

There have been two summits, 16 sessions, a multicultural youth summit and something like 40-odd—I think it was 47 or something like that—individual sessions with individual community groups, one on one with me as the minister. That constitutes fostering and constitutes the consultation process. I believe that consultation process was brilliant.

I do not believe that we need to come back to the chamber with a statement. We have the annual report system that we can quiz on. We have also got the ability for people to ask questions on notice or without notice. We have also got the multicultural strategy, which has a return to the Assembly clause in it where the minister is required to come back and report on the implementation of the multicultural strategy. In fact, for those concerns that the people might have, there are mechanisms already in place for that reporting back to the Assembly. That is the reason I do it. I do not think Mr Doszpot's amendment is absolutely necessary.

In terms of the budget, we have got an estimates process which actually occurs and, as I say, you can do it any time you like in the Assembly. I would seek members' agreement to my amendments to Mr Doszpot's amendment, and I thank members for their contribution.

MR DOSZPOT (Brindabella) (12.24): I thank Mr Hargreaves for moving the amendments. As we stated before, we will not be supporting the amendments or his original motion. Just looking at the issues that Mr Hargreaves seems to be wanting to cover, they have already been covered in the things that we have put—for instance, promoting mutual respect.

It is on this point of mutual respect that I have to respond to what Mr Hargreaves feels is something I cannot let go of—the Al Grassby statue. My issue with the Al Grassby statue is not my issue. It is a community concern about who this community respects and who this community looks up to. Mr Hargreaves is wanting to trivialise the stories around Mr Grassby's latter involvement. I would simply quote from an article in the *Australian* of 3 March 2007, for the record, to encapsulate why the community is concerned about Mr Hargreaves's choice of a community icon to put in front of the Theo Notaris Centre, the multicultural centre. The article reads:

The family of murdered anti-drugs campaigner Donald Mackay have joined a campaign against an ACT Government plan to erect a public monument to the late Al Grassby.

The Labor administration, led by Chief Minister Jon Stanhope, commissioned the \$72,325 life-size bronze tribute to the former Whitlam Government immigration minister ...

Critics have attacked the plan as extravagant and in poor taste because of Grassby's links to the Calabrian mafia and his intervention in the Donald Mackay murder investigation ...

In 1980 Grassby was charged with criminal defamation after allegedly asking a NSW state MP to read out a document in parliament that implied Mackay's wife Barbara and her family solicitor were responsible for his disappearance. He was acquitted.

On technicalities and on parliamentary privilege.

But after Grassby's death in 2005, former National Crime Authority investigator Bruce Provost said Grassby had used political pressure to stop an investigation of his mafia links.

Mr Hargreaves, you said that you have not been called on to apologise. I am formally calling on you to apologise to the Mackay family for the hurt that has been caused to them. I will leave that for your conscience to handle. I will certainly leave that with you in case you have not been formally asked. As we said, we will not be supporting the amendments to the motion.

MR HARGREAVES (Brindabella) (12.27): I thank Ms Bresnan for the indulgence. I omitted to actually table a document that I wanted to table. I seek leave from the chamber to formally table the document from the Mon community.

Leave granted.

MR HARGREAVES: I table the following paper:

National Multicultural Festival—*Proud to be Mon, a day of full pride*—Copy of email from Joel Lyneham to Jim Mallett, dated 16 February 2011.

MS BRESNAN (Brindabella) (12.28): I will be very brief in speaking to Mr Hargreaves's amendments. I appreciate what he is saying. I think that promoting mutual respect and understanding is a very important thing to recognise. Harmony, respect—I think we can argue about the words, but I think we have a notion of what we are trying to say. I support Mr Doszpot's amendment. We will not be supporting the other amendments. I do see what Mr Hargreaves is saying, but I think we need to be consulting about different events and concepts of the Multicultural Festival. I do not think that is something that has happened. We need to look at other ways of having exchanges and discussions between different groups and I do not think that has been happening. I appreciate what Mr Hargreaves is saying, but we will not be supporting the amendments.

MR SPEAKER: The question is that Mr Hargreaves's amendments to Mr Doszpot's proposed amendment be agreed to.

Question resolved in the negative.

MR SPEAKER: The question now is that Mr Doszpot's amendment to Mr Hargreaves's motion be agreed to.

Question resolved in the affirmative.

Motion, as amended, agreed to.

MR HARGREAVES (Brindabella) (12.29): To close the debate, I first wish to address Mr Doszpot's obsession with the Al Grassby statue once more and finally. Firstly, I sincerely regret the pain the Mackay family may have had. Had I had an opportunity to talk to them beforehand I may have been able to have developed some other way of recognising their contribution, but I had no idea that they were in town. Please understand that.

I also understand that they have their views on the activities in Griffith, and I respect those views. I sincerely respect those views. Any hurt that they may feel is sincerely regretted, and I have to tell you, Mr Speaker, that my heart goes out to them about that. But I have the ability to separate two issues and Mr Doszpot clearly does not. Mr Speaker, he really does not. The so-called facts that he put on the table are not substantiated. The national Crime Commission comment afterwards was not substantiated. It was an opinion offered by a so-called expert with not one shred of fact to back it up.

Mr Grassby was acquitted, Mr Doszpot says, on a technicality. Mr Doszpot (1) was not there and (2) would not know a technicality if he fell over it. He is not a judge and should not venture such an opinion under parliamentary privilege in this place. We know that it is not an offence to defame someone who has passed on, but it does not stop these people from defaming somebody's reputation under the guise of parliamentary privilege. I think that is despicable. I think that is despicable from a person who claims to have the multicultural community's interests at heart. He actually denigrates his own standing on that and I think that is sad. I really do think it is sad.

I am also saddened that Ms Bresnan has decided that it is appropriate to support the exclusion of the terms "different cultural, religious and ethnic communities". I am saddened by that. I am also saddened by the lack of recognition that this government has done something in the past. That saddens me. I do not know what threat this particular amendment of mine to Mr Doszpot's amendment is so important as to exclude those particular words.

The only thing I can think of in terms of Mr Doszpot is relevance deprivation. He has got to have his little fingerprint on it. I was quite happy to go with that by amending his amendment. I was happy to do that. If Mr Doszpot wants to feel important, I am quite happy to let him feel important. Ms Bresnan put her finger on it fairly early on when she said that it is not about us; it is about the communities themselves. She talked about engaging with them to see how we can go further in these things. Nobody is not going to support that, I would hope.

Before I took over, Mr Speaker, the previous Liberal government did absolutely nothing by way of policies and initiatives and they claim to have initiated the National Multicultural Festival under the Carnell government. It was the Carnell government that really killed off a good sized couple of festivals in this town, and it was the Carnell government that nearly killed this other one off—the National Multicultural Festival—as well, as it was going to be absorbed into the Canberra Day festivals. It was us that stopped it.

Mr Doszpot says: "You've stretched it out. It was over nine days and now it's down to 2½ days." The same number of people came and the same number of people actually provided the food, the dance and the entertainment. Mr Speaker, get this, the last time it was over nine days those stall holders had to operate for two days each of two weekends. That was four days. They had to pay for the tents for four days. This time they did it for two days, and they made more money this time than they have ever done in the past. I gave you a demonstration of that when I indicated how much

money the Mon community had made. There was no community that did not make money this weekend.

When it was in the nine-day festival, we tried expanding it out into Glebe Park and it did not work. People lost so much money. There were about four or five communities that actually went backwards by \$1,000 that weekend. You just cannot let that happen. I think that people's attitude to the Multicultural Festival and its place in our promotion of the way we do things here in Canberra is a bit misguided. I really do not think those opposite and the crossbench actually appreciate where it fits in our society. This festival, which I changed the nature of, was known in Chicago. I was congratulated—

Mr Doszpot interjecting—

MR SPEAKER: Order! Mr Doszpot, I hate to have to warn you but I have asked you a number of times to stop interjecting.

MR HARGREAVES: Thanks, Mr Speaker. I was congratulated on it in Chicago. I was congratulated on it in Beijing. I was congratulated on it in Shanghai and I was congratulated on it in Nairobi. It was not because it was a great fun activity; it was because it was a model of how multicultural communities can come together as a sort of apex of the activities during the year. I have also been invited to Malaysia to go and talk on this very subject, on how we can bring these people together, but lo, Mr Speaker, what do we hear? We hear Mr Doszpot saying: "Yes, but what about me? What about me? What about that statue?" How petty is that?

The ACT, the Canberra community, are leaders in this country on how to do it. We do not have ethnic ghettos in this town. I was talking to a whole stack of people on the concourse on Saturday who were saying to me: "Look at this. Isn't it wonderful—all the colour, all the sounds and everything else?" This Multicultural Festival, for all these critics, is actually used as a model interstate, but none of them are as good or as big. None of them are an integral part of a policy of inclusion, mutual respect, cultural diversity and address things like religion. Where were those people when we had the trouble at the mosque? They were nowhere to be seen, Mr Speaker. It was me, the Labor Party, that went out there and told the Islamic community we supported them.

If I had been given that petition to table in this place I would have refused to do it because I would not put my name, regardless of freedom of speech, to a document which could get currency under parliamentary privilege which actually promoted discrimination on the basis of religion. I do not care whether it was three people or 3,000 people who were signatories to it.

This was just a simple case of Hansonism running rife. They are saying, "Freedom of speech." Well, my word, Mr Speaker, that is unacceptable to me. Any discrimination is unacceptable to me. I would not have done it. Quite frankly, the 38 members and senators who did support it ought to hang their heads in shame. I do not care what party they come from. They should hang their heads in shame. I am particularly disappointed in Senator Humphries because I know the man. I know his contribution to multiculturalism in this city. It has been a very, very strong contribution. He belittles that contribution by supporting that petition to be tabled in the Senate.

It is a sad day. I believe that Mr Doszpot has used this particular motion as a platform, as a ramp, against the Al Grassby statue. His pettiness continues to march onwards. I am sad that Ms Bresnan did not see the true nature and the true intent behind the motion. I shall not be supporting the motion as amended.

Mr Hargreaves's motion, as amended, agreed to.

Sitting suspended from 12.39 to 2 pm.

Questions without notice

Hospitals—waiting lists

MR SESELJA: My question is to the Minister for Health. Minister, on 15 February, you stated to the Assembly:

Some of the advice I have got from doctors themselves is that they do categorise incorrectly, that they do that knowingly ... solely on the grounds that they want that person to have surgery, and to have it in a timely fashion.

Minister, what does it say about the current state of the health system in the ACT when doctors do not have confidence in the waiting list system?

MS GALLAGHER: I think the issue that the doctors go to—and one doctor in particular has said it to my face but I have heard it anecdotally from other senior surgeons at the hospital who deal with the frustration of incorrectly categorised people—is that the demand for elective surgery continues to grow and we are at our capacity point about how much more we can deliver. That is requiring us to look at other alternatives to increase our throughput. We are doing 10,000 separate operations a year, but 10,000 people are joining the list.

As to what motivates particular surgeons to take the decisions they take, or how they categorise patients on their public lists as opposed to the work they do in their private rooms, they are really questions that only surgeons can answer.

MR SPEAKER: Supplementary, Mr Seselja?

MR SESELJA: Thank you, Mr Speaker. Minister, what measures will you be taking to ensure that doctors can have confidence in the waiting list system?

MS GALLAGHER: The government has been working with the surgical services task force since 2007 to improve processes around elective surgery waiting list management. We have good buy-in from a number of surgeons, but the majority of surgeons, because of workload and the way they run their private rooms and their public work at the hospital, do not necessarily participate in that forum.

But there is a range of ways in which we are trying to improve the waiting list management at the hospital. Some of it goes to extra operating time. Some of it is going to be reviewing the current lists and sessions and seeing whether some doctors who have many sessions and maybe do not use them all up can have those sessions reallocated to surgeons with larger numbers of patients waiting to be seen.

We are exploring all the avenues in the private system, which we previously have not been able to do because of concerns from surgeons about putting that work out to the private sector. We have managed to crack that this year. About a hundred work orders have already been completed in the private system. And part of it is the ongoing dialogue we are having now around the Auditor-General's report and how we implement the changes, including the requirements for forms to be correctly filled out, the requirements for those forms to leave the private rooms as early as they can, the communication that exists between surgeons and the surgical booking staff and the communication that goes to patients from the surgical booking unit.

I can provide the Assembly with a full list of the comprehensive work program that is in place to improve the management of the list, but it is not just the management of the list; it is actually increasing the throughput at the same time.

MR HANSON: A supplementary question, Mr Speaker?

MR SPEAKER: Yes, Mr Hanson.

MR HANSON: Minister, is it the case that waiting times for category 2 are so long that placing patients as category 1 is the only way in which surgeons feel that they can actually have their patients operated on within a reasonable time frame?

MS GALLAGHER: Certainly it is category 2 where we see the longest times where patients are waiting outside a clinically recommended time frame. But, also, the majority of the procedures fall into category 2. Having said that, it is a situation that compounds itself. If category 2 patients are being categorised as category 1 patients incorrectly, then category 2 patients are the ones that miss out, because extra lists have to be provided for category 1 patients who are not necessarily actually category 1 patients. It feeds on itself in a way.

We do require the surgeons to categorise their patients correctly. That goes some way to being able to manage the list more effectively. If everybody was doing that, I think some of the pressures that we have been seeing around upgrading and downgrading of patients, although it is a relatively small component of the list, would not occur.

MR HANSON: A supplementary, Mr Speaker.

MR SPEAKER: Yes, Mr Hanson.

MR HANSON: Minister, with regard to capacity constraints, how many elective surgeries do you consider that you will be able to actually achieve on an annual basis?

Ms Gallagher: Additional?

MR HANSON: The figure you have quoted, that 10,000, is that the capacity or do you anticipate you will be able to extend that out to, say, 11,000? What is the capacity once you are using the whole system, be it private, Queanbeyan and other areas?

MS GALLAGHER: This year we are forecasting an extra 800 procedures with the extra money that has come from the commonwealth and the work that we are putting

out to the private sector, so we expect 10,700. In that there is potential for Queanbeyan if we can get agreement around how that is to operate on the ground. But there are also some private work orders that are already going out to John James and the CAPS Clinic, I think is the other place. We are already doing the work. It sounds easy.

Then it comes to a matter of budget. How much more money can you put into elective surgery and what types of surgery do you want to see done? Orthopaedic surgery is very expensive. Ear, nose and throat surgery is not as expensive. But when you are looking at even increasing your operating theatres for two hours extra a day, it sounds relatively easy. You would probably get surgeons to agree to that relatively quickly.

More complex issues go to nursing and theatre nursing as a specialised area of nursing, extra intensive care beds because you are doing extra theatre, extra pathology because you are doing extra blood tests. It is not just about opening the theatre for two hours extra a day and that will automatically increase your throughput and everything will be okay. It is also about building capacity in the hospital to deal with the extra work that you are doing.

We have some capacity there, with the new surgical assessment and planning unit and the short-stay surgical wards that have been opened in the last year. This is really designed to try to improve the throughput through the theatres and into the hospital and have bed capacity there. But you then need nurses to staff those beds as well.

It sounds easy: extend theatres and you extend your capacity, fund it. They are the two relatively easy components. It is the other pieces of the puzzle that you need to make that work that make it difficult.

Bimberi Youth Justice Centre—human rights breaches

MS HUNTER: My question is to the Minister for Children and Young People and concerns human rights breaches at Bimberi. Minister, can you explain why handcuffs were being used to walk young people between buildings in Bimberi, as reported in the *Canberra Times* on 1 February of this year? Can you tell me when you became aware of this practice?

MS BURCH: I thank Ms Hunter for her questions. I will take some advice about particular incidents, whether it was a recent incident or whether it made reference to something that happened some months ago. I get reports once a month on use of force and restraints, but I can get some updated information for you, Ms Hunter.

MR SPEAKER: Ms Hunter, a supplementary question?

MS HUNTER: Yes, Mr Speaker. Minister, have you received a copy of the human rights commissioner's report about this incident?

MS BURCH: No, I have not seen a copy of it.

MRS DUNNE: A Supplementary question, Mr Speaker.

MR SPEAKER: Mrs Dunne, a supplementary.

MRS DUNNE: Minister, in your answer to Ms Hunter's question you said that you receive updates once a month on use of force at Bimberi. Is this correct, and why is it so infrequently?

MS BURCH: That has been an historical reporting pattern to me and I am satisfied with that.

MR SPEAKER: Ms Bresnan, a supplementary?

MS BRESNAN: Minister, in relation to your answer about the human rights commissioner's report on the incident, will you request the Attorney-General to provide you with a copy of the report and will you make this report publicly available?

MS BURCH: I will certainly ask to see a copy of the report, Mr Speaker.

Hospitals—waiting lists

MR HANSON: My question is to the Minister for Health. Yesterday you stated to the Assembly:

There is a policy of no reclassification without a form, without that form being signed and without a clinical reason being provided by the doctors.

But the Auditor-General in her report on waiting lists for elective surgery found:

ACT Health's implementation and monitoring processes are not managed well to deliver the intended outcomes.

Minister, why was ACT Health policy not being followed?

MS GALLAGHER: Look, Mr Hanson, I am not sure there is a clear answer to it, other than I think—

Mr Seselja: Well, nothing's clear these days.

MS GALLAGHER: I do not think there is a clear answer to it. There is an interconnection here between policies and custom and practice. Custom and practice was that private rooms ring up the surgical booking staff, they say a particular surgeon is not available. It is an email that says, "The doctor is not available, this person is now category 2." That is put on the file on the electronic list. These are some of the examples the audit found.

In other cases the surgical booking unit says, "You've got too many category 1s. You can't fit them all in." This is done over the phone. It seems that custom and practice had evolved over many years—probably the whole time elective surgery work has

been managed at the hospital. The custom and practice was a phone call, or doctors dropping in and signing the form but not necessarily giving the reasons.

There are some hierarchical issues that staff have spoken to me about—not feeling empowered to ask the doctor to note a clinical reason if the doctor has signed the form. They do not feel that they are empowered to say, “Doctor, you have to actually give me a clinical reason for that.” Doctors are generally being rushed.

So I do not think there is a simple reason as to why the policy was not being followed in its entirety. I think there was a lack of understanding by some staff around the fact that all three requirements of the policy had to be met—that is, it required the signature, the clinical reason and it needed to be put on the electronic patient system. I think there was a belief by some staff that, if you met one of those, that was adequate. There is not a simple answer as to why it occurred.

What I can tell you now is that it is very clear. Staff are being trained; forms are in place. Those forms have been changed to give doctors options of clinical reason instead of just a blank, which it was before. Doctors have been informed that there will be no re-categorisation without the complete form being filled in by themselves, if their patient is to be moved.

The Auditor-General acknowledges that it is a good policy. She acknowledges that the right framework was put in place, but there has not been strict adherence to all elements of the policy. It is one part of the elective surgery management policy. So for that part of the elective surgery management policy, that element had not been adhered to in a satisfactory way. That has been changed.

MR SPEAKER: A supplementary, Mr Hanson?

MR HANSON: Minister, do you therefore accept that the Auditor-General’s review and the other investigations that have been conducted have actually had a positive effect on the implementation of ACT Health policy regarding elective surgery?

MS GALLAGHER: Yes, I do. I think the Auditor-General’s review has; so has the Katherine McGrath report and the other consultancy that we issued into examining elective surgery waiting list management. My view on any review that is done is that something positive should come out of it. I think the Auditor-General’s report goes some way to explaining the complexities of the parties that we are dealing with regarding elective surgery management. It also gives us a forum to tell all of those parties that things have to change, that the current practice is not adequate and that the government expects better. I expect that we will see a lot better in this area.

MS BRESNAN: A supplementary, Mr Speaker.

MR SPEAKER: Yes, Ms Bresnan.

MS BRESNAN: Minister, will there be any process put in place to record reasons which might fall outside clinical reasons or will now only a clinical reason be allowed for any downgrading to occur?

MS GALLAGHER: There are options on the form. I am happy to get members a copy of that form. My memory of looking at the form is that it does specify clinical reasons and “other”. So there are choices within the clinical reasons, because doctors have given us feedback that they do not want to necessarily write out the reason they are doing it. They want a quick way of filling out that form. So it gives them a choice of options there, but it also allows capacity for other reasons, such as “patient improves”—that would fit under clinical reasons, if a patient is improving—or leave arrangements or whatever it may be. That would be able to be noted on the form.

MR SPEAKER: Mr Seselja.

MR SESELJA: Minister, when did you first become aware that this ACT Health policy was not being followed?

MS GALLAGHER: I believe it was mid-June.

Mr Hanson interjecting—

MS GALLAGHER: I can add to that. In our discussions in this place and during the early discussions in this place I had been given consistent advice from my department that the waiting list policy was being managed. I had that advice checked with the surgical area at the hospital. They assured me that all aspects of the waiting list policy were being followed. Actually, that was prior to coming into this place. Once the Assembly adjourned, I think, I had a meeting with Health and they indicated to me that they had done an early audit of a number of cases where it had become clear to them that not all parts of the waiting list policy regarding classifications had been followed.

Government office accommodation

MS LE COUTEUR: My question is to the Chief Minister and concerns the new government office accommodation project. Minister, noting that there are a number of well located buildings due to be vacated over the next few years into which the government could co-locate government office departments which are close to the Legislative Assembly, are you committed to constructing a new office building or have you also considered the utilisation of existing buildings?

MR STANHOPE: I thank Ms Le Couteur for the question. Ms Le Couteur, there has been extensive, detailed and quite long-term consideration of all aspects of the proposal or the possibility of the ACT government constructing on its own behalf, or having constructed, a purpose-built ACT government office. It is work that we have been undertaking for probably four years. It has been very complex and very detailed. It has gone through a whole range of stages in relation to scoping, design, feasibility, costing and the development of financial models.

Of course, through that extensive work consideration has been given to all other possibilities and options in relation to how to best and most appropriately house or provide office space for our staff. Yes, we have looked at every conceivable option.

We have weighed them up. We have costed them and we have done that against a number of criteria, a significant and important one being issues around environmental sustainability and energy rating, a significant issue being around the quality of accommodation and a belief within the ACT government that, just as the commonwealth government has taken a decision that all commonwealth staff employed the ACT will be housed in A-grade accommodation meeting certain environmental standards, our staff deserve the same consideration.

The commonwealth has now essentially achieved its goal; the ACT government has not. In fact, I think it is fair to say—I have not been updated on this for some time—that the majority of ACT public servants work in C-grade accommodation. The vast majority of commonwealth public servants work in A-grade accommodation. We believe as an employer that we have certain responsibilities that we are keen to meet: to the environment, to our staff and to issues around efficiency. We have taken detailed advice on the efficiencies, the synergy, the single-purpose that can be achieved by having a majority of administrative staff contained in a single building.

There are quantifiable efficiencies and savings to be made in having, to the greatest extent possible, one's workforce co-located. They are quantifiable and they are significant. So, yes, we have taken into account a whole range of issues. We are obviously aware of the level of the vacancy rate within the private sector, the majority of which is C and D-grade accommodation, most of which is old, most of which the owners have not chosen to upgrade. They have taken commercial decisions.

Some of their accommodation—their C and D-grade accommodation—for a start the government is not interested in using to house our employees into the future. The majority of vacant accommodation, it is interesting, is C and D-class accommodation. We are not interested in it. It does not meet appropriate environmental standards. It is not, we believe, appropriate in this town in relation to the competition between the commonwealth and the ACT government to attract the highest quality public servants to our employ, when we are already challenged in relation to wages and salary, that we offer them C-grade accommodation when the commonwealth is now insisting that all its staff will be housed in A-grade accommodation.

These are the range of issues that we have considered. In the context of the vacancy rates, the question has to be posed to the owners of those buildings, particularly those D-grade buildings: what steps have they taken through their ownership to upgrade those buildings? What investment decisions have they made in relation to the upgrade, the reuse and continued use of their buildings and to what extent should the government be expected to bail them out? (*Time expired.*)

MR SPEAKER: Ms Le Couteur, a supplementary question?

MS LE COUTEUR: Chief Minister, you indicated you had taken into account the office vacancy rate, but what you did not discuss was whether you had taken into account the possibility of refurbishing the existing vacant office—

MR SPEAKER: Ms Le Couteur, preamble.

MS LE COUTEUR: Have you looked at refurbishing existing vacant offices, such as is happening across the road at the old ActewAGL building?

Mr Hargreaves: On a point of order, before the Chief Minister rises, Mr Speaker, we have just received, yesterday, an interim report into the standing committee's review or inquiry into the provision of government office accommodation. I am just seeking a ruling as to whether questions about that inquiry, which is ongoing, are appropriate.

Mrs Dunne: It's not ongoing; it's complete.

Mr Hargreaves: It is ongoing; it is not complete, Mr Speaker. Mrs Dunne, yet again, shows she knows not what she speaks about.

MR SPEAKER: Let us just stick to the point of order, Mr Hargreaves.

Mr Hargreaves: It is an interim report which was given to the Assembly yesterday and the review of the inquiry is ongoing. I wonder, with respect, Ms Le Couteur—I do not wish to appear to be obstructive—about the appropriateness.

MR SPEAKER: Mr Hargreaves, standing order 117(e) says:

... questions shall not refer to proceedings in committee not yet published or anticipate the outcome of a committee inquiry;

I do not believe that Ms Le Couteur's questions transgress either of those requirements.

Mr Hargreaves: On the point of order, Mr Speaker, with respect, I might suggest to you that, whilst the question may not, the response may very well anticipate the result of that inquiry. So I would ask you to reconsider your ruling, please.

MR SPEAKER: The rules are about the questions, Mr Hargreaves. The question is in order. Chief Minister.

MR STANHOPE: The full range of issues and possibilities have been considered through this extensive, long process. As I indicated, it is a four-year process. If the question is "do we keep a rolling assessment or analysis of vacant buildings?" then I cannot answer that question. But, yes, in the context of what housing options or potentiality should we consider, of course we have considered our traditional position of renting the majority of our accommodation. We own some and we rent some. It is probably fair to say that we rent a majority of the accommodation in which our staff work. So that is another consideration.

In relation to the buildings that we own, we have public servants in a number of buildings, most particularly Macarthur House and buildings here within the city, but we rent the majority of the accommodation which we utilise and, through an assessment of our forward needs, we do of course look at what accommodation is available and what might be available. To the extent the question goes to whether we

have given consideration in recent times to refurbishing buildings which we do not own, which are owned by the private sector—property developers and owners—then I am not aware that we have, Ms Le Couteur, and I am not sure why we would. I cannot imagine a circumstance in which we would identify a vacant building which we did not own and give any consideration to its refurbishment.

MS BRESNAN: Supplementary question, Mr Speaker.

MR SPEAKER: Yes, Ms Bresnan.

MS BRESNAN: Chief Minister, was Mr Hawke asked to consider the different options for co-locating the ACT public service in his review, or was a new building the only option proposed to him?

MR STANHOPE: I will have it checked. I have it here; I can do it quickly. If you have the report, you could do it yourself; the terms of reference are published. I would refer you to the terms of reference and if I can find them quickly I will read them to you. But from memory I do not believe the terms of reference went to the issue. When one looks at the 70 or so recommendations that Dr Hawke made in his report, a significant number of them are not specifically mentioned in the terms of reference. I am not aware that the question of ACT government public service accommodation is listed in the terms of reference, but in the one minute that I have left to me I am more than happy to have a look to see if I can find that for you.

The terms of reference are: the capacity of existing public sector structures to support the government of the day with strategic and direction-setting advice; effectiveness in delivering on government policy objectives; performance and accountability mechanisms; how existing structures differentiate between the roles of policy and regulation; across-government coordination; and structures that would improve resilience and innovation.

I assume he has not taken a broad interpretation of the word “structures” there. I believe the structures that are referred to in the terms of reference were government’s administrative structures. The issue of a government office block was not specifically included in Dr Hawke’s terms of reference, but he has nevertheless taken the opportunity to present us with his thinking, and his thinking is, as you see, very clearly, rigorously, absolutely and unambiguously that the ACT government should stop delaying a decision and build a government office block.

Hospitals—waiting lists

MR SMYTH: My question is to the Minister for Health. Minister, I refer to the Productivity Commission report on government services. It found that “overall in the ACT, 34.5 per cent of all patients experienced extended waits” for elective surgery. Why did over a third of all patients for the ACT on the elective surgery waiting list experience extended waits for elective surgery in 2008-09?

MS GALLAGHER: Mr Speaker, because I have the opportunity, I need to correct my previous answer. I have just asked for the letters that I sent to come down. I was

first advised about the re-categorisation issue and the lack of documentation on 5 August 2010. That was the first time, after repeated advice from my department that all of the policy was being followed in its entirety. On 5 August they confirmed to me that they had found examples where the policy was not being followed.

In relation to the Productivity Commission's report on government services, it goes to the issues of the demand that we are seeing for elective surgery. Thirty per cent of our elective list comes from New South Wales. No other jurisdiction deals with that amount of influx into their own system, to manage on top of the demand from their own community. That provides us with extra pressure on our waiting list, and that is the reason why people experience waits. We have a waiting list, we have demand growing all the time, we have a higher acuity, sicker patients, coming from New South Wales, and that impacts on the timeliness with which people can have access to care.

With respect to New South Wales patients coming here, I note that Barry O'Farrell last week commented that they come here for the superior service that is provided in the ACT health system. It is not a view shared, I think, by the local opposition, but certainly the New South Wales opposition believes that New South Wales patients come here because they get superior service and superior treatment. For example—

Mr Coe: New South Wales Health isn't exactly a high water mark.

MS GALLAGHER: Isn't it? Well, go and look at their performance against the national benchmarks. You can't have it both ways, Alistair. If you are going to beat us up for benchmark performance, New South Wales actually do very well.

Mr Coe interjecting—

MR SPEAKER: Mr Coe, this is not a discussion.

MS GALLAGHER: Then Barry O'Farrell comes and says our services are superior. I have to say that if we were not dealing with 30 per cent of the elective surgery list coming from New South Wales, and we were just dealing with our own jurisdiction, as most other jurisdictions do, the demand for elective surgery would not be as great and people would not experience those sorts of waits.

But this is the nature of the jurisdiction we work in. We have a small jurisdiction. We have two hospitals. We have not been able to role-delineate across those hospitals as we perhaps would like, to ensure that elective surgery is done in the most efficient way. This is the first year that we have actually got the agreement of surgeons to go out to the private sector. All of that compounds, and when you look at Tasmania and the Northern Territory, small jurisdictions with the same issues that we have got, you will see that their performance in this area is very similar. And that is the harsh reality of demand and capacity.

Mr Smyth interjecting—

MR SPEAKER: Mr Smyth, now you ask your question.

MR SMYTH: Thank you, Mr Speaker. Minister, the Auditor-General found in her report on elective surgery and waiting lists that “the strategies implemented by ACT Health have not been adequate to address increased demand”. Why are the strategies you have implemented inadequate to address waiting lists?

MS GALLAGHER: The Auditor-General has formed a view on that, and I respect that view. However, I think there is acknowledgment in the report of the work that is being done to increase throughput, to build extra capacity, to employ extra surgeons—and the demand continues to grow.

Mr Smyth: But the waits are getting longer.

MS GALLAGHER: Thank you, Mr Smyth. So we have increased capacity; we have increased beds in the hospital. Part of this is that, as I said before, you cannot just say that we are going to do a thousand more procedures this year and not have 50 additional beds in the hospital to take all those patients that you are going to do—significantly expanding your intensive care unit, for example, and having the extra pathology staff on. You cannot just snap your fingers. This is complex work that takes a long time to resolve.

Over that five years, we have increased capacity. I think that five years ago we would have been doing 6½ thousand procedures a year. We are now doing 10,000. This year we will do 10,700. But despite all those gains, demand for elective surgery continues to grow in this city. We have some constraints about how we manage that. We do not have elective surgery centres where we can send everybody and their surgery will be done and it will not be cancelled due to emergency work. We do not have the capacity of larger jurisdictions that have numerous hospitals that role-delineate across specialties. We do not have those options. That provides this system with some constraints. It will not change until we grow into a city the size of Melbourne, which is not going to happen.

For example, we have three plastic surgeons. Many, many people having elective surgery need plastic surgery, but we have to work that in with those plastic surgeons and the amount of work that they can fit in with their private work. (*Time expired.*)

MR HANSON: A supplementary?

MR SPEAKER: Yes, Mr Hanson.

MR HANSON: Minister, why have median waiting times for elective surgery nearly doubled since Labor took office?

MS GALLAGHER: Median waiting times have doubled because we have had for certainly the past three years a focus on removing long waits off our list, and that affects median waiting times. For political expediency, I could give a directive to ACT Health that they are only to remove new additions to the list and our median waiting time would be halved in a couple of months. Would that be the right thing to do? No, it would not because median waiting times ignore the tail.

Under median waiting times, it is actually better to keep your long-wait patients on the list because, the minute you remove a long-wait patient, it changes your median waiting time. If we were to only focus on category 1s and those category 2s that are done in the first 60 days, the median waiting time would be down to 20 in a flash.

But that is not what we are doing. What we are doing is attacking the long waits and getting those people their operations. Median waiting times are about people getting their operations and getting their operations as soon as we can. That means removing people who have had waits of 120 days. And that will affect your median waiting time.

I know what the right thing to do is. I suspect if Mr Hanson was in this job he would be doing whatever made the numbers look good.

MR HANSON: A supplementary question, Mr Speaker.

MR SPEAKER: Yes, Mr Hanson.

MR HANSON: Minister if you have been focusing on the long waits, why are 15 per cent of patients waiting for longer than a year—five times the national average?

Mr Seselja: It doesn't add up, Katy. It doesn't add up.

MS GALLAGHER: Well, it does, because whilst you are removing your long waits, unless you are significantly increasing your throughput—like over a thousand extra operations a year—you are going to have long waits continue. As you remove long waits, there are long waits that are coming. Until you remove the tail—

Mr Seselja: The two stories don't work.

MR SPEAKER: Order, members.

MS GALLAGHER: You think it is funny. It is actually not funny.

Mr Hanson: Five times the national average.

MR SPEAKER: Ms Gallagher, stick with the question.

MS GALLAGHER: While you are dealing with the patients that are long waits, more patients have joined the list and are becoming long waits. If you cannot follow that, you are just plain stupid.

Mr Seselja: More than any other jurisdiction.

MR SPEAKER: Mr Seselja.

Mr Seselja: More than any other jurisdiction.

MS GALLAGHER: Well, who knows what other jurisdictions are doing with their long waits, Mr Seselja.

Mr Seselja: So they're dodging—

MR SPEAKER: Order. One moment, Ms Gallagher.

MS GALLAGHER: Who knows what they are doing. And I am not really worried about that.

MR SPEAKER: Ms Gallagher, one moment, please. Stop the clock. Mr Seselja, I have asked you to stop intervening. You are now warned for interjecting. Minister, you have the floor.

MS GALLAGHER: I have finished.

MR SPEAKER: Thank you.

Visitors

MR SPEAKER: Just before I come to you, Mr Doszpot, we are joined in the gallery today by graduates from the ACT public service. I would like to welcome you to the ACT Legislative Assembly.

Questions without notice Hospitals—waiting lists

MR DOSZPOT: My question is to the Minister for Health. Yesterday you stated to the Assembly, minister:

... the audit did not find a patient where they had been re-categorised without doctor authority.

The Auditor-General in her report on waiting lists and elective surgery stated:

Audit identified 55 classifications (or 32 per cent) that had no evidence of having been approved by a doctor.

Minister, do you have evidence that shows that the 55 patients that were referred to by the Auditor-General were re-categorised with the authority of a doctor?

MS GALLAGHER: The point I was making yesterday was that we have not been able to find a patient who was re-categorised without some contact with their doctor, whether that meant a doctor's signature, a phone call, an email, whatever. We have not been able to find one. However, there are 55 cases where, under the waiting list policy, the correct procedures were not followed. Every time I meet a surgeon I ask them. I have not been able to find one patient where the surgeon was not consulted over that reclassification.

MR SPEAKER: A supplementary, Mr Doszpot?

MR DOSZPOT: Minister, yesterday you stated that you had “seen evidence of approval being given through the secretary of the private rooms of the doctor”. Is this the evidence you refer to regarding reclassification with approval by doctors?

MS GALLAGHER: Yes, I have seen evidence of communication between private rooms of a surgery and the surgical booking unit. Yes, I have.

MR HARGREAVES: A supplementary, Mr Speaker.

MR SPEAKER: Mr Hargreaves, a supplementary.

MR HARGREAVES: Minister, in relation to the Auditor-General’s report on hospital activities, has the government actually put in a response to that inquiry yet?

MS GALLAGHER: No. The government will be, of course, in line with practice, putting together the government’s response to the Auditor-General’s report. I am sure that the public accounts committee will be inquiring into that report as well.

MR SPEAKER: A supplementary, Mr Hanson?

MR HANSON: Minister, why does the ACT continue to compare so unfavourably to other jurisdictions on elective surgery waiting lists and waiting times?

MS GALLAGHER: I think if you look at the Northern Territory and the Tasmanian elective surgery performance—jurisdictions much more our size, facing the same issues—you will see that the ACT does not fare badly when compared to them, and they are small jurisdictions.

Yes, we want to improve our elective surgery performance but we will always have constraints on this system. The constraints are a 600,000-person population; an ageing population; demand for elective surgery continuing to grow; two hospitals, one managed by a non-government provider; no ability to role-delineate; and 30 per cent of work coming from outside our borders. That will always impact, regardless of the political colour or flavour, and I have to say that if Mr Hanson was in this job those constraints would not magically disappear. They make it difficult. The lack of ability to use private providers makes it difficult.

This is the first time that we have been able to employ third-party private providers to do elective surgery work, and that is because the surgeons in the past have not allowed that work to go into the private sector. We have now reached agreement with them that provides us with more opportunities to focus on increasing our throughput, and that is what I intend to do. We are going to increase our throughput.

We will implement the recommendations of the Auditor-General’s review. But implementing those recommendations of the review will not increase procedures by one. Not one extra operation will come out of implementing the Auditor-General’s report. What I need to do is to continue to focus on throughput and make sure that our record years of delivering elective surgery—this year another one, 10,700—continue to grow and we exceed that target next year.

Human rights—legislation

MS BRESNAN: My question is to the Attorney-General and relates to the human rights of the ACT's gender diverse community. Attorney, last February you received advice from the human rights commissioner about the provisions in ACT legislation regarding sex change. In November you made the commitment that, before the year was out, you would formally refer the issues to the Law Reform Advisory Council for inquiry. Attorney, given we are now in mid-February 2011, why has the referral not been made, and when are you going to do the referral?

MR CORBELL: I thank Ms Bresnan for the question. I have been in the process of consulting with the chair of the Law Reform Advisory Council, Professor Simon Rice, on the exact terms of reference for this inquiry. He provided me with his advice and, indeed, LRAC's advice on the proposed reference in December last year. Following my return to work earlier this year, I have now written to Mr Rice confirming the reference and the terms of reference.

I intended to announce that shortly, and the reference will then be able to be undertaken by LRAC. The advice from the Human Rights Commission will be made available to LRAC as part of its inquiry.

MR SPEAKER: Ms Bresnan, a supplementary?

MS BRESNAN: Attorney, can you please reconfirm that you will publicly release the commissioner's advice when you make the referral to the Law Reform Advisory Council and, if yes, how will it be provided?

MR CORBELL: I thank Ms Bresnan for the question. I will be providing the Human Rights Commission advice to LRAC, and I anticipate that LRAC will be making that public as part of their inquiry process.

MR SPEAKER: Ms Hunter, a supplementary question?

MS HUNTER: Attorney, what have you and your department done with the commission's advice since you received it 12 months ago?

MR CORBELL: I thank Ms Hunter for the question. Again, I have discussed with my department the issues raised by the Human Rights Commission's advice. I have also discussed the issues with stakeholders and people interested in this area of law reform and I have reiterated that I think it is important that, before we move any further in this area of law reform, we engage more broadly with the Canberra community about the issues that it raises. That is the purpose of the referral to the Law Reform Advisory Council, so there can be a public process that engages the broader community about the issues that arise around dealing with the discrimination that still exists in the law against that group of people, people who identify as cross-gender or, indeed, as another gender. That is something I am looking forward to LRAC's advice on.

MS LE COUTEUR: A supplementary, Mr Speaker.

MR SPEAKER: Yes, Ms Le Couteur.

MS LE COUTEUR: Minister, did your office receive any other pieces of human rights advice from the commissioner in 2010 that have not yet been released publicly?

MR CORBELL: In relation to this matter, I do not think so, no.

Bimberi Youth Justice Centre—safety

MRS DUNNE: My question is to the Minister for Children and Young People, and it relates to risk management for the personal safety and security of employed staff and private security guards at Bimberi Youth Detention Centre. Minister, what is the policy in relation to the issuing of, training in the use of and the actual deployment of personal duress alarms for employed staff and private security guards at Bimberi?

MS BURCH: I understand that there is a protocol in place for the broad set of tools and equipment that are used by MSS officers and youth detention workers out there. But I have also asked, as part of the inquiry I have set up—the security and operational inquiry—that this is investigated and reported back to me.

MR SPEAKER: Supplementary question, Mrs Dunne?

MRS DUNNE: Minister, do you know what the policy is and what have you done to ensure that all staff are aware of and comply with the policy relating to personal duress alarms?

MS BURCH: As I have said, I understand. I know that there is a policy in place and I have made it quite clear—

Opposition members interjecting—

MS BURCH: The question you are asking me is for every sentence and every dot point of every policy out there. I am stating that there is a policy in place. I have certainly spoken to management, saying that that needs to be investigated and reinforced. I have also stated that it will form part of the review.

MR SPEAKER: A supplementary, Mr Smyth?

MR SMYTH: Minister, have there been any occasions on which policy relating to the issuing of, training in the use of and the actual deployment of personal duress alarms has not been complied with? If yes, what were the matters of noncompliance and what was done to remedy the noncompliance?

MS BURCH: Those questions will form part of the review, and I am happy to bring that advice back.

MR SPEAKER: Mr Smyth, a supplementary?

MR SMYTH: Minister, have there been any instances of employed staff or private security guards working at Bimberi without first being issued with a personal duress alarm device? If yes, why and for how long?

MS BURCH: I think I will go back to the previous question, saying that the policy is in place, and I will take that on notice, and it will form part of the review. I am happy to bring what I can back to the Assembly.

Bimberi Youth Justice Centre—youth workers

MR COE: The question is to the Minister for Children and Young People. It relates to a speech that the minister made in the Assembly on 8 December last year in which she said that nine youth workers had been recruited and had undergone training—and I quote from *Hansard*—“and will commence duties at Bimberi next week”. I seek leave to table the relevant extract from the *Hansard*.

Leave granted.

MR COE: I table the following paper:

Extract from *Hansard*, 8 December 2010.

Minister, did those nine fully trained youth workers begin work at Bimberi during the week beginning Monday, 13 December 2010? If no, why not?

MS BURCH: I thank Mr Coe for his question. There have been recruitment processes and people starting at various times over the last couple of months at Bimberi. I am quite happy to get the numbers. A lot of people are trained. They go through the induction course and at the end of the time they choose not to take up the employment there. So the numbers through the induction course may not be those that are ultimately employed, but I am quite happy to take the advice and come back.

MR COE: A supplementary, Mr Speaker.

MR SPEAKER: Yes, Mr Coe.

MR COE: Minister, how many of those recruits are still employed at Bimberi and are they undertaking the tasks that they were engaged to do?

MS BURCH: I will clearly have to take that on notice and identify the nine that I made reference to in December, and come back.

MRS DUNNE: Supplementary question, Mr Speaker.

MR SPEAKER: Yes, Mrs Dunne.

MRS DUNNE: Minister, apart from those nine you referred to on 8 December, how many other youth workers have been recruited and trained since the beginning of December 2010? When did they or when will they commence work, and will they commence work doing the jobs that they were trained to do?

MS BURCH: I thank Mrs Dunne for her interest in Bimberi. I understand that the induction program since July 2010 has seen 25 staff completing the induction program and a number coming on. We have staff commencing this month—we have a number of staff; I will confirm the numbers and come back—and March. As I said yesterday, there are five previous employees who have reapplied or have made contact, but I can come back with exact staff numbers that have started in December, January, February and what we expect in March and April.

MRS DUNNE: A supplementary question, Mr Speaker.

MR SPEAKER: Yes, Mrs Dunne.

MRS DUNNE: Minister, what is the staff retention rate at Bimberi, and has it declined since you became the minister?

MS BURCH: It is my understanding that staff separation from Bimberi is around 12 to 14 per cent. I think that is a fairly consistent state of separation in an environment such as Bimberi. This is a challenging environment. The average separation, as I said, is about 12 to 14 per cent.

ACT public sector—Hawke review

MR HARGREAVES: My question is to the Chief Minister. Chief Minister, could you tell the Assembly, please, what the initial response has been to yesterday's release of the Hawke review on the structure and capacity of the ACT public service?

MR STANHOPE: I thank Mr Hargreaves for the question. I have to say it is very heartening to see, witness and experience that many—indeed, most—Canberrans are happy to embrace Dr Hawke's report for what it is: an exciting opportunity for the territory to choose for itself, for the first time in our history, what administrative structures, what governance arrangements, best suit our city-state.

Canberrans who use all the services that this government delivers, whether it be government services, whether it be public servants that work within the service industry, the business community, the community sector—indeed, all Canberrans—understand intuitively the motives for this review. They understand these things intuitively. I am sure those that engage with the report, that read it, that read reports of it, that listen to discussion understand and, I am sure, intuitively accept, as I and my colleagues within the government do, the intuitive wisdom of the blueprint that Dr Hawke has recommended. Most particularly at this juncture, 21 years after the granting of self-government, as we head towards our second century as a city, as we grapple with a range of major issues of significant concern to all Canberrans, Canberrans understand the need for government to ensure that its administrative structures, its governance arrangements, that its public service, those that deliver the services, are best suited, best supported and best able to meet those needs.

That has been the overwhelming response, with one major exception, of course—the Leader of the Opposition, and the Liberal Party, who I think is the only voice, the only

formal voice, the only person who would pretend to have actually read, digested and sought to understand, whose intuitive response was to oppose it without, I am sure, having read it, without having digested any of the recommendations, and has, nevertheless, delivered the verdict of the Liberal Party that reform is too hard. It is too hard. It requires you to think. It requires you to actually be able to prepare, to take some risks. It forces you to be open to change. It requires some energy, the capacity to think laterally with innovation. It requires you, in the first instance, of course, to get out of bed in the morning and to accept your responsibilities.

It was, I think, so predictable that, unfortunate as it is, the response of the Liberal Party would be to oppose immediately, to oppose absolutely, to oppose without any suggestion around—

Mr Barr: A bit of opposition for opposition's sake.

MR STANHOPE: A bit of opposition for opposition's sake—actually, a continuation of the theme—and we see it here most starkly in relation to a significant piece of work, considered over six months, developed after over 100 individual meetings, a range of submissions, detailed conversations and discussions, dismissed completely out of hand.

It does speak volumes for the Leader of the Opposition and the for Liberal Party and the position they occupy in this place, a position that they have occupied for some period of time now and that they have become comfortable in, and that is opposition. But every now and again, every four years, they pretend or seek to pretend that they really are a potential alternative government. But they are now so comfortable in the role of opposition, a role that they perform, as we know, exceedingly well—and it is probably the only role that they are fit for—

MR SPEAKER: Order. Chief Minister, the question was not an invite to comment on the Liberal Party.

MR STANHOPE: I was on the way. I was talking about responses. (*Time expired.*) I was talking about one of the responses that have been received. It has been the only negative response to the report that has been received.

MR SPEAKER: Chief Minister, resume your seat. Mr Hargreaves has the floor.

MR HARGREAVES: To the Chief Minister, I have a supplementary. Notwithstanding the sleepwalking attitude of those opposite—

Mrs Dunne: Preamble.

MR SPEAKER: It is a preamble, yes. Thank you, Mr Hargreaves.

MR HARGREAVES: Excuse me. I suggest you go back and check it out.

MR SPEAKER: No, Mr Hargreaves. Mr Hargreaves, ask the question or sit down.

MR HARGREAVES: There was no preamble, Mr Speaker.

MR SPEAKER: Yes, there was. Just ask the question, Mr Hargreaves, or sit down.

MR HARGREAVES: Can the Chief Minister please outline the next steps in the government's own analysis of the detail of the Hawke review and whether those people sleepwalking opposite will make any effect on it?

MR SPEAKER: Mr Hargreaves, I do not want to have to continue to ask you to not throw unnecessary elements of your question into it.

Mr Hargreaves: Mr Speaker—

MR SPEAKER: Sit down, Mr Hargreaves.

Mr Hargreaves: On a very short response, Mr Speaker—

MR SPEAKER: Sit down, Mr Hargreaves.

Mrs Dunne: Sit down.

Mr Hargreaves: Shut up, you!

MR SPEAKER: Mr Hargreaves, you are warned for inappropriate behaviour in the chamber.

MR STANHOPE: I thank Mr Hargreaves for the question. The government certainly has indicated already the extent to which it believes this is a wise report. We accept its inherent wisdom and we have given a very strong indication that we support the recommendations in the broad. Generally we believe the recommendations to be soundly based. But of course, as everybody would accept and understand, we do want to listen. We do want, most particularly, to take advice.

As I indicated just now, we have been pleased with the willingness of some within the community to debate the issues, the willingness to accept that it is worth striving for better. Of course, that is what the government is seeking to do here, starting from a very high base with a public service that really does, in many instances, in terms of its delivery and its activities, present a best model—a model that exceeds, indeed, the performance of other public services around Australia.

We should always strive to be better. We should always be prepared to debate. We should always actually open ourselves to the possibility and opportunities that change may bring. And we need to accept that in striving to be better, in seeking to improve, we do not have to suggest for one minute that we are acknowledging failure. And the government are not doing that in this case. We simply believe that there are other views, other opportunities, other ways of doing things and doing them better. And that has been, at this early stage, a day after the release of the report, the indication that the government has received from people such as Professor Stephen Bartos, author of *Public Sector Governance*, and Jack Waterford, somebody that engages with these issues—and even, just this evening, a release from the University of Canberra welcoming the report and its content.

I ask that all further questions be placed on the notice paper.

Youth justice

MRS DUNNE (Ginninderra) (2.55): I move:

That this Assembly:

(1) notes:

- (a) the commencement, in accordance with a resolution of the Assembly, made on 8 December 2010, of the inquiry into the youth justice system in the ACT, including Bimberi Youth Justice Centre and Community Youth Justice and the human rights audit into conditions of detention in Bimberi Youth Justice Centre;
- (b) the breaches of confidence committed by the Children and Young People Commissioner in relation to a matter brought to his attention prior to commencement of the inquiry by a staff member at Bimberi Youth Justice Centre;
- (c) the breaches of confidence were contrary to the practice of the Human Rights Commission; and
- (d) the continuing deterioration in the quality and standards of youth justice in the ACT;

(2) expresses its:

- (a) want of confidence in the Children and Young People Commissioner to undertake the inquiry referred to in paragraph (1)(a); and
- (b) concern that the behaviour of the incumbent Children and Young People Commissioner may compromise the integrity and credibility of the position;

(3) calls on the Attorney-General to:

- (a) discontinue immediately the inquiry and human rights audit referred to in paragraph (1)(a);
- (b) take appropriate counselling and/or disciplinary action in response to the behaviour referred to in paragraphs (1)(b) and (1)(c) of the incumbent Children and Young People Commissioner; and
- (c) report to the Assembly in relation to paragraphs (3)(a) and (3)(b) before the close of business on the Assembly sitting day scheduled for 8 March 2011; and

(4) calls on the Executive to appoint a board of inquiry, in accordance with the Inquiries Act 1991, to inquire and report, by 30 June 2011, into the matters

that were the subject of the inquiry and human rights audit referred to in paragraph (1)(a).

It is with more than a little sadness and certainly not in anger that the Canberra Liberals bring this matter to the attention of the Assembly today so soon after it was discussed last year. And we do so against a background of an assault on an MSS security guard, continuing escapes of detainees onto the roof of Bimberi, the high incidence of self-harm the detainees of Bimberi commit when compared to other places in Australia, particularly New South Wales, and the whole range of chronic staffing issues which my colleagues, particularly Mr Smyth, will outline later in the debate.

The Canberra Liberals bring this issue back here today because we have collectively lost confidence in the inquirer, the Children and Young People Commissioner, because of his repeated breaches of confidentiality of staff. To that end, I seek leave to table letters that I sent to the Attorney-General, the Minister for Children and Young People and the Greens Parliamentary Convenor on 4 February, along with the documents that accompanied those letters.

Leave granted.

MRS DUNNE: I table the following papers:

Children and Young People Commissioner—Letters (3) from Mrs Dunne, dated 4 February 2011.

To summarise, very briefly, in those documents there is clear evidence that there are two instances of clear breaches of confidentiality, both of them without the authority of the person concerned, and there is also an attempt to mislead me in the legitimate conduct of my work as a member of this place.

The first of these breaches goes back to early November when a Bimberi staff member went to the Children and Young People Commissioner with a range of concerns. To preserve the identity of that staff member for the rest of this debate, I will refer to them simply as X.

On 8 December, soon after this Assembly established the Children and Young People Commissioner as the inquirer, an intermediary for staff at Bimberi approached me with their concerns about the appointment. And the next day, 9 December, X sent me a text message saying that they had made a formal approach to the Children and Young Person Commissioner in November in an attempt to “invoke interest in the situation at Bimberi and the precarious environment for young people”. X said that the commissioner had spoken to X’s supervisor about the matters discussed with him. The commissioner did this without X’s authority.

The supervisor then approached X and asked what was going on. X was—and I quote from X’s text message to me—“shocked because I had believed my conversation with y.p.c. was confidential”. X acknowledged my understanding of the gravity of the situation. It is a pity that ACT Labor and the Greens have so far not done so. It is

worth noting that I prosecuted this matter in private with the commissioner in considerable correspondence over December and January. During that time I repeatedly asked the commissioner whether he had “honoured the confidentiality” of the conversation he had had with my constituent, X.

The second breach, and again without authority from my constituent, was in response to my third letter to the commissioner. The commissioner has never answered my specific question, but in his final written response he revealed X’s name to me. The letter was not marked “private” or “confidential” and so amounts to public disclosure.

Until that point, I did not know X’s full identity and nor did my staff. Clearly, the commissioner made assumptions which he should not have made. Clearly, he should have checked his assumptions, and he failed to do so. I might add that, even if he was right in his assumption that I knew this person’s identity, he still had no right to reveal it in writing. So on two separate occasions the commissioner failed to honour the confidentiality of his informant.

What about the misleading conduct that I have mentioned? In his letter of 14 December, which I have tabled, the commissioner referred to the service delivery standards of the Human Rights Commission and that he had not “acted contrary to these standards”. So I asked the commissioner on 17 December for a copy of those standards. In reply, I was advised that the standards were under review and would be available in two or three months. As you can imagine, I am not interested in a prospective set of standards; I was interested in the standards that were in force at the time of the subject incident.

The Children and Young People Commissioner could not produce the Human Rights Commission service delivery standards, as he referred to them in his letter to me; he could only produce the 2006 commitment to service statement by the Community and Health Services Complaints Commissioner. In doing so, he said that this statement—and I quote from his letter of January 2011—“does not apply to the whole of the Commission”. Nonetheless it appears to me that the Children and Young People Commissioner was seeking to rely on the commitment to service statement and in doing so he failed to meet those requirements.

He failed in two instances: firstly on “we will maintain the confidentiality of your records”—this is what the service standards say to clients who come to the health services complaints tribunal—and, secondly, “we will seek your authority to obtain information or discuss your complaint with other parties”. It is clear that the Children and Young People Commissioner complied with neither of these commitments.

And how did X respond to the revelation that the commissioner had disclosed their name to me? The actions of the commissioner in this instance alone show that he is not fit to conduct this inquiry. As a result of the actions of the commissioner, the staff at Bimberi do not have confidence that they can take their issues to the commissioner and have them dealt with appropriately. The clear feedback from staff and their families since the inquiry began formally is that the inquiry is about the kids at Bimberi and not the staff.

I need to point out to members that when I brought this matter to the Assembly in December I spoke about our duty, the duty of the government and the duty of this Assembly, to guarantee the safety and security of some of the most vulnerable people in our community, the most vulnerable and most at-risk people in our community, and those who care for them.

The visual of having the Children and Young People Commissioner conducting this inquiry means that the commitment of the Assembly has been completely lost on the staff. They think it is all about the kids and that they do not have a place in this inquiry. This is another reason why the current inquiry should be disbanded and put into the hands of someone who is trusted by all parties involved.

Trust was far from the mind of the Attorney-General, the minister responsible for the Children and Young People Commissioner, when he was dealing with the issues raised. After I wrote to him on 4 February, the minister issued a media statement in response to that letter, and he said a number of very interesting things. Firstly, he said that he had reviewed the claims made by the opposition and he had done that reviewing by talking to the commissioner and having a discussion with the Department of Justice and Community Safety. But he brought no evidence that he had given any serious consideration to the material, the substantial material which I have tabled here today.

Secondly, the attorney said that he was completely satisfied that the commissioner had acted appropriately and with due regard for the reputation and privacy of those who had contacted him. Again I question whether the attorney actually read the correspondence, because the correspondence clearly brings that into question.

Further, the attorney said that “the opposition have manufactured their claims”. Is the minister assuming that I whiled away my holiday break forging letters from the Children and Young People Commissioner? I wonder if he even glanced at the email sent to the commissioner by X expressing disappointment at the commissioner’s behaviour, now on two separate occasions, of revealing X’s identity. I doubt it.

The attorney also stated in a media interview:

The name of the person has not been disclosed to the broader community, and indeed the commissioner only mentioned the name of the individual to Mrs Dunne because he understood Mrs Dunne was aware of the identity of the individual already.

This is a disgraceful comment that shows that the first law officer does not have even the most modest, most basic, grasp of legal concepts. The first law officer has just created a new doctrine of confidentiality. The Corbell doctrine is that confidentiality is maintained if you only tell a small number of people or if you assume that you are telling somebody something that they already know.

Here we have an informant who went to considerable lengths, for very good private and personal reasons, to protect their identity because they wanted to do something to

help the kids at Bimberi. Here we have an informant who thought that they could go to the commissioner with the assurance that their identity and the information that they gave would be kept, as far as possible, confidential.

Here we have someone who, due to the failure of the commissioner to do his job, felt the need to approach their local member to make a complaint, and here we have an Attorney-General who says it is all right to break confidentiality because not very many people knew.

I understand the need for confidentiality. I have been dealing with the staff at Bimberi over a very long period of time, and I have constantly conserved the confidentiality of the people who have spoken to me—because they are afraid for their jobs, they are afraid for their reputation and they are afraid of the bullying that happens if they talk out of turn. It is a pity that the Attorney-General and the commissioner do not likewise understand the need that these people have for confidentiality.

Since all of this became public, I have been approached by a number of people who are associated with Bimberi that say that they would love to contribute to the inquiry but they have no confidence in the inquiry as it is presently constructed. They have no confidence in the capacity of the inquirers to act impartially or to treat appropriately the information they receive—much less not to identify those people who need to be protected. The views of the staff and their supporters were best summed up to me in an email from the original intermediary, between me and X, when he read Minister Corbell's press release of early February. He said, "I wonder how Mr Corbell satisfied himself" of all the things that Mr Corbell said he was satisfied with. He said:

I presume this can only be done on the basis of Mr Roy's assurances!

Extraordinary!

This is precisely the form of accountability that seems to have gotten us into this mess in the first place.

The youth justice system in the ACT is in a mess. Make no mistake about it: the lives of residents and the lives of staff at Bimberi are at stake here. There can be no more serious need for an inquiry. The problem that we have here now is that most of the people associated with the inquiry have no confidence in the inquiry. The inquirer, sadly, has abused the confidence that people have placed in him, and he has been supported in doing that by the Attorney-General, who has not shown any evidence that he has investigated this matter in an appropriate way and acted appropriately according to the legislation which he controls.

The safety of the people—the young people, the residents and the people who care for the young residents—at Bimberi is a very compelling reason why the Canberra Liberals raised this issue in the first place. There is a very compelling reason why the Canberra Liberals, for well over a year, have been asking this minister and the previous minister about what is going on at Bimberi and what they are doing to ensure the safety of people at Bimberi.

We have seen, since the commencement of this inquiry, further incidents. We have seen apparent misuse of duress alarms, we have seen an appalling assault, we have

seen more young people on the roof, and we have seen more and more figures coming both from the government itself directly and through the ROGS inquiry that show that we are underperforming for our most vulnerable people and that the people in the youth justice system are not being served well. And the result of that will be that the youth justice system will be a conduit directly into the adult justice correction system. And this is a huge shame for a community as prosperous and as well off as we are.

These are compelling reasons for taking this inquiry out of the hands of the current inquirer and putting it where it belongs: with people who can be trusted by all concerned and who will look at this with all the powers that they need to protect those people who need to be protected.

I commend the motion to the Assembly.

MR CORBELL (Molonglo—Attorney-General, Minister for the Environment, Climate Change and Water, Minister for Energy and Minister for Police and Emergency Services) (3.10): This is an extraordinary and appalling resolution being proposed by Mrs Dunne today. We have heard out of her own mouth this afternoon that this is a proposed resolution about the fact that she and the opposition cannot trust a statutory independent public office holder to do their job. It is an unprecedented attack against the integrity, the credibility and the professionalism of a highly respected and independent public office holder. As the Attorney-General, I will stand by this independent public office holder who performs vital independent watchdog functions in an independent Human Rights Commission.

My colleague Ms Burch is going to deal with the issues around the provision of youth justice services; that is a matter that falls within her portfolio responsibilities. But today I want to turn to the issue of the standing and the integrity of the office of the Children and Young People Commissioner.

What is very clear from this motion today is that it is simply another attempt by the opposition to relitigate an argument they lost in this Assembly last year. Last year they sought to advance the argument that there should be a judicial inquiry into the operation of youth justice services in the territory, and they failed in making that argument.

What have we seen since that time? Since they lost the argument and this Assembly decided that the independent Human Rights Commission would be the appropriate body to undertake the inquiry, what have we seen from the opposition? We have seen from the opposition an attempt to undermine and discredit that very important inquiry process. We have seen the manufacturing of an overblown and exaggerated claim of misconduct on the part of the Children and Young People Commissioner to try and get their argument up, to try and establish the case again for an independent judicial inquiry.

The fact is that the claims made by the opposition have no credence whatsoever. The Children and Young People Commissioner has conducted himself at all times appropriately and professionally. I stand by him and the government stands by him in the vital work he is performing. We believe he should be allowed to continue to

perform his functions and those of this inquiry without the unprecedented, grubby and malicious attack that we are seeing moved here in the Assembly this afternoon by Mrs Dunne.

I have reviewed the circumstances that Mrs Dunne alleges are the basis for her complaint. I have discussed the matter directly with the Children and Young People Commissioner. I have discussed the matter with my department and sought advice from them. It is very clear to me that at all times the commissioner has acted appropriately. At all times the commissioner has not sought to disclose or act in a manner which would disclose inappropriately the identity of the person who has contacted him in relation to this matter.

It is important to remember that this was not an instance of someone making a formal complaint to the human rights commissioner. Indeed, the commissioner asked the complainant, "Are you lodging a formal complaint under the act?" And the answer was: "No, I'm not. I don't think I am doing that. No. That's not what I'm doing." In fact, it was unclear what formal approach the complainant wished to take. The complainant advised the commissioner that they would consider that issue further and discuss the matter further with the commissioner.

So there is an ambiguity about the nature of the approach to the commissioner. But, in any event, the commissioner has not improperly disclosed that complainant's identity and certainly has not done so in any way as to compromise the wellbeing or the employment status of that complainant. Nor has the commissioner done anything that would compromise the integrity of the inquiry.

The government is satisfied with the approach adopted by the Children and Young People Commissioner. The commissioner is well respected. The commissioner has broad links into our community and is well respected in the children and youth services area. He knows the people who work in the sector; he knows the work they have to do and he knows the challenges and the issues they face. He is, indeed, a most appropriate person to conduct this inquiry.

Of course, what we are really seeing here today is an abuse of the processes of this Assembly to denigrate and attack a statutory public office holder who does not have the same avenues to defend himself that Mrs Dunne has in advancing this argument. Indeed, Mrs Dunne is using the cowards castle to attack a statutory public officer in a manner in which he cannot fully and properly defend himself. For those reasons, I move the amendment to Mrs Dunne's motion that I have circulated in my name:

Omit all words after "That this Assembly", substitute:

"(1) noting the importance of the principles outlined in Continuing Resolution No. 7, Exercise of freedom of speech, agreed by the Assembly in 1995, namely:

- (a) the need for Members to exercise their valuable right of freedom of speech in a responsible manner;
- (b) the desirability of ensuring that statements reflecting adversely on persons are soundly based;

- (c) the damage that may be done by allegations made in the Assembly to those who are the subject of such allegations and to the standing of the Assembly; and
 - (d) the limited opportunities for persons other than Members of the Assembly to respond to allegations made in the Assembly;
- (2) censures the Member for Ginninderra, Mrs Vicki Dunne, for failing to have regard to these principles in her irresponsible, unsound and malicious allegations against the office, integrity and reputation of the Children and Young People Commissioner; and
- (3) reaffirms its full confidence in the Children and Young People Commissioner and the conduct of his inquiry into the youth justice system.”.

This amendment is about recognising that members in this place have rights and they also have responsibilities. Today it is the government’s view that Mrs Dunne has abused those rights. She has not had regard to her responsibilities to use the unfettered ability of free speech granted to her in this place not to reflect adversely on persons, unless those reflections are soundly based, not to make allegations of such a nature that cannot be substantiated and, further, not to recognise that the ability of others to respond to such allegations is limited because they are not members of this Assembly.

Mr Smyth: Bring him to the bar.

MR CORBELL: Mr Smyth says, “Bring him to the bar.” This is the sort of kangaroo court that the Liberals want to advance here. Are you going to issue a warrant for his arrest next? Is this the sort of absurd thinking that we see from those opposite and the lack of respect they have for independent statutory public office holders who perform vital independent functions under statute established by this place?

The simple fact is that Mrs Dunne should be censured, not the Children and Young People Commissioner. The member moving this motion should be censured for failing to have regard to her responsibilities to not seek to degrade, defame or reflect on the integrity of an independent statutory public office holder in this manner. She should not be allowed and permitted to get away with making irresponsible, unsound and malicious allegations against the office and the integrity of this independent office holder without due cause. And she has no due cause. There is simply no evidence to suggest that in any way have the commissioner’s actions compromised his ability to do his job, either in the broad or in relation to this inquiry.

Therefore, this Assembly should censure Mrs Dunne for adopting such a reckless and malicious attitude and abusing the forums of this place in advancing her political argument that she wants a different sort of inquiry. That is the motivation behind this at the end of the day. The motivation is that she did not get the inquiry she wanted, so she is going to trash the reputation of the independent office holder, who has been asked by this place to conduct that inquiry. It is as simple as that.

I think the obligation is on all of us to reaffirm our support for an independent statutory office holder who is performing his functions in accordance with the statute that establishes his office, who is doing it independent of the government and who is a person of considerable reputation. He is a respected and capable independent office holder who understands the issues and the concerns of children and young people in this city.

I want to reject also the assertion made by Mrs Dunne that in some way the inquiry is not looking at the concerns of staff. I draw Mrs Dunne's attention simply to the terms of reference that this Assembly agreed to last year. I draw her attention to clause (3)(a) of the terms of reference, which makes it clear that the inquiry is to report on staff levels, training and retention. Indeed, it is the first thing that is mentioned in terms of the detail of the terms of reference, and it is about the staff. To suggest otherwise is simply false. Mrs Dunne is now making judgements about what the commissioner is going to report on before he has even made his report. Before he has even made his report, Mrs Dunne has decided that he is not going to report on that. Well, let us see what his report says. Let us see what he concludes at the end of this process.

I also draw to the attention of members the fact that the terms of reference are extremely broad. They look at issues as wide as security, the use of segregation and restraints, programs for education and training, early intervention, the effectiveness of diversionary strategies, the provision of through-care and, for completeness, any other matter. The commissioner has broad and sweeping terms of reference, and they have been endorsed by this place. The only people who are unwilling to accept the verdict of this Assembly are those opposite. They now seek to undermine, denigrate, defame and maliciously attack under the cover of parliamentary privilege the reputation, the credibility and the standing of the Children and Young People Commissioner.

This government will stand by its statutory public office holders. The commissioner has done nothing wrong. The commissioner is acting in accordance with the resolution of this Assembly and the reference I have given him following that resolution, and we should allow this inquiry to take its course. We should allow this inquiry to look at all the issues that the Assembly has asked of it, and we should consider the results of that inquiry in a considered and mature manner rather than seek to undermine and denigrate it for base political purposes.

I commend my amendment to the Assembly.

MADAM ASSISTANT SPEAKER (Ms Le Couteur): Before I call the next speaker, I remind members, particularly the opposition, that the speaker needs to be heard in silence.

MRS DUNNE (Ginninderra) (3.25): I would like to foreshadow that I may seek leave to speak again because normally, if one is being censured, one would have at least 15 minutes to speak. But the cowardly way with which the minister has done this has limited my time.

This censure is being brought forward by an attorney-general who has dropped the ball on this whole issue and has been roundly criticised in the community for his handling of the matter. I have quoted before in this place and will quote at great length today from one person who communicated with me after Mr Corbell put out his press release about this whole matter. Last Monday this constituent said to me:

I wonder how Mr Corbell satisfied himself that;

Mr Roy has acted appropriately and with due regard for the reputation and privacy of those who had contacted him

and that your claims were;

misleading and exaggerated?

That is what Mr Corbell has said. And my constituent went on to say:

I presume this can only be done on the basis of Mr Roy's assurances!

Extraordinary!

This is precisely the form of accountability that seems to have gotten us into this mess in the first place.

There is nothing that Mr Corbell has said in this place today that would indicate that he did anything other than go to Mr Roy and say, "Tell me about this," and Mr Roy said, "There is nothing to see here, minister." And the minister believed him. This censure that has been brought on by the Attorney-General has been brought on by somebody who never looked seriously at the matter and is not interested in seeing that the rights of the staff members in the ACT public service, specifically those at Bimberi, are upheld.

Let us look at Mr Corbell's cowardly but not entirely unexpected attempt to censure me today. Firstly, he should have done this a lot earlier. Since 4 February he has known that we were going to bring on this motion. The minister uses continuing resolution 7 as a hook for this censure today. He quotes at length from continuing resolution No 7 in the standing orders, which is a reminder to members not to abuse the forms of this place to attack people who cannot defend themselves.

I am not using this place, the Assembly, to prosecute a matter that I am not prepared to prosecute elsewhere. I will now spend a great deal of time pointing out just how I prosecuted this matter before I brought it to this place. I went directly and privately to the commissioner, and the commissioner and I exchanged six pieces of correspondence over December and January. I tabled for members today a timetable of all the things that happened.

On 14 December, I wrote to the commissioner, raising with him the issues that had been raised with me by X that started with a meeting on 14 November, and I asked him for his version of the events because I was concerned about the matters that were

raised with me and the prospect that those matters may impact on the integrity of the inquiry. On 17 December, I received a reply from the commissioner, who declined to comment and offered to speak to my informant. He also said that he had done everything according to Hoyle and that he had used the standard practices of the commission.

I immediately responded on the same day, asking:

... whether you can confirm that, in your handling of the matter discussed in the conversation that was the subject of my letter ... you honoured the confidentiality of that conversation.

I further went on to ask for a written copy of the standards which he said that he had relied on. I received a response from the person acting in the commissioner's position, assuring me that the commissioner had acted appropriately on 4 January.

When I returned from leave, I wrote again to the commissioner, who had by that stage also returned from leave, and asked him once again to confirm whether he had treated the conversation of 4 November confidentially. On 18 January, I received a response from the commissioner where he used the staff member's name several times. I need to point out that prior to that time I did not know that person's full identity.

This staff member and others who had spoken to me were very concerned about maintaining their confidentiality, which I have respected, and I do need to put on the record that neither my staff nor any other member of the opposition's staff knew that person's identity until one of my staff opened a letter which was not marked "private and confidential" and read that person's name.

On 20 January, I received a copy of an email that my informant, that I have previously referred to as X, sent to the commissioner expressing disappointment and concern that the commissioner had disclosed the informant's name to me. And I will read some of that email. I will not read some of it because it would divulge this person's identity. It says:

Dear Alisdair

It has come to my attention that in a letter to Ms Vicki Dunne, MLA, dated 17th January, 2010 you disclosed my identity, which I had previously gone to considerable lengths to keep confidential.

I am writing to you to express my disappointment and concern that this breach of confidentiality has occurred. It is of particular concern to me as this followed our recent meeting where you and I had an opportunity to discuss the previous occurrence; that is, your comment to my ... supervisor that made him aware that I had brought concerns to your attention.

I had previously assumed that you would understand that my confidentiality is of the utmost importance to me, not just because I find myself as something of an internal "whistle-blower" in an environment that is sometimes dangerous and remains resistant to external security, but also—

for a whole lot of other reasons, which I will not read out here. It continues:

Although I had had some mediated discussions with Ms Dunne at a time when my concerns over Bimberi were falling on deaf ears in other places, I had not revealed my identity to her.

Mr Corbell has got this letter. Ms Hunter has got this. Ms Burch has got this. It continues:

As I have indicated to you, I have not had any further discussions with Ms Dunne following the announcement of the Bimberi inquiry. I consider the question of whether Ms Dunne or the Assembly have confidence in you as the Children and Young Persons Commissioner is a matter for you, Ms Dunne and the Assembly.”

And it goes on at length about the confidence in this:

Now that it has come to my attention (through a third party) that Ms Dunne has been made aware of my identity, I do feel it necessary to make contact with her again in order to highlight for her the importance of my identity remaining strictly confidential, and I have cc'd her into this email in order that all those involved have the same information about where I stand on this matter.

It goes on about X's wish to participate in the inquiry. That is the chain of events that brought us to the position where, on 4 February, I wrote to the minister and I wrote in similar terms to Ms Burch as the Minister for Children and Young People and to the convenor of the Greens.

Before I did any of that, I actually contacted X through her intermediary, and she sent me a text message which I will read:

Thank you personally for the tenacity that you continue to demonstrate in this matter and thank you on behalf of the voiceless and marginalised people in our community.

That makes me proud to be a member of this place and, if this Assembly chooses to censure me, I am proud to have stood up and have a constituent in this community say that about the way I work for them. And a censure from Simon Corbell does not really measure up when your constituents tell you that you are doing the right thing.

I went public with this matter with the views of the Canberra Liberals and, as I said, I informed the minister and the Greens convenor of our position. I did not use this place to prosecute this matter. I am not hiding behind privilege and I did not use what is the cliché alert—I thought he would use it—which has been described on many occasions and here today as the cowards castle of parliament. Everything I have said in this place about this motion, everything I have brought forward today, I have already said outside this chamber. (*Extension of time granted.*) I thank the chamber. So the assertion that I failed to have regard for the principles of continuing resolution No 7 fall a bit flat. I said it here long after I said it out there.

I have not been irresponsible and I did not fly into print when this matter was first raised with me. I have been punctilious about providing an opportunity for the

Children and Young People Commissioner over a month to answer my basic question. My basic question was: did he honour the confidentiality of the person who came to him with a problem? In fact, his responses deteriorated over time. He started in December by stating that it would be inappropriate to discuss any confidential discussion with me but by the time of his third letter he had revealed the person's name to me and to my staff.

It does not matter that it is only a few people. It does not matter that it may not have done any harm to their employment or their wellbeing. The mere fact that he revealed this information shows that he has breached this legislation and this minister has done nothing about it. This minister has done nothing, except to come in here with this trumped-up censure that he did not have the guts to move as a stand-alone motion, and he did it in a way that limits my speaking time and he did it in a way that shows that he has no regard for the facts. And the performance of this minister here today just tops off the poor performance of this person who is the first law officer—the first law officer who has created a new doctrine about confidentiality, as we have seen before, the first law officer who has been roundly criticised to me for his handling of this matter.

The sorts of things that have been said about this attorney and his handling are a real worry for the upholding of the law in this town. The legal community holds this man in complete disregard. And it is not because he is not a lawyer. They can forgive the fact that he is not a lawyer but they cannot forgive the fact that he is not considered in what he does, he has no understanding of the basic principles of law. It has been said to me that his analysis is insulting, foolish and ill considered. He does not comprehend the rule of law, one lawyer said to me. And in a particularly lawyerly turn of phrase, he was described to me very recently as a *de novo* idiot.

This man has come in here today to try to deflect from his bad behaviour and try to deflect from the serious concerns that we in this opposition have consistently raised over months, over years, in relation to Bimberi by trying to censure me. Bring it on, Mr Corbell, because I am not afraid of your censure. The people of the ACT should be afraid of you, on the other hand, because you have no understanding of the law, you have no understanding of your responsibilities to look after the poor, the downtrodden and the people who really count in this, the kids at Bimberi and the people who look after them. The staff at Bimberi have no confidence in this inquiry.

Words in motions are one thing but the pure visuals of the Children and Young People Commissioner being the person conducting that inquiry says to the staff it is about the kids and not them. That is the clear feedback. Go out there and ask them. You have the right to go out there and ask them. Go and ask them. That is what they will tell you, if you do not intimidate them.

Of course the Canberra Liberals will not be supporting this ridiculous amendment today, and we should be of course supporting the children at Bimberi and the people who look after them by supporting the original motion.

MS HUNTER (Ginninderra—Parliamentary Convenor, ACT Greens) (3.40): The youth justice system, particularly the Bimberi youth detention centre, is not working

as well as it should. There can be no denying that significant measures need to be taken to address the array of problems currently being experienced.

In the last sitting of the Assembly, the best path to resolve the issues currently facing Bimberi and youth justice was decided upon. The decision to have the commissioner for children and young people and the human rights commissioner undertake an inquiry and audit I believe is still the best way forward and offers the greatest potential for meaningful change that will improve the workplace for staff and outcomes for children and young people who come into contact with the youth justice system. And that, of course, means a better outcome for the whole community.

The Greens do not support abandoning the current inquiry and therefore will not support Mrs Dunne's motion.

It is important to clarify some of the misinformation about the current inquiry being conducted under the Human Rights Commission Act.

A comparison of the Inquiries Act and the Human Rights Commission Act shows that there is no significant benefit offered by the Inquiries Act. In fact, in the area Mrs Dunne is claiming the most concern about—that is, the protection of witnesses—the Human Rights Commission Act potentially offers better protections for witnesses. Instead of guaranteeing privacy, as the Human Rights Commission Act does, the Inquiries Act offers no guarantee that witnesses will not be compelled to give information in a public hearing.

Additionally, there is no protection for a witness once they have given evidence under the Inquiries Act. The Human Rights Commission Act, however, provides an explicit protection against victimisation that protects witnesses from any reprisals as a result of the information they provide to the inquiry. Section 100A of the Human Rights Commission Act also protects witnesses from any liability that may arise as a result of any evidence they give to the commission. Further, the two acts have exactly the same penalties—50 penalty units, imprisonment for six months, or both—for the disclosure of confidential information.

The only substantial difference between the two is the ability of the Inquiries Act to compel information. So far there is absolutely no evidence that there has been a need to compel anyone to give information or evidence.

It should, however, be noted that a move to an inquiry under the Inquiries Act would mean the loss of all the experience that the Children and Young People Commissioner and his team bring to the inquiry.

At this point, I would like to express my utmost confidence in both Mr Roy and Dr Watchirs. I would also like to express my confidence in the team that is working on the inquiry. They bring many years of experience and an exceptional depth of knowledge about the issues surrounding youth justice, youth detention and human rights. They all have extensive professional experience in dealing with these issues, and to throw that away would simply be foolish.

To suggest that the commissioner for children and young people has acted in a manner that jeopardises this inquiry I believe is simply wrong. Whilst it appears that a mistake has been made, the consequence of the mistake was minor. The only substantive harms would have come because of the actions of Mrs Dunne rather than those of the commissioner.

It is really unfortunate that we find ourselves in a position where political opportunism has drowned out common sense and proper process. It was irresponsible for Mrs Dunne to undermine the integrity and reputation of the Human Rights Commission and the commissioner, and her actions have done nothing to help the children and young people detained in Bimberi or the staff who work at Bimberi.

The Children and Young People Commissioner is the independent authority that this Assembly has entrusted with a responsibility for protecting children and young people in our community, most particularly those children who come in contact with government services. The role of the commissioner is to consult with children and young people, resolve complaints and concerns about services for them and provide advice to government and community organisations about how to improve service delivery.

An additional benefit of the current inquiry is that not only will those involved in the inquiry report on recommendations for change within the youth justice system but they will be there after the inquiry—unlike those who would inquire under the Inquiries Act, who move on once it is finished. The commissioner for children and young people will continue to be there in order to play an oversight role in ensuring that there is implementation of recommendations and any issues that come out of the inquiry. They will play that monitoring and watchdog role.

All too often we see major pieces of work and research commissioned and recommendations made only to be put on the shelf and forgotten or not followed through completely. Bimberi and the youth justice system are too important for us to risk that type of outcome. It is critical that as part of this inquiry the commissioners will have a direct interest in seeing this work followed up and ensuring that real reform is achieved for staff and young people.

I think we are all aware of just how difficult and sensitive this inquiry will be and how urgent it is that we get it right. This is not something that should be played out in the media. It is particularly noteworthy that, despite the specific request from the person at the centre of Mrs Dunne's allegations not to go public with the issue, Mrs Dunne has put it out there publicly, in the *Canberra Times* and on radio—out in that public arena. In that case there did not appear to be a lot of concern for the wishes of that person or their interests in not having it put out there in the public arena.

Mrs Dunne: If they had said, "Don't do it," I would not have done it.

MS HUNTER: From the information I have—the correspondence or the email that was presented or provided to me by Mrs Dunne—quite clearly this person was saying that they would continue to participate. They saw it as an extremely important inquiry.

They are somebody who obviously is extremely dedicated to working with these young people and wants to see a very good outcome. It made it clear that they would continue to participate in the inquiry and, if they felt they needed to, provide information to the commissioner.

Again, to clear the record and make sure the information provided to the community is accurate, I remind the Assembly that the Bimberi review team operates under strict legal obligations to protect people who provide information to the review.

Additional protections under the Human Rights Commission Act include that the Bimberi review team cannot divulge information about someone else collected during the review. And I have already explained that the requirements and penalties are almost identical to those under the Inquiries Act.

Anyone who provides information honestly, and without recklessness, to the Bimberi review team is protected from civil proceedings in relation to loss, damage or injuries suffered by another person. And it is an offence for a person to threaten or cause detriment to someone who has provided information to the Bimberi review team.

Additionally, under the Children and Young People Act 2008, communication between young people detained in Bimberi and the Bimberi review team is protected. I understand that the commission and all staff on the review team have taken all reasonable steps to ensure the privacy and confidentiality of people wishing to make submissions to this inquiry, and my understanding is that there is a range of mechanisms to ensure that information is not disclosed.

I will pick up something at this point. Mrs Dunne is making out that every single staff member out at Bimberi has boycotted this inquiry, is not even participating.

Mrs Dunne: No, I did not say that. I did not say that.

MS HUNTER: You have tried to put across this idea that there are significant, large numbers of people. It is simply not true, Mrs Dunne. I know that because of the people who are contacting me.

Mr Doszpot: You are spinning, Meredith, spinning.

MS HUNTER: Mr Doszpot might want to stop interjecting and listen for a moment. Last week one of these people did contact my office. It was a horrible story that they had to tell about the terrible bullying, the terrible harassment, the terrible intimidation that they had received as a staff member out at Bimberi. This is not a good story at all. They had contacted me to get in contact with the inquiry; they were going to be in contact so that they could ensure that that experience was in the mix.

I have not received from people who have been contacting me any sense that this is only about the children and young people, that staff have been in some way rejected. What I do know is that there is a range of mechanisms for staff to be involved. I do know that staff can meet some of the investigating team off site, after hours, any time they choose, at any place they choose—

Mr Doszpot: Confidentially, of course. Their name will not be revealed.

MS HUNTER: Confidentially, of course, Mr Doszpot. In fact, they will be paid for that time. The Human Rights Commission will then go and invoice the department. There is absolutely no way that their identity will be passed on.

There are a number of ways that have been set up for staff to participate. I know that a lot of staff are participating, because at the end of the day there are many staff at Bimberi who are dedicated professionals. They want to see the best for these young people. This is another unfortunate thing about politicising and continuing on around this issue—the impact on staff and obviously, of course, the ripple effect and impact on young people.

As you know, we did broaden the inquiry. It originally had a justice staff focus. We the Greens felt that it was important to broaden it, because at the end of the day this is a closed community; we need to always be vigilant about any closed communities, prisons or jails, that we have here in the territory, to make sure that those who are incarcerated are not in any way being abused.

We did increase that inquiry; we extended that inquiry. That will pick up on a whole other range of staff issues. If we are to have a healthy, functioning juvenile justice system, youth justice system, in the territory, we are going to need a professional, supported workforce—one that has got the latest training, one that does not just take a lock-and-key approach, but is able to really be involved in a justice system which has a focus on rehabilitation, a focus on ensuring that there is not a rapid bus that runs from Bimberi across to the AMC when young people graduate, between the two. We do not want to see that happening. We want to see that Bimberi is a fantastic place for a positive intervention, a positive intervention that can be taken by staff. I know that there are many staff out there who are absolutely committed to playing their role in being able to provide that positive intervention.

Of course, if any of this is to happen, we really do need to make sure that staff are working in a safe environment, that staff are valued, that staff are provided with support and professional development, and so forth. We also need to make sure that this truly is a best practice detention institution for the young people who are incarcerated there.

On the matter of Mr Corbell's amendment to this motion, which was around censuring Mrs Dunne, the Greens will not be supporting Mr Corbell's amendment today. While I do share concerns expressed about the appropriateness of the allegations being made in Mrs Dunne's motion, I am not satisfied that this is sufficient to warrant a censure by the Assembly. I have already expressed my views on Mrs Dunne's conduct in my speech; I say again that I do not think she has handled the whole matter as appropriately as she could have.

Quite rightly, as members of this place, we enjoy absolute privilege over what we say. As noted in the continuing resolution of this place, this privilege also carries with it a significant responsibility to behave in a manner befitting the office we enjoy and

ensure that we do not unreasonably tarnish the reputations of public officials or other members of the community.

The allegations that Mrs Dunne has made in the motion today have, I believe, damaged the reputation of the commissioner. They are not well founded and do not assist outcomes for children and young people or staff from this Bimberi inquiry. I am satisfied that, at all times throughout his dealings with Mrs Dunne, the commissioner acted in good faith and genuinely attempted to answer Mrs Dunne's questions fully and frankly. This did involve an error on his part. In effect, that did little more than show that he misunderstood Mrs Dunne's understanding of the matter. This mistake would have been of no substantive consequence, but Mrs Dunne did then take that public. I believe that, as she said, she had written off to the Attorney-General. My view is that she should have waited for that process to have been concluded, and had a response, before she made this issue public.

At the end of all of that, I would say that I note in Mr Corbell's amendment his expression of confidence in Mr Roy to continue in his role as commissioner and also to lead the inquiry. Again, I express that the ACT Greens have full confidence in the commissioner to carry out these responsibilities. He is highly skilled; he has a great team behind him. I really hope that this inquiry is allowed to proceed without further interference.

MR SESELJA (Molonglo—Leader of the Opposition) (3.55): This is about integrity, and the amendment that Mr Corbell has moved is about integrity. When it comes to integrity, I will back Vicki Dunne's integrity over Simon Corbell's integrity any day. Mrs Dunne has conducted herself in a completely appropriate and diligent manner on behalf of particularly the staff but also the residents of Bimberi. That is what Mrs Dunne has done. For Mr Corbell to come forward with this completely dishonest amendment and expect the support of the Assembly is a reflection on his character. It is a reflection on who he is, not on Mrs Dunne. We only have to look at the dishonesty in the words of the motion itself to look at his character and his motivations.

Mr Corbell makes a number of claims which are completely false. Mrs Dunne has dealt with those in her response. He is claiming that she should be censured because she is saying things that would not otherwise be said—as he terms it, hiding in cowards castle. There is only one coward in here and he has just walked out. There is only one person who has behaved in a cowardly manner. Mrs Dunne has been prepared to say these things inside and outside the chamber because they are true.

Let us look at the conduct of the shadow attorney-general. Let us compare the conduct of Mrs Dunne in this matter with that of Mr Corbell. Let us put them next to each other. We have got the chain of events. Mrs Dunne has given a detailed chain of events that demonstrates why Mrs Dunne's motion should be supported today. We have the staff member sending the text message, which is detailed here. Then we have Mrs Dunne giving every opportunity for a response from the commissioner. On 14 December, having received this message on the 9th, she wrote to the commissioner raising the matter and asking for his version of events.

On the 17th she received a reply from the commissioner, declining to comment and offering to speak with the informant. On the 17th Mrs Dunne responded, asking “whether you can confirm that, in your handling of the matter discussed in the conversation that was the subject of my letter of 14 December, you honoured the confidentiality of that conversation”.

On 4 January she received a response from the acting commissioner, assuring Mrs Dunne that the commissioner had acted appropriately. On 11 January Mrs Dunne wrote to the commissioner, who had returned from leave, asking him once again to confirm whether he had treated the conversation confidentially. On 18 January she received a response from the commissioner telling Mrs Dunne that he had met again with the staff member and that the person no longer had concerns about how the matter was handled and he considered the matter closed. In this letter, the commissioner used the staff member’s name three times. This is the evidence, Mr Speaker. On the 20th she received a copy of an email sent by the informant to the commissioner expressing disappointment and concern that the commissioner had disclosed the informant’s name to her.

So with this chain of events, with Mrs Dunne acting in a way that gave every opportunity for a response and getting nothing that disputed the version of events, what did the Attorney-General do? After Mrs Burch had pre-empted any inquiry—after Mrs Burch, with no investigation, no evidence, had said, “It’s all fine; there’s nothing to see here”—the Attorney-General conducted an investigation. Does he outline the nature of that investigation to us today? What was it? He had a chat with Mr Roy and the department told him it was okay.

That is what he has told us about the investigation. It is a joke. It is no wonder Mr Corbell is still out of the chamber, because this is an embarrassment. He is the first law officer and he believes that, with the clear evidence presented by Mrs Dunne, it is reasonable for him to simply ask Mr Roy whether it is true, and his department told him it was okay. How does he know that? How does he know that this is not true? How does he know that Mr Roy has acted appropriately? He has not done a proper investigation. There has been no investigation. Ms Burch let the cat out of the bag when, before there was any investigation, she said, “It’s all fine.” This goes to integrity.

Ms Burch interjecting—

MR SESELJA: Ms Burch tells me I should calm down. That is what we should all do here—we should just be calm. We should be calm about the way this government treats people and we should be calm about the situation at Bimberi that this minister oversees. We should be calm about the absolute kangaroo court, the dodgy investigation that the Attorney-General has launched without providing us with any evidence. But we will not be calm about that, and we will not be calm about a dishonest minister bringing dishonest motions into this place. We will respond to them vigorously and call them for what they are. They are cowardly and they are absolutely without justification.

We will stand with Mrs Dunne and back her efforts to the hilt because she has done what a member in this place should do, Mr Speaker. That is, she has stood up for the vulnerable and the voiceless. Mr Corbell said: “We’re going to back the commissioner. We do not have any evidence.” There is plenty of contrary evidence that says he should not. He did not mention anything about the staff member who has been compromised in this case. There was no mention of that. That is when power gets corrupted, when we simply look to defend our own interests. That is what this minister is doing in this case.

This is a dishonest amendment. It should not be supported. It reflects poorly on this minister. It reflects poorly on the Attorney-General of the ACT. His actions are the only ones here that are worthy of censure. His actions are worthy of censure, not Mrs Dunne’s. I stand by what Mrs Dunne has done. She will not be cowed by the dishonesty of Mr Corbell, by these dishonest motions and by these dishonest attacks. She will continue to fight for these people, regardless of whether or not the Greens fall in behind their mates and regardless of whether or not the Labor Party fall in behind their mates. She will fight for them and the Liberal Party in this place will do it. We will do it come what may. We will do it regardless of what the Greens and the Labor Party and their alliance seek to do in shutting this down. We will not be silenced. I commend Mrs Dunne for her motion and for her work in raising these issues and continuing to fight for these people.

MS BURCH (Brindabella—Minister for Disability, Housing and Community Services, Minister for Children and Young People, Minister for Ageing, Minister for Multicultural Affairs and Minister for Women) (4.03): Firstly, can I just affirm my confidence in the Children and Young People Commissioner and the review of the Bimberi Youth Justice Centre. The Attorney-General, as we have heard, has reviewed the claims made by Mrs Dunne and he is satisfied that Mr Roy was acting in good faith and with professionalism at all times. I have confidence in Mr Roy heading up this inquiry and in his ability to talk with all stakeholders with an interest in Bimberi. I have confidence in him, the human rights commissioner and the team.

I must say that I was disappointed, but somewhat not surprised, at how Mrs Dunne has conducted herself in relation to this matter. I will first point out, Mrs Dunne, that it is a bit hard in your motion to withdraw support for something when you never supported it to start off with. There is no stronger indication that the Canberra Liberals do not support Mr Roy or an inquiry under the Human Rights Act than the fact that they voted against it, Mr Speaker. The opposition voted against Mr Roy conducting this inquiry. They did not support him and they did not support the review from the get-go, and this has been further to her behaviour over the last few weeks.

Mrs Dunne, if you were so concerned about this matter, I question why you first went to the media before you wrote to the Attorney-General. You were so concerned, Mrs Dunne, that you went to the *Canberra Times* and told them of your concerns, informing them that you would be writing—rather than that you had written. So first and foremost, in response to upholding the integrity of this place, you do not come to this place and you do not go to the Attorney-General. You go to a good media outlet, Mrs Dunne. In my book that is not the action of a concerned parliamentarian. That is a

concern of somebody who is just looking for a bit of a media stunt. I would also point out that your concerns about Bimberi are so strong that in the 14 months that I have been minister I recall one letter asking for information and not one visit. I do not think anyone is aware of you once having set foot inside the Bimberi Youth Justice Centre.

Mrs Dunne: That's not true.

MS BURCH: Give me the date, Mrs Dunne, because no-one can remember. Instead of coming to us and behaving and conducting herself as she proclaims she has, she goes to the media with allegations against Mr Roy. She tries to ruin his reputation and undermine his professionalism before the Attorney-General has even considered the allegations.

Mrs Dunne, the Attorney-General here today and before has confirmed his support for Mr Roy to continue to do the review and has cleared him of the serious allegations you have made. Mrs Dunne says that people credit her. She was almost in tears, Mr Speaker, as she gave herself a good pat on the shoulder. Mrs Dunne, there are others that have approached me that think you have brought discredit to this Assembly and to the will of this Assembly in establishing the review.

Further, Mr Speaker, this motion fails to recognise the work that has begun and is being made at Bimberi now. It certainly seems to paint it in a continued and absolute state of deterioration. That is simply not true. There is work to be done and that is certainly something that is underway. Over the past few months a number of key changes and improvements to practice have occurred at the centre.

Mr Smyth interjecting—

MS BURCH: These changes have realised a range of benefits to the young people detained at Bimberi, as well as enhancing the professionalism of staff. A change management plan is being implemented with real improvements. It has been focusing on young people and the staff that work with them. This plan has focused on priority areas such as improving communication mechanisms, improving service delivery standards and establishing a culture of learning and increasing support to Bimberi staff. The department has made improvements—

Mr Smyth interjecting—

MR SPEAKER: Order! Ms Burch, one moment, please. Stop the clocks, thank you. Mr Smyth, the standing orders do not provide for you to make a running commentary while Ms Burch speaks. I would ask you to cease interjecting.

MS BURCH: The department has made improvements across a number of areas over the last number of months. This includes an audit of critical incident procedures and reports for the last 12 months, new practices for critical incidents and the development and implementation of therapeutic crisis intervention training for the staff. These are tangible changes in play that will improve the level of service at Bimberi into the future.

The department has commenced the hard work to support the staff at Bimberi. I note that Mrs Dunne feels that this inquiry is all about the children. It is not; it is about the centre as a whole. The residents there are a priority, as are the staff that work with them. The improvements that we have already put in place—I accept there is more to do and that is why I am looking forward to the inquiry under Mr Roy and the recommendations that he should bring forward—have resulted in a noted positive change at the centre.

The review by the Children and Young People Commissioner will provide additional information that will drive further improvements at Bimberi. Just to note the improvements, as I have said earlier today, we have had five staff that have either reapplied or inquired about positions at the centre now because they see the changes to the work environment and want to be part of the new Bimberi.

Community partners, including the CPSU and statutory office holders, including the Public Advocate, have also noted some positive change. But the opposition failed to understand that there are two independent review processes underway at Bimberi. Before the current inquiry was called a further project was announced at Bimberi—supporting systems for the rehabilitation for young people, conducted by Mr Daniel O’Neil—to improve the rehabilitation outcomes for young residents and to ensure that staff at the centre are supported, safe and confident in their work environment.

The combination of the human rights Bimberi review and the targeted project by Mr O’Neil will provide the department with a comprehensive assessment of changes to be made and recommendations for further action. The change process goes beyond the immediate scope of the Bimberi youth detention centre. That is why, Mr Speaker, just yesterday I tabled a diversion paper that we have been working on for some time in response to some statistics that show that too many of our young folk are within our youth justice system. The Children and Young People Commissioner was consulted in the development of that discussion paper.

Prior to the beginning of the inquiry I consulted with Mr Roy and he was comfortable for the department to release the paper during the inquiry. The commissioner has indicated that he will make use of the information provided in the discussion paper. Over the coming weeks the department will conduct community consultative processes and forums on the discussion paper and the commissioner is able to contribute to the consultation questions as part of the consultative process. Findings from the consultation process will be made available to the commissioner for his consideration as part of the inquiry. Indeed, at the beginning of the paper it clearly states that consultation arrangements state that submissions and comments will be publicly available unless otherwise requested.

The government is committed to evaluating our practices and the effectiveness of our systems and we will learn from the evaluation the Human Rights Commission has been tasked to deliver. The commissioner has our confidence. Mrs Dunne should know that I have been approached by community members who have been appalled by her behaviour, who say that her actions could undermine the review. I do not think that is of benefit to anyone. As Ms Hunter has noted, X has made it clear that she

would continue to participate in the review. I wonder how she feels about your ongoing antics in this, Mrs Dunne. Might I also say that staff are concerned about the argy-bargy that Mrs Dunne seems to be creating about this because they want to be part of this review. Mrs Dunne has not conducted herself well in relation to this motion. She has displayed a total disregard for the Children and Young People Commissioner. Clearly, I will not be supporting her. I would ask the Assembly to support the amendment by Mr Corbell.

MR SMYTH (Brindabella) (4.12): This is a very important issue, and the issue has flushed out both from the Greens and the government some very, very interesting positions. Mr Corbell's opening statement is that you cannot question a statutory officer. Where does it say that in the statutory appointments act? Where does it say in the law that these people are above being questioned? If this place cannot question a statutory officer then who can? Is it just the realm of ministers? Is it the realm of the executive? I do not know, because I am not sure where that appears in the law. I am not sure when that convention came into place.

The problem for the commissioner now is that, because of Mr Corbell's inadequate inquiry, a cloud actually hangs over the commissioner. Saying, "I've have had a chat with and had an okay from the department that things are okay," is not the way the first law officer should conduct himself. This is compounded by Ms Hunter's approach, which is to say in her speech of inconsistencies that, to protect those who give confidential information, there are penalties for those that release names or information. Well, that name and that information has been released, so these penalties apply to the commissioner. Mrs Dunne knows that person's name now, the staff member that opened the letter knows that name now, and the supervisor of that person knows who that person is now because information was given to the supervisor that allowed the identification of X. Ms Hunter says—

Mr Corbell: That's not true.

MR SMYTH: Mr Corbell says it is not true. Everything is not true. It is time to remind the Assembly that Mr Corbell is the person who was censured on 24 June for persistently and wilfully misleading the Assembly on a number of issues and has been censured three or four times for similar offences. From the man who was censured for persistently and wilfully misleading the Assembly, we hear mumbled, "Not true." Well, it is true. X was identified because of material released. We have got inconsistencies from Ms Hunter, who got this new dictum from Mr Corbell that these people are now above the law, and, because of his failed inquiry, there is a cloud over the commissioner.

Ms Hunter then goes on to say, "It's appropriate to leave this person here because he'll be here after the inquiry is finished to make sure it's implemented." He was actually there before the inquiry started. He is the person charged with looking at these issues and keeping an eye on them. You have to ask: what has he done in the two years since Bimberi was opened? I will leave it to members to work out for themselves what he has done.

The motion concentrates on getting an answer about what is happening in Bimberi and how best to fix it. Paragraph (4) goes back to our original appeal—that there be a

board of inquiry. So the question should be asked: what has happened since that motion went down last year? The answer is: at least three incidents have happened that would necessitate this being fixed.

The first one we have seen is, quite clearly, that if you give information, you run the risk of having your details and your name exposed. That is a very serious concern. Secondly, we have seen a very serious assault on a guard. Thirdly, we have seen a promise from the minister broken. In the annual reports hearings last year, Ms Burch was asked by Mrs Dunne whether the problem of the detainees getting up on the roof had been solved, and Ms Burch said:

And I can add that we have fixed the roof problem.

She said that people cannot get on the roof. But since that time, the young people there continue to get on the roof. And how do we know that? We know that because I had someone ring me to tell us that, on the night of the assault on the guard, the two individuals involved managed to get out of their cabin and get on a roof. That youth detention officer has told me that it happens all the time and that they use the old pizza, sunscreen and water bottle treatment until they want to come down.

What we have is more and more detail emerging of the mismanagement of this portfolio by Ms Burch. People need to understand the seriousness of what is going on there. We have got large staff turnover. We are getting, I believe, inadequate provision of services to staff. One of the staff there has told me he is very concerned because he was told at his training course that you do not talk to anybody there. You do not tell anybody anything because nobody keeps a confidence.

I have also been told that the staff are told in training: "Don't rely on your duress buttons because they don't work. There are certain sectors in the compound where they don't work and there are certain sectors in the compound where they give a false reading. So the assisting staff go running in one direction and you are in another direction. So don't rely on your duress alarm."

Why is it that we run a faulty system? Mr Corbell, the corrections minister, has had to shut down his system at the Alexander Maconochie Centre. How hard is it to build a brand new detention centre or a prison and get it right? Well, apparently, in the case of both these ministers, it is quite impossible.

On the night of the assault on the unfortunate MSS guard, apparently he was late to the cabin because he was a new guard and he did not have keys, he did not have a pass and, initially, he did not have a uniform. This stuff had to be issued to him. But when he got to the cabin he did not have his own keys. For those that have not been to the centre, there is a duty point and there is accommodation on either side of the duty point. Because the MSS guard did not have his own keys, he was locked in the cabin with the inmates. The two doors on the duty office were left open so that he could move through end to end. There are about six rooms at either end. So this guard was circulating up and down on his own and locked in under the watch of this minister. This is what the minister thinks is an okay system.

So what happened? What happened over the Christmas period was that the young people were locked up because they were bored. And why were they bored? Because inadequate programs were provided. As one guard told me, they have been spending a lot of time on the Xbox. When study resumed at Bimberi this year, only about half of the detainees went back to school. The other half could not go back because there had been so many fights there, detainee on detainee, that they were restricted to their cabins, where they spend more time on the Xbox and apparently watch a lot of movies as well. This is a recipe for disaster. This is why it deserves an inquiry under the Inquiries Act.

The problem is that you had a climate of building tension over Christmas. Add to this the next factor: when Bimberi was set up, they got the dieticians in to ask, “What is the appropriate diet for the people who will be here?” Apparently it is a diet that, oddly enough, has fruit and vegetables in it. But because the kids will not eat it, they get lots of cakes and biscuits. Not only do they get breakfast, morning tea, lunch, afternoon tea and dinner, we are now supplementing that with supper where they are fed more sugar. You have got a regime that does not care for these kids under the reign of this minister.

How did they get out? Well, they were locked away, and one of the young people kicked out the perspex screen over his TV. He pushed his TV aside and entered the utilities cupboard between two cabins. He then removed a piece of metal—I do not know, maybe that is the metal that was used to beat up the guard—moved the next TV, kicked out the next panel and released his compatriot. And guess where they were standing? They were standing in the utilities cupboard, which did not have a deadlock on it. So they opened the door and walked into the corridor where a guard, new to the facility, on his own, locked in, without support, was allegedly beaten by these people. That is the system this minister runs. That is why it deserves a full inquiry under the Inquiries Act.

Now, having got in and beaten up the guard—I understand it is on video and I understand it is not very pretty and I understand that people had to clean up the blood later—these individuals woke up the other 10 individuals, kicked the next door out and escaped into the compound and climbed on a roof. At the annual reports hearings on 9 November last year the minister said:

... I can add that we have fixed the roof problem.

That is how it is fixed. You can still get out; you can still get up on a roof. Where is the duty of care in this? This is a very serious issue. I could go on from what I have been told by one gentleman about morale, the turnover of staff, the amount of sick leave, people dodging shifts and new staff not wanting to go into the centre. It is incredible. It should be dealt with by a new inquiry, and this motion should be passed. *(Time expired.)*

Question put:

That **Mr Corbell's** amendment be agreed to.

The Assembly voted—

Ayes 5

Noes 8

Mr Barr	Mr Stanhope	Ms Bresnan	Ms Hunter
Ms Burch		Mr Coe	Ms Le Couteur
Mr Corbell		Mr Doszpot	Mr Rattenbury
Mr Hargreaves		Mrs Dunne	Mr Smyth

Question so resolved in the negative.

MR DOSZPOT (Brindabella) (4.26): The Attorney-General's hypocrisy in this matter is incredible. Mrs Dunne has no case to answer in this trumped-up censure. It leaves it wide open to censure of the Attorney-General himself.

Mrs Dunne wrote to Alasdair Roy, the Children and Young People Commissioner, three times seeking confirmation that he honoured the confidentiality of his conversation with the informant. After the third letter, the commissioner replied, advising that the privacy of the informant was not compromised. Yet in that same letter to Mrs Dunne, the commissioner disclosed the name of the informant, not once but three times.

He also provided Mrs Dunne's office a copy of the community and health services complaints commissioner's commitment to services statement. Although it is noted by Mr Roy that this statement is outdated and does not apply to the whole commission, if these were standards that he was purporting to uphold, he has failed miserably.

Let us examine aspects of the commitment to service statement. First off there is the commitment to users of the commission to maintain the confidentiality of their records. Well, a big tick in the fail column there—fail. With regard to service standards it says they will protect the privacy of personal information entrusted to them. Yet again, in the case of Mr Roy, this is a big tick in the fail column—fail.

The fact is that an inquiry was launched into the Bimberi Youth Justice Centre, and an informant, whilst doing nothing more than carrying out a civic duty, had his/her privacy compromised by the commissioner. The fact that the government has backed the commissioner and chosen not to take any further action beyond censuring Mrs Dunne is distasteful and quite dangerous. It sends a message to the public that the powers that be in this city—Mr Stanhope and his government—cannot be trusted. The public cannot trust the government to protect them.

I have been critical of the Stanhope government in the past, but this current episode takes the credibility of the Stanhope government to an all-time low. The credibility of the Stanhope government is tantamount to nothing more than a dictatorial regime based on this episode. Today they have chosen Mrs Dunne as their scapegoat rather than address a glaring problem and take the necessary action to protect the informant.

Why does Mrs Dunne have to pay for the sins of Mr Alasdair Roy in today's sitting? Equally, why is the informant left to pick up the pieces of his or her life after

Mr Roy's careless disregard for his or her privacy? I commend Mrs Dunne for taking the proactive measures that she has taken in trying to protect the informant's privacy. She has not harmed Mr Roy's reputation; he has done that to himself, or so the evidence would suggest. Mrs Dunne has no case to answer, but this censure motion certainly raises some serious question marks once again about the Attorney-General.

MRS DUNNE (Ginninderra) (4.30): To go back to where we started from, the Canberra Liberals take the safety and the security of the inmates and staff at Bimberi completely seriously, absolutely seriously, and we will continue to do everything we can to ensure that they get the best outcome possible. The importance of this motion and why we will continue to prosecute having this matter dealt with through a proper inquiry under the Inquiries Act have been highlighted today by the minister in a multitude of ways.

We saw in question time, in answer to questions from the Greens, that the minister admitted that she gets a briefing once a month on the use of force at Bimberi. She sort of said, when I asked her whether that was appropriate, "Well, that is the way we have always done it; it seems okay to me."

This is a minister who in this place in December said that this was the most important thing that she had on her plate—she was utterly committed to getting a better outcome at Bimberi—but she takes the briefing once a month. What that means, of course, is that you could wait 29 days before the minister is alerted to a use of force, because if it happens immediately after she has been briefed she is not going to find out for another month. That in itself is an appalling situation; it shows that this minister does not have a handle on what is going on at Bimberi—

Mr Coe: No desire to, either.

MRS DUNNE: and no desire to—a searing indictment of this minister. This minister falls back on the comfortable old things—"You didn't get a briefing; why didn't you ask me first?"—because she has nowhere to go.

Yesterday I asked her about the status of the report, the discussion paper and the consultation in relation to the consultations and how that would feed into this Bimberi inquiry. She looked at me, blinkingly, as if she did not understand, and she had to go away and ask somebody who could write her a few paragraphs on the subject. She does not know. She does not take an interest.

We have to remember that this is the minister who, when she went out to Bimberi, in addition to covering her hands, covering her ears and saying, "La, la, la," admitted that she did not know what was going on in Bimberi—and she demonstrated that here today in question time. And, in support of the insupportable, we had the minister go on at great length in her comments about how everything is looking up at Bimberi since December. For months this minister spent her time saying, "There is nothing to see here; everything is fine." Suddenly everything was looking up.

But now we have an admission from the minister that things were pretty bad at Bimberi. The reports that I get back from the staff are that there are some modest improvements, but the following caveat is that there is still a very long way to go.

The staff who are talking to us all know why there are changes out in Bimberi. They know who is responsible for effecting changes out in Bimberi, and it is not this minister, who by her own admission waits 30 days to be told about the use of force, by her own admission to staff does not know what is going on, and only went out to Bimberi in November to talk to the staff to cover her backside; they were her words.

This is not about covering backsides. This is about the lives of real people—somebody who was beaten savagely less than a fortnight ago. That is the worst incidence of brutality that I am aware of there, but there have been many others: people hit with fire extinguishers, people having the contents of fire extinguishers poured upon them, people assaulted and dragged up and down by their hair, five inmates falling upon somebody who was left by themselves on the playground to supervise inmates—in contravention of the practices at Bimberi—again, somebody left by themselves. When will they learn? When will they learn that the standard operating procedures are there for a purpose? They are there to protect the people who live and work there.

Over the Christmas period there were a huge number of assaults out there, inmate on inmate. There was an all-out brawl in the spiritual centre one day, after a concert. These things show that since the motion was moved here in December there may have been some superficial progress somewhere but in other places it is getting worse.

Look at the ROGS data. The ROGS data is terrifying: 19 instances of self-harm in the reporting period at Bimberi. In the same period in New South Wales, with at least 10 times more inmates, there were twice as many incidents of self-harm. That says that we have got a problem. Those 19 instances of self-harm were perpetrated by 10 people, so most of the people who are self-harming are doing it more than once. That is a serious problem.

That, along with the well-documented failings of the Commissioner for Children and Young People, is why we have brought this matter back here today. And we have the preposterous and failed attempt by the Attorney-General to turn the tables on the Canberra Liberals—censuring me for having the audacity to stand up for these people; censuring me for attempting to get to the bottom of the performance of the Children and Young People Commissioner—with the ineffectual support from the Greens, who said, “Oh, well, he made a mistake.”

It may have been a mistake that cost somebody their life. It did not in this instance. But it does not matter whether the impact was little or large; the fact is the commissioner breached the guidelines. He breached his act, and this Attorney-General is not prepared to do anything about it. And the Greens here today are showing just where they stand. They are prepared to stand up for someone who by his own actions, clearly documented in his own words, breached his own legislation. They would rather stand up for him than for the people who are on the front line and are facing serious physical harm on a regular basis.

It all boils down to this: “We can’t criticise this person because he is a statutory office holder.” Just because he is a statutory office holder does not make him the best person

for the job—and his performance over November and January demonstrates that he is not the best person for the job. He has abused the confidentiality of a person who trusted him and he has therefore shown most of the staff that they cannot trust him. People, ex-staff, current staff, are coming to me and saying, “I would be happy to make representations to an inquiry but not this inquiry.” And that is why the Canberra Liberals have withdrawn their support for, their confidence in, this inquiry and that is why we believe that there needs to be an inquiry under the Inquiries Act.

Question put:

That **Mrs Dunne**’s motion be agreed to.

The Assembly voted—

Ayes 4

Noes 9

Mr Coe
Mr Doszpot
Mrs Dunne

Mr Smyth

Mr Barr
Ms Bresnan
Ms Burch
Mr Corbell
Mr Hargreaves

Ms Hunter
Ms Le Couteur
Mr Rattenbury
Mr Stanhope

Question so resolved in the negative.

Standing and temporary orders—suspension

Motion (by **Ms Bresnan**) agreed to, with the concurrence of an absolute majority:

That so much of the standing and temporary orders be suspended as would prevent the order of Private Members’ business for the remainder of this sitting being as follows:

Order of the day No 2.
Notice No 4.
Order of the day No 1.

Workplace Privacy Bill 2010

Debate resumed from 27 October 2010, on motion by **Ms Bresnan**:

That this bill be agreed to in principle.

MR CORBELL (Molonglo—Attorney-General, Minister for the Environment, Climate Change and Water, Minister for Energy and Minister for Police and Emergency Services) (4.44): Mr Speaker, the government will be supporting this bill and will also be moving a number of important amendments which will support and strengthen the intent of the legislation. The bill, which is modelled on New South Wales workplace surveillance legislation, covers most of the matters that the government wishes to see enacted in the ACT.

As members would be aware, the ACT currently relies on the application of commonwealth privacy law. The government continues to examine options for the development of privacy legislation that will ensure a statutory protection for a range of privacy rights, including those relating to the use and storage of electronic data. In effect, this bill from Ms Bresnan anticipates a significant component of the broader privacy protection laws that the government proposes for the territory.

It is appropriate to note at this point that this debate on the bill follows the release and tabling of a discussion draft and a series of meetings between Ms Bresnan, staff from my office and the office of the Minister for Industrial Relations as well as officers from the Department of Justice and Community Safety and the Office of Industrial Relations. I appreciate Ms Bresnan's willingness to engage in an open discussion with the stakeholders on this important issue. In addition to those consultation meetings, officers from my department have engaged in discussions with relevant agency representatives and with UnionsACT.

The position reached after that detailed consideration is that the bill should be supported. But I will move several amendments which will improve its operation. None of the government amendments alter or take away from the policy intent of the bill. They would better align it with other related legislation, improve its clarity and give detail to improve the effectiveness of its provisions. A number of penalty provisions are amended to align the maximum penalties with penalties provided for in the Listening Devices Act 1992, with similar provisions.

Clause 16 of the bill requires employers to conduct surveillance in accordance with the policy and to notify workers of the policy if the employer is conducting surveillance using a data surveillance device. It does not, however, provide guidance as to what must be included in the employer's policy. The clause will be amended to include a set of minimum content requirements for policies of employers in relation to data surveillance devices. The government amendment inserts the requirements outlined in the commonwealth Privacy Commissioner's guidelines on surveillance, web browsing and email.

A number of the amendments simply align penalties in the bill with those set out in the Listening Devices Act 1992 for similar offences. These amendments affect clauses 18, 22, 35, 39 and 42 of the bill. I note that no amendment is proposed to the penalty in clause 20. That provision does not relate to the use of surveillance devices or the disclosure of surveillance records but deals with the inappropriate blocking of electronic communications and website access. The offence is comparatively minor in nature.

The government will also be proposing amendments to clause 23 of the bill to provide that if an employer unlawfully denies access to a surveillance record, the surveillance record cannot be used in any proceedings by the employer against the employee or as a basis for any adverse action under the Fair Work Act 2009. In this respect, I note that section 10 of the Listening Devices Act is the model used for regulating the use of surveillance records. That section renders evidence inadmissible if it is obtained by the unlawful use of a listening device. The evidence would, however, be admissible if

the people involved in the relevant conversation give their consent or if the device is used in other circumstances set out in the section. Exceptions in clause 23 of the bill, allowing employers to deny access to records on certain grounds, would be preserved.

Clause 29 of the bill requires the Magistrates Court to appoint at least one person as a surveillance supervisor in relation to an application for the issue of a covert surveillance authority. A surveillance supervisor must not give another person access to covert surveillance records except as provided for under section 31. These are functions that may be difficult or impossible for a covert surveillance supervisor to undertake if they are too closely related to or employed by the relevant employer. The government amendment inserts into clause 23 a requirement that the surveillance supervisor must be independent of the employer.

Clause 41 of the bill states that an employer commits an offence if the employer conducts surveillance of a worker in a prohibited non-work area. The government amendment adds a first-aid room to the list of prohibited non-work areas set out in subclause 41(2). A first-aid room is a significant area in the workplace and should be included as a prohibited area.

These amendments will strengthen the intent of the bill and aid in its consistency and its compatibility with the existing law. The government will also be supporting the technical amendment Ms Bresnan has foreshadowed to the bill.

This is important legislation. It is legislation that Labor had contemplated implementing as part of its broader privacy reforms; nevertheless, we will support the bill and I urge other members to do the same.

MRS DUNNE (Ginninderra) (4.49): Whilst the Canberra Liberal opposition supports the principle of the Workplace Privacy Bill 2010, we hold some concerns about its construction, the manner in which it might work in practice and the impact that it would have on the business community and the workplaces of the ACT.

It is important that everyone in the workplace—employers and employees alike—should play on a level playing field. Interaction one with the other on comparable terms is important. Transparency in policy and industrial democracy are important. To take that approach is just good, sound business practice. It encourages employee loyalty, higher productivity, better job security, and a higher level of business viability and prosperity. If everyone in the workplace is aware of the workplace rules, conditions and policies and has a say in their development, the result is a healthy workplace.

So from the viewpoint of the principle of this bill, the Canberra Liberals are supportive. But, as is always the case, the devil is in the detail. While we are not proposing amendments at this time, there are a number of areas where we have a concern as to the on-the-ground operation of the bill. These are areas we will monitor as the bill comes into force and into operation.

For example, on the one hand, the bill would suggest that employers need to ensure that individual employees are aware of how workplace surveillance might affect them

individually. But on the other, it seems to be sufficient that the general workplace policy is developed and given to employees. On the one hand, employees do not need to be advised of optical surveillance being used in areas that are not their normal workplace. But on the other hand, optical surveillance needs to be obvious and a sign needs to be erected that notifies people that they may be under surveillance.

Then there are levels of subjectivity. For example, consultation in good faith is said to be achieved if the employer gives the employee a genuine opportunity to influence the conduct of the surveillance. Just what is a genuine opportunity is not certain and is open to interpretation.

There are practical problems as well. For example, the bill would require an employer to give a new worker notice of the surveillance that will apply to that prospective employee before they start work. This creates security issues for the employer, particularly if the new worker baulks at the last moment and decides not to start work with that employer. Suddenly, the employer's surveillance policy is in the hands of someone outside the workplace.

Further, what of the casual worker who may be longstanding but work only occasionally? What happens if the worker turns up to work only to discover that CCTV surveillance has been installed in their work area during the time since their last engagement and that the employer has overlooked telling them before they start? Does the employer have to turn off the surveillance?

Even the practical issue of signage has a question mark over it. For example, what signs will be required on mobile phones that are capable of being tracked via GPS tracking technology? Indeed, detailed mobile phone bills, showing where, when, for how long and to whom phone calls were made, end up in the hands of employers. Do these bills amount to covert surveillance? Back in the workplace, where signs have been put up about optical surveillance, there is no guidance as to the size of the sign, what must be printed on the sign or even the size and style of the font to be used. It is merely required that a sign be "clearly visible"—another subjective element of this bill.

Yet another element of the bill, while small, may nonetheless impede its effectiveness. The bill places a limit of 30 days on the duration of covert surveillance. This would better be left to the Magistrates Court to decide, based on the application that sits before it in those cases. Then the court could reasonably consider the duration of covert surveillance on the merits of the application before it, rather than be restricted by a legislated or regulated duration.

I have outlined a number of the practical issues that this bill presents to employers and employees in the territory today. These issues amount to yet another increase in business compliance requirements—what is commonly called red tape—that governments of the left, including the far left wing of the Labor Party, the Greens, constantly like to foist on business.

Like the Liberal opposition, business groups we have spoken to, whilst supporting the principle of the bill, have concerns about the practical aspects—that is, the operation

of the bill. Indeed, many of the practical issues I have outlined today are concerns that have been echoed in the business community. And there are others.

The scrutiny committee also saw flaws in this bill. I quote its summary in report No 32:

The scheme proposed is very complex ... the Explanatory Statement falls short by a long way in explaining the nature of its provisions.

The committee then went to the somewhat unusual length of giving a narration of how it saw the bill operating—or not operating, as the case may be. Fully 6½ pages were devoted to this.

Since then there has been a four-page response by Ms Bresnan, but much of what she says in that sheds little light on the matters raised, merely serving to muddy the waters even more.

As a member of the scrutiny of bills committee, I think it is important to note that the scrutiny of bills committee thought very seriously about the way that we should approach this matter, on the basis that this was a piece of legislation from a private member who does not have the same backup and support that a minister does from a government department. The scrutiny of bills committee took the advice of its advisers and was very fulsome in the comments that it made—more so than would be the case for a government bill.

The construction of this bill, together with the comments of the scrutiny committee and Ms Bresnan's response, demonstrate that the Greens have not thought through all the implications to the end. Perhaps it would have been better if we had seen some form of regulatory impact statement, but no such statement was released with this bill. It shows that the Greens have little regard to the ACT business community or the contribution it makes to the economic growth of the territory.

We note one sensible element of this bill, and that is the review clause, clause 48, which requires the minister to review the operation of the bill after its first year of operation and to report to the Assembly within three months of the review starting. We, too, will be monitoring the operation of this bill as it plays out in the ACT community over the first 12 months of its operation.

MS BRESNAN (Brindabella) (4.57): I am pleased to be debating the Workplace Privacy Bill which represents an important step in extending privacy rights to workers, while providing employers a useful legal framework for conducting legitimate surveillance in the workplace. Regulation of privacy in the workplace is a necessity in an environment where surveillance technologies become more sophisticated and pervasive. However, a balance needs to be struck between the right to privacy in a workplace and the legitimate use of surveillance technology for security, health and safety and monitoring of staff. We believe that this bill strikes the balance between these two competing needs.

This bill operates on the basic principle of privacy that workers should have the following rights: the right to know that they are under surveillance, the right to know

what the surveillance is to be used for, the right to have information about them collected by surveillance protected and used appropriately. Employers also have the right to conduct surveillance that they feel is appropriate and, where they have been open and honest with their workers about the conduct of surveillance, to use information gathered by surveillance to monitor their business.

This legislation is based on the Workplace Surveillance Act that is currently in operation in New South Wales and has been since 2005. This legislation has been working well since its introduction. However, there were concerns raised by some groups, including the Australian Privacy Foundation, and we have addressed those concerns in the bill we are debating today.

This bill is the first in the ACT to explicitly recognise privacy in the relationship between employees and employers. The lack of regulation to date in this area has led to some problematic outcomes.

The vast majority of surveillance that will take place in the ACT under this bill will be notified surveillance. Notified surveillance requires an employer to notify and consult employees on what type of surveillance will take place, where it will take place and what the surveillance can be used for. Once an employer has set out a notice or policy on how the surveillance will be conducted, they must conduct the surveillance in accordance with the notice, including limiting the use of surveillance records to purposes set out in the notice. This prevents employers installing cameras, tracking devices or monitoring software under the guise of security and then using it for performance management.

I will indicate now that I will be moving a minor amendment to the definition of “conducts surveillance” to provide clarity in the bill around who conducts surveillance.

Based upon the experience of the operation of similar legislation in New South Wales, the vast majority of surveillance will be able to continue, provided that employers comply with notification requirements. In many cases, ACT employers who currently use surveillance in the workplace are already complying with the terms of this by having surveillance policies in place in their businesses. This legislation will have little impact on these employers. For those employers who do not have surveillance policies in place currently, there is a six-month period to issue a compliance surveillance notification and to conduct the consultation outlined in the bill. And they will be able to continue surveillance in the interim.

The bill defines three types of surveillance—optical, data and tracking—consistent with the definitions in the Crimes (Surveillance Devices) Act passed earlier this year and places some specific requirements for each type of surveillance. For camera surveillance, employers will be required to ensure that the camera itself is visible and that a sign on the entrance to the workplace notifies workers that they may be subject to surveillance. This is to ensure that workers who do not usually work in the location subject to camera surveillance are aware that surveillance is taking place.

For data surveillance, the bill requires that employers develop a policy and operate data surveillance programs consistently with that policy and take steps to ensure that

employees are aware of the policy. Employers will also be required to notify employees via stopped delivery notices when a program prevents delivery of a communication. This is to ensure that workers are aware if their emails are being read, if their internet use is being monitored or if phone calls are being logged. Again, this is consistent with the principle that to protect their own privacy workers should be made aware of when and how their communications are being monitored.

It is my understanding that the government will be providing an amendment, as Mr Corbell has already foreshadowed, to this part of the legislation requiring employers to set an appropriate use of computer resources policy. This amendment is a commonsense addition to the bill and the ACT Greens will be supporting it.

For tracking surveillance, employers will be required to label that an object is being tracked. Again as Mr Corbell has foreshadowed, the government will be moving a series of amendments to make the penalties consistent with the listening devices act. The ACT Greens welcome these amendments and appreciate the need for consistency in penalties across legislation and will be supporting them.

In most circumstances employer surveillance requirements can be fulfilled legitimately through the use of notified surveillance under the provisions of this bill. However, there are limited sets of circumstances specifically where there is a reasonable suspicion of unlawful activity taking place where covert surveillance may be justified.

It is to this end that the Workplace Privacy Bill sets out a process where an employer may apply to the Magistrates Court for an authority for a nominated surveillance supervisor to conduct covert surveillance of a workplace for a limited period. The government have proposed an amendment to clarify that the surveillance supervisor must be suitably independent of the employer. The ACT Greens will be supporting this amendment. This was also a concern that the Liberals raised, and we believe obviously this has been addressed through that amendment.

This bill recognises that covert surveillance of workers by their employers is a substantial breach of the privacy of workers, which is why this scheme requires an independent surveillance supervisor to conduct all surveillance who can then pass on only the relevant parts of surveillance records to the employer to use to take action in the event that unlawful activity has taken place. Strict requirements and associated penalties are placed upon the use and misuse of covert surveillance records.

The bill provides a clear set of guidelines for the Magistrates Court to consider when deciding whether to grant the covert surveillance authority, including whether covert surveillance is the most appropriate means of detecting unlawful activity and consideration of the privacy of other employees.

The bill also sets out a number of locations in the workplace where surveillance is prohibited, where common sense dictates that surveillance is highly inappropriate, including toilets, change rooms, prayer rooms and parenting rooms. The ACT Greens will support the amendment from the government adding two more items to the prohibited surveillance section.

We believe that the workplace is a place which needs to foster trust between employers and employees. We recognise the need for employers to protect their workplaces and monitor their employees through surveillance. However, this should not be concealed in the everyday running of the business.

The bill provides a requirement for genuine consultation with employees prior to the commencement of surveillance in a workplace. This bill will not have a substantial impact on workplaces as the requirements for compliance with the notified surveillance provisions are small, and it will provide clarity to both employers and workers as to how surveillance will operate.

This bill in no way restricts an employer from legitimate covert notified surveillance. The only situation where it will compel changes to the workplace is where employers are currently engaging in what would be considered covert surveillance such as businesses that currently use concealed cameras to monitor the workplace or businesses that monitor places like change rooms or prayer rooms.

This bill provides for a six-month delay before the notified and covert surveillance provisions come into place to ensure that employers have sufficient time to comply with the provisions under the bill, whether it be conducting notification and consultation or removing covert surveillance from the workplace. The provisions regarding prohibited surveillance come into place immediately.

I would like to thank the groups that I and my office have talked with about this issue for the last 10 months since the introduction of the exposure draft of this legislation. Unions, privacy groups, business groups and civil liberties groups have all contributed to this bill and without their contribution and feedback this bill would not have been possible.

This bill presents an expansion of privacy rights for workers in the ACT. It reflects the ACT Greens' commitment to a positive, progressive workplace relations policy which recognises that the rights inherent to human dignity, such as privacy, should be facilitated everywhere, including in the workplace. I thank other members for their contributions and I thank the government for supporting this bill.

I will note that I and my office did meet with Mrs Dunne's office and we believe we have addressed the main concerns they raised. One of the government's amendments, as I have noted previously, address one of the concerns they raised also. I will also note that I met with the Business Council, and they were supportive of the bill. We did endeavour to meet with the chamber of commerce but we were not able to secure a meeting with them. We have actually had no concerns raised with us by the business community in relation to this bill.

I note that Mrs Dunne has contacted my office in response to discrete concerns. We believe we have addressed them. I will actually table a revised explanatory statement in response to the concerns which have been raised. I will circulate that shortly.

I will also note again that this bill is based on the New South Wales act. It has been operating successfully. We have put in place a number of amendments which have

come out of a report done by the Australian Privacy Foundation into the bill. So we actually have looked at existing legislation, how it operates. I will note again that there have been no major problems with the bill operating in New South Wales, including the process of having to apply for a covert surveillance order.

Again I thank members for their contribution and I seek leave to table a revised explanatory statement to this bill.

Leave granted.

MS BRESNAN: I table a revised explanatory statement. As I noted, this is in response to concerns which were raised by the scrutiny committee.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail stage

Bill, by leave, taken as a whole.

MS BRESNAN (Brindabella) (5.08): I move amendment No 1 circulated in my name [*see schedule 1 at page 242*].

This amendment is to provide clarity that a person who conducts surveillance does so whether they do it themselves or cause another person to do it on their behalf. The original wording left some ambiguity and I have introduced this amendment for clarity.

Amendment agreed to.

MR CORBELL (Molonglo—Attorney-General, Minister for the Environment, Climate Change and Water, Minister for Energy and Minister for Police and Emergency Services) (5.09), by leave: I move amendments Nos 1 to 14 circulated in my name together [*see schedule 2 at page 242*].

I have outlined the purposes of the government's amendments in my speech in the in-principle debate, so I will not reiterate those again and I simply commend the amendments to the Assembly.

MS BRESNAN (Brindabella) (5.09): The Greens will be supporting the amendments that the government has put forward, as I have also foreshadowed in my speech previously.

I will just address a couple of those amendments in terms of their content. The first amendment that has been discussed requires an employer to explicitly state what computer resources can or cannot be used for and how the employer intends to monitor an employee and audit their computer usage in accordance with the policy. This ensures that employees are clear from the outset as to the appropriate usage of computer resources provided by the employer.

We are also supportive of the amendments, as I have indicated earlier, around penalties and adjusting those penalties to be in line with the Listening Devices Act.

I have addressed the other amendments but I also wish to note that there has been an addition to the rooms where it is prohibited to have surveillance conducted. The rooms or areas that have been added are first-aid rooms and rooms used for recreation activity, and we are supportive of both of those being added to the list.

MRS DUNNE (Ginninderra) (5.10): The Canberra Liberals are opposed to the changes in the penalties in the legislation as it currently stands as proposed by the minister.

I understand the Greens did do some consultation with the business community, as did we, based on the bill with the penalties in it. I note also that there is provision for review of the legislation in one year's time. The business community has not been consulted, as far as I can tell, on the upping of the penalties, which in some cases are substantial, fourfold, and some penalties have been increased to 50 penalty units, which is quite substantial for a corporation.

On the basis of those changes, we will not be supporting the amendments that relate to the penalties. I am putting this on the record. We will not divide on it but I will put on the record that we do not support these changes. It is clear that the government and the Greens do. But we think this is an unreasonable impost on business and they have not been consulted. On that basis we are not prepared to support those amendments.

Amendments agreed to.

Bill, as a whole, as amended, agreed to.

Bill, as amended, agreed to.

Roads—Isabella Drive

MR SMYTH (Brindabella) (5.13): I move:

That this Assembly:

(1) notes:

- (a) that residents in the suburb of Macarthur had the benefit of a noise attenuation barrier, along the north of Isabella Drive, that ameliorated the effect of noise generated by traffic travelling along Isabella Drive;
- (b) that this barrier has been reduced at various times, thereby reducing its effectiveness;
- (c) that the reduction in the size of this barrier has been exacerbated as a consequence of Telstra undertaking works in the area; and

- (d) the ACT Government's lack of intention to restore the barrier to its original size; and
- (2) calls on the ACT Government to restore the barrier along the north of Isabella Drive to its original size.

This motion relates to what some might say was a relatively minor issue in the context of an overall city such as Canberra. Nevertheless, it is an important issue for the community involved and it relates to their quality of life. It is also important for the Assembly to consider this matter because it highlights concerns that are symptomatic of the approach of this Labor government and it demonstrates that there is merit in a general acknowledgement of concerns that may exist in one part of our city; indeed, it may encourage other residents to raise similar concerns about their community. Concerns about such issues as noise in residential areas, types of housing in residential areas and inappropriate driving behaviour in residential areas arise all the time. As a caring community we should be interested in these issues.

The essence of the issue in Macarthur is that, as the suburb developed and as Isabella Drive was duplicated into a four-lane carriageway to service the people of Tuggeranong, noise attenuation barriers were built along Isabella Drive. For the people of Falkiner Place in Macarthur, this barrier provided a reduction in noise and indeed protection from the vehicles. The residents were either there when the barrier was built or have bought their properties implicitly knowing that the barrier was in place.

The effectiveness, unfortunately, of the barrier has been reduced over time through various actions, and residents have now approached me requesting the restoration of the barrier. The barrier used to be somewhat taller, it would appear, and over the years, whether it be through just general erosion or through activities such as digging it up, its effectiveness has been reduced.

I received an approach from a resident who raised concerns and she asked me to take action to fix the noise barrier. I wrote to the Chief Minister, Jon Stanhope, as Minister for Territory and Municipal Services, saying that this barrier was here, it seemed reasonable to me that it should be restored to a state so that it provided the protection that it used to provide, and that it should be something the government should consider doing as quickly as possible.

The issue, it would appear, is well known to the Chief Minister, given that testing of noise levels in the area had been conducted. Indeed, Mr Stanhope responded that testing of noise levels showed that there was no noise problem in the area and that Roads ACT had no immediate plans for the implementation of noise mitigation measures along Isabella Drive.

Here lies the real issue behind this motion. The noise barrier did exist. It has been in place for a number of years. The effectiveness of this barrier has been reduced. The community has simply asked for the barrier to be restored to the condition that afforded them protection from noise. The Labor government has replied that no action will be taken, and I believe it twists the facts to suit its lack of action. It is simply

unacceptable to have the Chief Minister say that there are no plans for the implementation of noise mitigation measures when what the community is simply asking is that we have the restoration of the existing measures so that they simply perform the function that they should.

As far as I am concerned, the government's response is unacceptable. It is a reasonable request. We are asking for restoration of a situation—not the implementation of new measures—and I think it has been rejected by the government on quite spurious grounds

I approached many of the residents living in the area. I have done letterbox drops, spoken to some of the residents and rung others, and the response is interesting. Most people were quite interested that somebody had taken the issue up on their behalf. Just about all I spoke to said, yes, they would like it fixed. There was a humorous moment when one lady said, "Look, we've just moved from Sydney and we actually haven't noticed any noise." So I guess it shows you how well off we actually are in the ACT against some of the bigger cities like Sydney.

From talking to people, some had become used to the fact that there was noise and they were resigned to the fact that the government would not fix it. But when I said, "Ideally, what would you like?" they all said it would be a good thing if it was fixed. They do appreciate that somebody has taken this up on their behalf.

The noise attenuation barrier in this case is a mound of dirt that was built along the north side of Isabella Drive adjoining the suburb of Macarthur. It provided good protection from noise, road noise initially, but has been reduced as a consequence of erosion over time, trees dying through the drought and as a consequence of projects undertaken by Telstra to lay cables through the area.

I would suggest there must be mounds of dirt available from many building sites or road sites across Canberra which perhaps could be used to restore this barrier. I do not believe it would be a complex problem. The replanting of the trees could also be done. They, of course, will take longer to grow and hence a longer period of time to reduce the sound. But, if we do not start, the existing barrier will continue to degrade and the community will continue to suffer.

Of more serious concern on this matter is the response of the Labor government to a community concern. To simply say, "Well, we have done some testing and it does not quite reach the degree of noise; therefore we will not do it," is unfortunate, simply because obviously it was understood at the time the barrier was put in place that there was a need for it; otherwise it would not have been put there in the first place. It is unfortunate that it has degraded to such an extent that it now provides less than optimal protection to the people living there. It is a pathetic approach by the government to say: "No. We've done a test and the test does not match."

The government's own guidelines say that when these issues are raised you have to take into account people's perception of noise. For a number of the residents, particularly the lady who has contacted me directly, it is a very serious problem. I think it is something that we need to take into account. I think it is a question of why the government will not do this.

The facts are very simple. The barrier was built a number of years ago. It worked. People moved into the area with the knowledge that the barrier was working. The integrity of the barrier has been destroyed. The community is fed up with the lack of action to restore the barrier and the community has asked that the barrier be restored. The government rejects that case and I think that is quite sad.

There are two purposes to the motion. The first is to seek the resolution of a legitimate community concern and the second is to correct a misinterpretation of a community concern by a government that apparently is not too concerned at all. I will certainly fight for the restoration of this barrier. It is important. Where these things can be fixed before they degrade even further, and at the least cost possible to the government, that would be a good outcome. If we have to wait until the barrier either degrades more, is eroded more or is dug in more by other utility companies before the situation is addressed, that is a bit sad.

The other issue then is the trees. The barrier sort of runs along Isabella Drive from north-east to south-west. At the top of Falkiner Close there are still a large number of trees along the barrier. At the bottom of Falkiner Close, where it hits the roundabout and you can either go into Macarthur or Chisholm, there are still a few trees there. A number of the residents have taken the opportunity over time to plant trees directly behind their own homes in an attempt to help insulate their homes. But there is a very large area in the middle of the mound that (1) is degraded, (2) has been dug in and eroded and (3) has no vegetation on it at all. So, simply from the point of view that the drought does appear to be broken and there is adequate water available now, it would certainly be a good time to plant some trees, fix this problem for the community, relieve those who are suffering from noise and restore the situation to where it was, where they were protected by the earthworks that were put in place some time ago, and can be restored to being able to live their lives as they ought.

One lady who responded to my calls sent an email and said:

It's a great street, lovely neighbours, short walk to the shops and park. However, the down side of living here is the traffic noise. We have not noticed an increase since the cables were laid ... and we do have some trees between us and the road. The noise from the road certainly reduces our enjoyment of being in our backyard, it is considerably louder when there is a southerly wind blowing. At peak times we can hear traffic inside our home, especially the trucks with exhaust brakes as they come down the hill to the roundabout. The trucks often start around 6am and some manage to navigate the roads quietly, others use their exhaust brakes all the way down the hill.

She simply finished by saying that she looked forward to any progress that could be made on the situation to improve where they live.

I have had a number of letters like that and other verbal comments that I have received. I think it is just a simple issue of restoring the mound to what it was. We are not asking for something new. The community are simply asking for the restoration of what they had so that they can have less noise in their lives.

I commend the motion to the Assembly.

MR STANHOPE (Ginninderra—Chief Minister, Minister for Transport, Minister for Territory and Municipal Services, Minister for Business and Economic Development, Minister for Land and Property Services, Minister for Aboriginal and Torres Strait Islander Affairs and Minister for the Arts and Heritage) (5.23): I thank Mr Smyth for the motion, for his representation and for his advocacy for the residents of Falkiner Place. I too have received a representation in relation to this issue—one representation from one resident over the last 10 years. I agree that it is an issue that has been raised with the government.

These are important issues. I think we all appreciate how important it is that we can enjoy all the amenity of living in this fantastic garden city of ours. The noise generated by passing traffic is an issue that is raised with the government from time to time. We all know that it is an important issue. In some regards, it is a subjective issue; noise does impact on different people in different ways.

Mr Smyth makes the point that something that is important in relation to noise is the perception of noise—of how loud a particular road is. In relation to traffic noise in Macarthur generated from Isabella Drive, as I have just indicated, I became aware of the issue last year when a resident of Falkiner Place wrote to me shortly after the earth mound which Mr Smyth has referred to, which acts as a barrier for traffic noise, was reduced in height as a consequence of some work that was undertaken by Telstra. That did occur; we acknowledge that.

In response to the letter, I asked the department to investigate the situation. They did, and they did so thoroughly. Roads ACT arranged for a traffic noise survey to be conducted from this resident's backyard from 1 to 9 June 2010. The survey indicated, measured over that period of nine days, that the average traffic noise levels ranged from 54 to 59 decibels, which is well within the ACT traffic noise guidelines of 65 decibels for an established residential area. The noise level was measured from one metre from the rear of the house.

The ACT traffic noise guidelines are similar to traffic noise standards in most other jurisdictions in Australia and have been in place since 1996. I have been advised that the traffic noise report that was developed as a result of the request from the resident at Falkiner Place was provided to the resident; on the basis of that traffic noise report, there is no technical requirement to provide additional measures to ameliorate traffic noise from the nearby Isabella Drive.

However, as I have already indicated, I and the government take this issue seriously. The peace, the quiet enjoyment and the amenity of one's home are very highly valued. I acknowledge and I accept that even a perception that these amenities, most particularly peace and quiet enjoyment, have been eroded is a source of concern.

Let me go to what I think is the nub of the government's position in response to this particular issue. This is the nub of the issue, and it is a position which we take in government. Interestingly, it is the position which the previous government took in government and it is the position which Mr Smyth took when he was minister for territory and municipal services. The department does have specifications, does

measure and does have arrangements in relation to a whole range of requests which are made of government, most particularly Territory and Municipal Services, particularly in relation to roads, on a regular basis. There are requests that are made regularly to government in relation to issues around noise and noise attenuation, just as there are representations made to the government regularly and repeatedly in relation to issues around speed and speed amelioration in streets across the ACT. It is important, and other representations are regularly made in relation to perceptions around safety.

The government receives regular, numerous representations from individuals across the breadth of the city in relation to issues such as this around noise and noise amelioration, around speed and speed amelioration, around perceptions of traffic safety and traffic hazards across the breadth of the city. It is important that we have systems in place that are fair, that are equitable and that respond essentially scientifically and on the basis of evidence to what are accepted or acceptable standards in relation to these particular issues. The essential Australian standards in relation to noise and levels of noise that are accepted across the breadth of the nation are those that also apply in the ACT and were those that were applied to this particular representation.

We are, of course, concerned about the fact that the majority of complaints to the public, as far as transport is concerned, are related to traffic noise. The department has been working with ACTPLA over the last two years on how we best insert new traffic noise guidelines or a code under the territory plan. We are reviewing the current situation.

As I said, it is essentially the Australian standard, but we are prepared to review it. Issues which we will address in the review include whether the current criteria are still appropriate, noting that, while most Australian jurisdictions use the $L_{A10(18hr)}$ noise index, New South Wales uses the equivalent continuous sound level and South Australia has been exploring that as well. As the ACT's Environment Protection Act defines noise in terms of L_{A10} values, I expect that we will probably stay with the L_{A10} index. However, this will be considered as part of the current review which ACTPLA and TAMS are undertaking.

Another matter which we need to consider is whether or not to introduce different planning criteria for traffic noise during daytime and night-time hours. I understand that New South Wales has moved down this path and that other Australian jurisdictions are thinking of doing the same. It seems reasonable and logical that we should be giving consideration to that.

By way of some additional background, the suburb of Macarthur was planned by the NCDC in the 1970s. I understand that at the time the NCDC noise planning criterion was for 65 decibel $L_{A10(18hr)}$, which is the same as Roads ACT uses today as the trigger for noise attenuation measures in established areas developed before 1996.

As I explained earlier, the noise levels detected in the traffic noise impact assessment carried out by University of New South Wales acoustics specialists showed that the existing noise level at this site is well below the current residential criterion—not just

marginally below, but well below. As such, the government cannot justify restoring the mound or increasing the mound. However, as a sign of good faith and of our concern and respect for the representations that have been made, I have asked Roads ACT to continue to monitor noise levels at this site, and a further noise monitoring assessment has been programmed for June this year.

I also take on board the comments which Mr Smyth has just made in relation to tree plantings. That is an area where I believe we can readily respond. I am more than happy to arrange for the department to visit the site and to investigate most particularly the issues in relation to tree plantings and the effect that they may have. I am more than happy to ask the department to investigate that as a priority in relation to plantings. I think that is a quite reasonable request.

I have to say—and this seems tough, but it is not uncaring—that it really is about systems; it is about systems that apply equally to all residents of the ACT. It is about the sort of structures that are in place in relation to representations that government receives regularly on this issue and on issues like perceptions around speed and representations we get in relation to perceptions around road safety. It is important that government have a system that is applied equally and fairly across the city.

I am sure that if Mr Smyth were the minister he would not believe it to be reasonable that, on the basis of a motion in the Assembly, the government should abandon an essentially entrenched system that has been in place for decades and that applied when he was the minister. I would be staggered to think that Mr Smyth, as the minister for territory and municipal services, would lift particular representations up an order—that he would devote resources to rectifying a particular issue of concern to a particular resident when it was not consistent with a pro forma, a standard or an accepted policy position. I would be disappointed if that were the way in which Mr Smyth executed his responsibilities as minister for territory and municipal services, and I am surprised that he would expect me to do it—that he would expect that I would abandon an established procedure, an established policy, an established protocol because he has received representations from residents.

The government's position in relation to this is reasonable and appropriate. It is exactly the position that Mr Smyth adopted when he was the minister for territory and municipal services. We are sympathetic; we are understanding. We have already conducted significant testing; we will do it again. We will continue to monitor. We take the issue seriously. And we will certainly pursue the issue of tree planting. But it is unreasonable, I believe, for the Assembly to be passing motions that ask the government to abandon, for one group of citizens making representations, an existing protocol that the government applies equally and fairly to all citizens who make this representation.

I know, and I can advise you, that I have received this same representation from citizens across the territory, and I have responded to them in precisely the way that I responded to this constituent. We did the testing, we analysed and assessed the results of the test, and we responded in exactly the way that I have responded in this case. Otherwise, it would not be fair, would it, to those people who sought the same response and we, as a result of the protocol, refused them? Would it be fair? It would not.

I have great sympathy for these residents if they have perceptions or concerns. We are happy to pursue it in the way that I have outlined and as I have outlined in some proposed amendments which I believe to be fair and reasonable. I have circulated them. I move:

Omit paragraphs (1)(d) and (2), substitute:

- “(2) notes that the ACT Government has undertaken a noise survey at the site and found that the noise recorded over an 18 hour period from 6 a.m. until midnight each day was between 54-59db(A), below the noise level of 65db(A), which would trigger consideration for noise attenuation as used by Roads ACT;
- (3) notes that the Government is currently reviewing the criteria for traffic noise guidelines, which includes a review of interstate practice, and that the Government will table the outcomes of this review when completed; and
- (4) calls on the ACT Government to continue to monitor the location for any increase in noise levels and implement any noise attenuation measures where noise levels are above the trigger point.”.

MS BRESNAN (Brindabella) (5.35): I thank and acknowledge Mr Smyth for this motion today. It is an issue that I have also written to Mr Stanhope about. I do believe that the amendments put forward by the government are reasonable. We will be supporting them. I think that the matter has been dealt with responsibly by the department, and that there have been some events outside their control that affected this issue.

We are also very supportive of tree planting. It is very positive to hear the Chief Minister note that that is something they can consider for this particular area. I acknowledge that. It would be a very positive outcome if we could have those trees planted in that area. That is something which can be pursued. It is good to hear that, and I imagine that Mr Smyth will be supportive of that.

The ACT Greens recognise that there was a barrier along the north of Isabella Drive; that, through work undertaken by Telstra, some trees were removed; and that that has had an impact. But again it is good to hear that there will be consideration of planting trees in that area.

From what I understand, there has been one constituent who has raised this matter with the government and my office—obviously along with Mr Smyth’s office. The complaint came from a resident regarding the neighbourhood in question. I made a representation on behalf of the constituent on 10 November last year both to Mr Stanhope and to Mr Corbell, as minister for the environment, climate change, energy and water. The following points were included in the response we received from the Chief Minister’s office, and I have been informed that Mr Smyth received similar or the same information. I may be going over some points which Mr Stanhope has raised, but I will just point them out again.

The first piece of information is that officers from Roads ACT monitored traffic noise from Isabella Drive between 1 June and 9 June 2010 after a noise complaint was made and that a copy of the report was provided to the constituent. The report was prepared by the Acoustics and Vibration Unit of the University of New South Wales. Further, the average level of noise recorded over an 18-hour period from 6 am until midnight each day was between 54 and 59 decibels, below the planning criterion for road traffic noise for residential areas, which is 65 decibels.

In our letter on this matter, I specifically inquired about the time of day the tests were conducted, as this would affect the results of the tests. I do believe that the 18-hour period that the tests were conducted in was substantial and would establish general noise levels in the area for that time of day. I also mentioned in my correspondence that noise abatement measures should be considered if traffic levels increase along Isabella Drive in the future; that is something which has been reflected in the government's amendment.

I would like to touch on the point that Roads ACT have taken action and investigated this case—and, as I have already noted, found that noise pollution has not exceeded the guidelines that are in place. Both Ms Le Couteur and I, however, are interested in investigating the criteria used to assess traffic noise complaints. It would be informative to compare the criteria used in the ACT with those in other jurisdictions and look at when this criterion was last reviewed. This point is particularly important, since the planning criteria used for Isabella Drive come under the road traffic noise for residential areas provisions established before 1996; the criteria that were used for these tests may be outdated and may need to be reviewed.

These are matters that the ACT Greens are interested in finding out, which is why we are supportive of the amendments that have been included in the government's amendment and that the review into noise pollution should be tabled. That will be a positive thing to see also.

In my letter to the minister, I noted that the noise should continue to be monitored, particularly if traffic increases in the area. This has been reflected in the amendment, including that measures be implemented if acceptable noise levels were exceeded.

This is an issue that both Mr Smyth and I have taken an interest in. I have, as I have noted, written to the minister regarding this. We have to recognise that the study was undertaken by an independent party and found that noise levels were at an acceptable level. I acknowledge the constituent's concerns, but I think that the department has acted responsibly in this matter and addressed the concerns to the degree that they could. I acknowledge Mr Smyth in pursuing this matter, and I acknowledge that he is doing that for the residents there, but I reiterate that I think the department has worked to address this matter.

It is important that Isabella Drive is continually monitored for an increase in noise pollution and that if there is an increase in complaints they should be acted on. Again, I acknowledge that the issue around planting trees has been raised. That would be a good measure to pursue. I hope that it will be, given that the Chief Minister has raised it in the chamber today. That could be a way of addressing any future concerns that may be raised by residents.

MR SMYTH (Brindabella) (5.40): I have to say that I am disappointed. I could accept the Chief Minister's case if this was a site where no noise attenuation had been undertaken. But it is a site where, when the road was developed to a four-lane dual carriageway, the government of the day—it is about 1995 or 1996; so it might have been a Liberal or a Labor government—understood that this would affect residents. As a consequence of that, they put the noise attenuation mound in.

I am not asking for a new structure. I am simply asking for maintenance. I am asking for a mound that has been eroded, degraded and then dug up by Telstra actually to be restored to what it was. That is not an unreasonable request. In effect, this is a request for some roadside maintenance.

I see that Ms Bresnan wrote on behalf of her constituent; well done for that. But I am surprised that she will do nothing now to further that cause. It is a very simple matter. There is a question of the reduction in the size of the mound, the damage done by Telstra and the absence of vegetation.

Ms Bresnan says, "We would like to see some trees there." But even fast-growing species of trees would probably take 10 to 15 years before they have some effect on the noise in that area. That is a long time to wait. The problem here is that the community have a certain level of amenity. Through not maintaining the area and not ensuring that Telstra restored the area after it had done its work, the government have let down the community. They have an obligation to maintain the assets of the city, and a noise attenuation mound along Isabella Drive is an asset of the city. They have an obligation to maintain the amenity of citizens, and the amenity has been eroded through the lack of maintenance and, in the case of the work done by Telstra, through the lack of restoration.

I am not sure I see the problem here. We can do all the surveys we want and say, "Yes, it is just below the limit." I think it is probably slightly more serious than the Chief Minister said and it has clearly affected the resident who made the first complaint. It is interesting to read the complaint. It states:

My property backs onto Isabella Drive in Macarthur. The road was divided 15yrs ago ... Hence the road was moved 20 metres closer to my ... fence. Also most of the trees in the buffer ... have died due to the drought. The traffic noise was not noticeable due to the mound running along the road. Two years ago, this mound was removed when Telstra laid some major communication cables. Since then the noise has become quite noticeable especially early morning and peak hour at night. As there is a gradient, trucks are particularly noisy due to their compression brakes and use of low gears. Now, you cannot sit outside and have a conversation without difficulty in hearing when traffic is constant.

This lady says:

I have installed wall insulation recently to lower the noise heard inside but this has only been slightly effective. Trees take too long to grow to be of any useful barrier. Ideally, **the return of the soil mound along the road would be the most effective.**

It is a simple maintenance request. The Chief Minister presents a scenario where, as a minister—I understand this because I got the same requests—this is a request for noise attenuation. This is an entirely different scenario to starting from scratch. We are simply asking for restoration. I heard the Chief Minister start to use the word “restoration”. I am pleased that he accepts this is a case of restoration, not a case of brand new installation.

In regard to the minister’s amendment, no, I do not accept the amendment. I think this could be done quite simply. Unlike Ms Bresnan and the Greens, we would like to see something happen. We would like to see the amenity restored to where it was. It is not unreasonable. I can count. The Chief Minister’s amendment will get up. When it is passed, I will then move an amendment to the amended motion to remove the word “implement” from the fourth paragraph and replace it with “restore” because that is simply what the residents of Faulkner Place are asking for—a restoration of that which was.

If some of the cost of this has to be passed on to Telstra I am not against that at all. Indeed, there are parts of legislation that say that once work is done on public lands they should be restored. It would be interesting to see what efforts have been taken to see whether or not Telstra—

MADAM ASSISTANT SPEAKER (Ms Le Couteur): Mr Smyth, one minute. I have just been advised by the Clerk that actually you should move your amendment now, because—

MR SMYTH: I can move my amendment now? All right, in that case I will move my amendment now to Mr Stanhope’s amendment. Just for the sake of accuracy, it is not actually correct to say that they would then implement noise attenuation.

Mr Stanhope: I am more than happy to accept the change, if that is possible under—

MADAM ASSISTANT SPEAKER: I think we still have to go through voting, but thank you, Mr Stanhope.

MR SMYTH: And I would thank you, Chief Minister. Thank you, Jon. That is very decent. I move:

In paragraph (4), omit “implement”, substitute “restore”.

I hope you get the point. They are not asking for something brand new. They are not asking for massive earthworks; they are not asking for walls or fences; they are not asking for the road to be shifted. They are simply asking that that which a couple of years ago was there be restored. Now that the drought is over, perhaps we could also plant some trees and shrubs on that mound to stabilise the mound, prevent further erosion and further decrease the noise. It is a very simple request. I believe the government should implement the request immediately.

MS BRESNAN (Brindabella) (5.46): I will be very brief, Madam Assistant Speaker. I support Mr Smyth’s amendment also. It is a reasonable thing to put forward.

Mr Smyth's amendment to **Mr Stanhope's** proposed amendment agreed to.

Question put:

That **Mr Stanhope's** amendment, as amended, be agreed to.

The Assembly voted—

Ayes 9

Noes 4

Mr Barr	Ms Hunter	Mr Doszpot	Mr Smyth
Ms Bresnan	Ms Le Couteur	Mrs Dunne	
Ms Burch	Mr Rattenbury	Mr Seselja	
Mr Corbell	Mr Stanhope		
Mr Hargreaves			

Question so resolved in the affirmative.

Mr Stanhope's amendment, as amended, agreed to.

Motion, as amended, agreed to.

Children and Young People (Death Review) Amendment Bill 2010

Debate resumed from 25 August 2010, on motion by **Ms Hunter**:

That this bill be agreed to in principle.

MS BURCH (Brindabella—Minister for Disability, Housing and Community Services, Minister for Children and Young People, Minister for Ageing, Minister for Multicultural Affairs and Minister for Women) (5.51): I thank Ms Hunter for tabling the Children and Young People (Child Death) Amendment Bill 2010, which proposes the establishment of a child and young people death review committee. I am pleased to have an opportunity to speak briefly in favour of the Children and Young People (Death Review) Amendment Bill 2010 and to find a way forward to achieve improved outcomes for the children and young people of the ACT.

Child deaths are indeed a tragedy to families affected and to the community that seeks to assist and support children and families. There is no doubt that we are all touched by the death of a child or young person and when such an event occurs, be it by accident, health or some other cause, that we ask ourselves what could have been done to prevent such a tragedy. Even with the advances in medicine and technology, unfortunately some deaths are not preventable. Preventable deaths become a concern to the whole of the community, especially when it is possible to ascertain that something could have been done to prevent the death of a much-loved child or young person.

Gathering information on child deaths and analysing this information, identifying trends and finding ways to prevent future deaths in a systematic manner is supported.

The ACT government has in place mechanisms that review the individual deaths of children and young people in the ACT. These mechanisms make recommendations that contribute towards the improved services and future prevention of child death. These mechanisms include coronial inquiries, the ACT Health Clinical Review Committee process and the internal review mechanisms within the Department of Disability, Housing and Community Services.

Having a mechanism as proposed by the bill that considers all deaths of ACT children and young people provides a broader overview for the ACT. A mechanism that can be comprehensively informed by the information available from other agencies and review mechanisms is an effective and resource-efficient means of preventing future child deaths.

Mr Assistant Speaker, the government has had discussions with both the Greens and the opposition. I am looking forward to the opportunity in the detail stage—it is my understanding that we will deal with the in-principle stage today—to talk more on proposed amendments by all three parties concerned. I look forward to that discussion. It is an important piece of work. Therefore, I take the opportunity over the coming weeks to work through these amendments as we come to them in this place at the detail stage in a transparent and a collegiate manner. I look forward to that and I support the bill at this point.

MRS DUNNE (Ginninderra) (5.55): It should be an axiom rather than a cliché that children and young people are our future. As parents, we have a role to create a society that values our children and puts them in a place where they feel valued and where they can create that future for themselves. Part of the role we play is to give our kids every opportunity to realise their full potential, to live the dream and ultimately to do their job as parents for the next generation—to do what we, as their parents, seek to do now.

But some of our children do not make it there. They do not realise their full potential. They do not live the dream and they do not get to do their jobs as the parents of the next generation. They do not get to do that because there are some circumstances that can arise that take them away from us prematurely and needlessly.

For this reason, the Liberal opposition will be supporting the Children and Young People (Death Review) Amendment Bill 2010, which establishes a child and young people death review committee. This committee will review all deaths of ACT-resident children and young people, whether the deaths occur in the ACT or elsewhere, with the objective of analysing and reporting on any emerging trends or patterns.

The committee will be able to share information with similarly established committees and review teams in other jurisdictions. It is hoped that by analysing the emerging trends and patterns and by conferring with other committees elsewhere, some work can be done to ameliorate the circumstances under which needless death occurs amongst our children

I note, too, from my consultation with community organisations that the community supports the thrust of this bill. It is interesting that back in 2004, the ACT government

for a time did establish a child death review team. This was in response to the Vardon report titled *The territory as parent*. That team gathered data about the deaths of children and young people between 1992 and 2003.

As Ms Hunter said in her presentation speech, that team reported in 2006, recommending legislation to establish a statutory basis for a child death review team. Unfortunately, that recommendation fell into a black hole. Perhaps someone hoped it would go away. Indeed, I would venture to suggest that the Minister for Disability, Housing and Community Services and her department have been dragged kicking and screaming to the point that we find ourselves in today.

In November last year the minister came to me with a long list of concerns about the bill. She promised me there would be government amendments to the bill shortly after that meeting. The minister's behaviour in this—I said this to the minister's face yesterday and I said that I would say it here—has been quite unusual.

There were attempts backwards and forwards to mediate an outcome because I think that the minister, on behalf of her department, is pretty uncomfortable about this proposal. I think that what can only be described as attempts to play off one grouping against the other were pretty obvious where the minister came to discuss with me her concerns about the bill. I am not the proposer of this bill; Ms Hunter is. She came to discuss her concerns with me before she discussed them with Ms Hunter. Then I understand that the minister went off to Ms Hunter and said, "I have had a conversation with Mrs Dunne and we agree—" blah, blah, blah. That was not the case.

Since then, I have been visited on a couple of occasions by the minister, who keeps saying that the amendments are coming. I eventually received those amendments after the close of business on Monday this week, just one working day before this bill was due to be debated. I have said to the minister that I suspect the slowness in response is part of the department's response, because they do not want this to happen and that has been very clear over a very long time—long before the Vardon inquiry, when a child death review committee was first suggested when Heather McGregor was the Community Advocate back in the mid-nineties. The department was opposed to it then and I do not see any change in their position.

What I have seen is slightly ham-fisted and amateurish stuff from the minister which has amounted to substantial delays. What I received from the minister on Monday afternoon were 23 amendments comprising 12 pages of drafting when the bill itself is only 12 pages long.

At 6.00 pm, in accordance with standing order 34, the motion for the adjournment of the Assembly was put and negatived.

MRS DUNNE: I think this has been a delaying tactic on the part of the minister and shows a complete lack of regard or respect for other members of this place, much less the very people who are the subject of this bill, children and young people.

Also I think that we did receive last week seven amendments from Ms Hunter, which have been a long time coming, especially when you consider that this bill was

presented to the Assembly in August last year, almost seven months ago. It is very disappointing that we have to deal with this bill in this way. There has been general agreement between the parties that we would agree to this bill in principle today and that we would basically establish a round table to sort out the differences that people have over some of the amendments. I will talk about some of those in a moment.

In sum, I really think that this matter has been dealt with in a pretty shambolic way. I think that perhaps we would have solved the problem if perhaps Ms Hunter had done, what the Greens have done on a number of occasions with stuff which is considerably new policy of introducing an exposure draft. Some of these issues could have been sorted out at that stage.

That said, I still think that the blame for us not resolving this today lies squarely with the minister more than anybody else. I know that this will be debated in the detail stage, but I want to put on record the Canberra Liberals' firm commitment that this child death review panel should be thorough and should take into account all relevant issues.

I know that the government is very keen to avoid any reference in the work of the child death review panel to children who are in the care of the chief executive. They do not want them to be talked about in any way or for that subject to be brought up. I think that it shows the sensitivity of the minister and the department in this area. I put on the record now that the Canberra Liberals will not support any watering down of the provisions of the legislation in that regard.

We believe that children who are known to the chief executive are children who are perhaps more substantially at risk than others. That needs to be identified and if there are systemic patterns there we need to make it possible for them to be identified. I think that the approach from the government will water that down.

That said, in general I believe that this bill is an important bill. That is a view shared by my colleagues. It is one on the long list of responsibilities that we as a community have to our children and young people—to create a future, which I referred to at the outset. This is one step to improving that future for our young people. We should learn from the deaths in the past. Because of this, the Canberra Liberals will be supporting this bill.

MS HUNTER (Ginninderra—Parliamentary Convenor, ACT Greens) (6.05), in reply: I thank members for their contributions to this important debate. On a daily basis we are reminded of the tragedy that exists in our community when a child or young person dies.

The Child Youth Death Review Committee is well recognised and universally accepted as a positive initiative with the potential to save lives. I outlined in my tabling speech in August last year that the Child and Young People Death Review Committee within an Australian context aims to identify strengths and weaknesses in system responses for the benefit of future prevention and action. Child death review teams do not operate to determine the culpability of alleged offenders or comment on the individual performance of people, nor do they investigate the causes of child deaths. That role is left to the police and coroner or other territory processes.

When we talk about a child and young person death review committee we are not talking about a process which circumvents or overtakes the mechanisms we already have in place. Within the territory there are three existing mechanisms which work to review the deaths of children and young people, and these are the ACT Coroners Court, which must hold an inquest into the manner and cause of death of a person who dies in those circumstances set out in section 13 of the Coroners Act 1997; the Clinical Review Committee within ACT Health, which is a privileged committee; and the internal review process within the Department of Disability, Housing and Community Services for children who have come into contact or are known to the Office for Children, Youth and Family Support.

In 2009, a memorandum of understanding was signed between ACT Health and the ACT Department of Disability, Housing and Community Services which of course includes care and protection services. And this allowed for the joint case review of clients known to both care and protection services and ACT Health. The review process is conducted under the auspices of the ACT Health Clinical Audit Committee. Cases referred to the audit committee include critical incidents, such as the death of an infant or child and near-miss incidents which also are reviewed.

In relation to the death of a child known to child protection services, currently the ACT Health Clinical Audit Committee can provide recommendations for systemic improvements for individual agencies and for improved collaboration between ACT Health and child protection services. Child protection services may also engage an external investigator to review a child death in some circumstances.

The mechanism I am proposing is designed to build on those existing reviews. The Children and Young People Death Review Committee will undertake its functions after any other applicable inquiry or investigation has run its course. The committee review is designed to be far broader ranging than the existing process and will collate existing information to give a broad perspective on child deaths in the ACT.

I think it is important that we understand why we need a death review committee for children and young people. Within a report titled *Review of ACT child deaths* released by the office of the Chief Health Officer in 2006, it was stated:

A need has been identified for appropriate legislation that will underpin the operations of the Child Deaths Review Team. The ACT Government Department of Disability, Housing and Community Services are responsible for development of the legislation.

Mrs Dunne referred to this before and referred to the fact that nothing happened. Following on from this, as I said, there was no progress towards the development of legislation. This means that currently there are no processes in place for the routine preparation and tabling of an annual report on child deaths in the territory and, therefore, no access to information.

The child death review mechanism proposed in this bill goes beyond a statistical analysis of the figures. This is an opportunity to give the narrative, to give the context

and supply qualitative information as to why a child or young person has died. The aim is to improve our understanding, our responses, our planning and our policy development and ultimately help prevent such deaths in future.

To give a bit of a run-through of what has happened to date, since tabling this bill in August 2010, I have met with several stakeholders who have universally supported the bill. All these stakeholders have a keen interest because they are responsible for keeping children and young people safe, healthy and well. I have subsequently listened to their advice and concerns as well as those of other members of this place, particularly Mrs Dunne and the scrutiny committee.

I must express my disappointment at the government's reluctance to join in that conversation and lack of providing the Greens and me with the proposed amendments in a timely manner. I would echo the words of Mrs Dunne that this really has been not a great example of how we can work together in that, as I said, six months ago, when I tabled this bill, I did flag that I would be bringing it up a couple of months later.

I then put that off so that it could be brought up at the end of the year. I was told by the government that they were not in a position at that stage. I agreed that it would be put off until February. Again, there were about three months where really some action should have been taken to get those amendments together in a timely manner. So I must express some frustration at all of that.

That means, of course, that this evening we are only going to be finishing the in-principle stage and we will have to put off the detail stage to another sitting week. In that time there will be conversations and there has been agreement between Mrs Dunne, Ms Burch and me to sit down and work through some of the amendments that have been put forward and some of the issues. But I am pleased to see that there is tripartisan support for the bill and obviously there just needs to be some negotiation about particular details and amendments that will be brought forward.

Based on feedback we received from several sources, including the scrutiny committee, we will be proposing a number of amendments that are hoped to strengthen and tighten the legislative base from which the Child and Young People Death Review Committee will operate. I will be bringing forward some amendments, as I said, that provide clarification on issues such as the functions of the committee in relation to the individual death of a child or young person and the length of appointment of committee members.

The amendments will also strengthen some technical aspects of the bill that will guide the terms of the committee, such as a meeting schedule each year. Other amendments have been made to ensure privacy, confidentiality and de-identification are clearly provided to the children, young people and families concerned and to ensure consistency between this bill and the Children and Young People Act 2008.

In concluding, we are currently, as I said, continuing negotiations with Mrs Dunne and Ms Burch. We will refine the amendments to ensure a smooth transition through the Assembly. And we are looking forward to the new review process becoming a part of the mechanisms that work towards prevention of child or young people deaths in the territory.

Today, I am very pleased that the bill will receive in-principle, tripartisan support and I look forward to working with colleagues in the Assembly, Ms Burch and Mrs Dunne, so that we will have a good piece of legislation that will, I believe, ensure that children and young people and their best interests and their health and wellbeing are certainly at the forefront of the work that we do in the Assembly.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail stage

Bill, by leave, taken as a whole.

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

Adjournment National Multicultural Festival

MS BURCH (Brindabella—Minister for Disability, Housing and Community Services, Minister for Children and Young People, Minister for Ageing, Minister for Multicultural Affairs and Minister for Women) (6.13): I move:

That the Assembly do now adjourn.

I would like to talk very briefly on the National Multicultural Festival that was held last weekend and offer my thanks and appreciation to the department, the volunteers, the community organisations, the business sector, the sponsors and all those who attended and made this year's event such a resounding success. Indeed, the only complaint I have heard so far is that it took too long in a queue to get hold of some of the fabulous food. The crowd on the Saturday, I have been told, has been estimated at more than 110,000 throughout the day, which is more than for the three days of last year.

Walking through Civic during the festival, you realise that it is not just about eating—although that is a very good part of it—or catching a performance; it is also about celebrating our cultural diversity. It is about celebrating the communities that make up Canberra and many in the community being able to experience and learn more about other cultures. I would have to say that our Multicultural Festival brings out the best of Canberra.

As I was walking through the festival I was thinking that the world is witnessing some quite significant events, in particular the voice of the people of Egypt who are paving the way for the first democratic election in the country for more than 30 years. You could see the local Egyptian community at their stall, proudly sharing their culture with all of us. The same goes for the local Sudanese community, whose home is also experiencing some historic changes. They were out in force celebrating with all of Canberra.

This year we did a couple of things differently. We were pleased to have an Indigenous showcase as part of the festival. When it comes to rich cultures we need look no further than at our Indigenous Australians. I would like to thank the NAIDOC committee for being part of this year's festival and I look forward to exploring how they can become a regular part of it.

I would like to offer my thanks to the Office of Multicultural Affairs and the staff for putting together the event in such a well-planned way. I know that with events like the festival we take the safety of all very seriously. I note that a women's safety audit was undertaken prior to the festival and I am happy to report that overall the audit team was very pleased with safety and accessibility at the event site.

There were many highlights during the festival. I am sure that each and every one of us that were there would have their own special moment. I was pleased with the decision to offer the community stalls there on the Sunday and the fact that the crowd on Sunday was the best Sunday so far. I certainly look to build on that for next year. The Fyshwick Fresh Food Markets food and dance spectacular on Saturday no doubt remains the dominant event with close on 300 food and information stalls and 150 performance groups performing across six stages. I think over half of our diplomatic missions were represented and I thank them for their contributions.

When it comes down to it, people vote with their feet. We saw an outstanding turnout for this festival and we have received many positive comments on the success of the festival. For the community groups, this is all about our local multicultural community and how we, as one Canberra, come together and share, offer and celebrate all that we are. I look forward to the challenge of how we can do bigger and better for next year.

Finally, and on what is probably not such a positive note, whilst I was caught up in the enthusiasm and success of the Multicultural Festival and how we in Canberra embrace a positive view on multiculturalism, I opened the paper and turned on the local radio to hear that one of our local Liberal representatives had tabled the most racist and offensive petition that I had seen for some time. Further, it is disappointing that our local Liberal representatives have not thought to distance themselves from that. I encourage them to do so—to distance themselves from their federal counterpart and that racist petition—and to respond positively rather than negatively to the Islamic community's disappointment in their actions and, can I say, anger at the Liberal Party's apparent position on supporting such a racist petition.

Queensland flood relief appeal Schools—Rosary primary school

MR SESELJA (Molonglo—Leader of the Opposition) (6.18): On Thursday, 3 February I had the great pleasure of attending the Queensland flood relief appeal dinner at La Scala Italian restaurant, along with around 100 other people. Official guests included Mr Scott Buchholz, the federal member for Wright, international cricketers Sir Ian Botham and Stuart MacGill, and local golfer Brendan Jones.

Local Canberra district wineries, together with many Canberra businesses, combined to donate their goods and services to make the event a successful money-raiser for the flood victims. It was organised by Michael Tabart from the ACT Wine Industry Network and Gab Saccardo, owner of La Scala Italian restaurant. The money raised will go specifically to the people of Grantham in Mr Buchholz's electorate.

Mr Tabart and Gab Saccardo said that they, like so many Canberra people, had been particularly touched by the heartbreaking events in this part of Queensland and they wanted the moneys raised to help a specific person or persons or project in this area. Mr Tabart's own family was personally caught up in the Toowoomba floodwaters—his mother-in-law in the deluge, his brother-in-law swept off the range on the way driving to Brisbane and missing for 48 hours and other numerous relatives affected by Brisbane's and Rockhampton's floodwaters. To quote Mr Tabart:

Putting something together to initially raise \$1000-\$1500 was our modest aim, but the event snowballed through the generosity of Canberra businesses and specifically the district's wineries.

While final moneys are currently being counted, it is anticipated that a cheque for \$40,000 will be ready for handover later this week. He continues:

The \$40,000.00 represents monies from the Dinner/Auction, our January Wine Warehouse Sale and a Sunday morning Brunch.

Mr Tabart goes on to say:

We are still being approached with items to Auction and hope to present these to the Federal Member for Wright to take back to his electorate for further fundraising.

Mr Tabart and Mr Saccardo would like to express their appreciation for the support they have received from so many businesses and individuals. In particular, Atlantis Logistics was responsible for arranging the attendance of Sir Ian Botham, Stuart MacGill and Brendan Jones at no cost. The Realm supplied accommodation. The *Canberra Times* and Westpac Bank each contributed so much, while local businessmen Craig Miller, Richard Tindale and George Panagakis were extremely generous with donations and purchases.

The evening would not have been complete without the fantastic support of local radio station 2CA and the wonderful MCs for the evening, Greg "Robo" Robson and Angie Clairvoyant, and auctioneer Richard Keeley from Luton Properties. A full coverage of photographs appeared in Sunday's *Canberra Times* and supplementary photos were taken by Ray Lalic of Blue Property Marketing.

I would like to conclude by saying what a sensational event it was. It raised far more than was expected. It showed the generosity of a lot of people. Individuals, ordinary Canberrans, came along and some parts of the business community were very generous with their donations and with buying auction items. In fact, one very generous individual purchased a bottle of wine for around \$2,000 and then donated it

back so that it could be re-auctioned where it got another \$1,500 or so. That kind of generosity helped to raise around \$40,000 which is fantastic.

I would like quickly to make mention of Rosary primary school. Recently I had the pleasure of attending their official opening and the blessing of the refurbishment of their school facilities. John Brennan, the chair of the Rosary school board, welcomed us there. Of course Ms Moira Najdecki from the Catholic Education Office was there. It was presided over and celebrated by Bishop Pat Power, and I pay tribute to him. Other people who participated included Elizabeth Greig, who is a Rosary parent; William Gibbs, a student; Jeff Yates from the Catholic Education Office; Steven Cetrtek, who was the architect there; Shannon Henry, one of the teachers; and also Maureen Doszpot, the principal.

Maureen Doszpot does a sensational job. Rosary is a wonderful school. I have had the opportunity to visit there a couple of times in recent months and attend their assemblies. I am always impressed by the students, by the parents and by what a really wonderful school community it is. I have put it on the record before, but I would like to thank them again for the opportunity to attend and be part of it. I pay tribute to all of the parents, to all of the teachers and, indeed, to Mrs Doszpot, who does a wonderful job for a wonderful school.

St Mary MacKillop Catholic College

MR DOSZPOT (Brindabella) (6.23): Today, I had the pleasure of attending the St Mary MacKillop College honours assembly in my capacity as shadow minister for education and I would like to thank the principal, Mr Michael Lee, and his executive staff, Mrs Michelle Marks, Ms Sandra Darley and Mr Paul O'Callaghan, for the fantastic organisation that went into making the honours assembly such a great occasion for quite a few hundred students this morning.

The recipients today included Jordan Pitt, MacKillop 2010 dux. Jordan was also the recipient of the BSSS Indigenous student award of the year for 2010. The award for outstanding achievement in community service went to Monique Wilks, while the 2010 recipient of the Rohan Schultz per ardua ad astra award was Zac Marsh. The recipient of the 2010 Mary MacKillop award for Christian leadership was Monique Wilks, and the Caltex all-rounder awards for 2010 went to Jennifer Tabur and Patrycja Nowak. The 2010 principal's award went to Alexandra Kellar.

Then we had the presentation of the Penola faculty awards:

- The faculty of religious education: religious studies, Heath Cameron and Nelson Mendonca.
- The faculty of English: Nelson Mendonca and Brendon Stephens.
- The faculty of food and textiles: Grace Searson, Karina Bennett, Robert Tomati and Hannah Hollis.
- The faculty of information technology: information technology, Paige Crowley and Brendon Stephens; business administration, Kimberly Budgen; media, John Culhane and Rhianne Wode.

- The faculty of mathematics: specialist mathematics, Nelson Mendonca; mathematical methods, Emily Colonna; mathematical applications, Thomas Long; mathematics general, Ellie Schnider; maths for living, Alex Edmond.
- The faculty of physical education: human movement, Timothy Walshe; sports development, Regan Morris.
- The faculty of science: biology, Rebecca Evans and Zachary Cayirylys; chemistry, Ellyn Bicknell; physics, Bowan Shelton.
- The faculty of studies of society and environment: history, Emily Colonna and Zachary Cayirylys; geography, Rebecca Evans; economics, Nelson Mendonca; behavioural sciences, Emily Colonna; business management, Seanne Inkpen; legal studies, Nelson Mendonca and Ellyn Bicknell; work education, Mitchell Tate-Allum.
- The faculty of studies of technology: furniture construction, Jackson Tahapehi.
- The faculty of visual arts: visual art, Hiba Attar.
- The faculty of performing arts: dance studies, Jennifer Hawke; drama, Jack Burgess and Bernadette Healy; holistic music, Adam McDonnell.
- The faculty of LOTE: continued Japanese, Peter Kongmalavong.

Academic excellence awards for 2010 went to Nelson Mendonca, Emily Colonna, Ellyn Bicknell, Emily Warren, Paige Crowley, Timothy Walshe, Alice de Rooy, Hannah Hollis, Kaitlin Mott and Tess Parisotto. Outstanding application to studies awards for 2010 went to Genevieve Crutchley, Kimberley Budgen, Rebecca Evans, Jackson Tahapehi, Emily Suthern, Seanne Inkpen, Bernadette Healey, John Culhane, Heath Cameron, Regan Morris, Ruth Albertson Kill, Bowan Shelton, Daniel Rankin, Aleira Plath, Kirsty Myssonski, Kira Moloney, Cassandra Layne, Hiba Attar, Mitchell Tate-Allum, Charlotte Ransom, Daniel Poole, Aisha Ozolins, Lucas O'Neill, Peter Kongmalavong, James Hollands, Jennifer Hawke, Tori Foster, Hannah Davis, Sarah Bowyer, Timothy Johnson and Rebecca Giles.

MacKillop community service awards for 2010 went to Adam Refki, Kit Sharman, Ellyn Bicknell, Seanne Inkpen, Max McKinnon, Regan Morris, Emily Colonna and Kate Tillack. Certificates of appreciation for SRC leadership went to Seanne Inkpen—(*Time expired.*)

Canberra Club

MR COE (Ginninderra) (6.28): I rise tonight to put on the record my support and congratulations to a place which really is an institution in the ACT, that place being the Canberra Club. The Canberra Club recently celebrated its 80th birthday and I had the pleasure of attending the celebrations on 5 February, of course at the Canberra Club. It was a fantastic evening, with a relaxed atmosphere, and one where we all got to celebrate the past and look forward to the future of the club.

In recent times, the club have made some very important strategic decisions about how they are going to continue operating. They have consolidated onto one level, they have refurbished the premises and they have made a few other exciting changes, including bringing the kitchen and the kitchen staff back in-house, which is something that they are very happy with and, I believe, is going extremely well. The food that we ate on the evening was certainly a tribute to that decision.

I would like to put on the record my thanks to the board of the Canberra Club, the president, Ray Dawson, the vice president, John Bundock, and the directors, Neil James, John McDermott, David Ward, Rick Reeks, Chris Stephens and Michael Jamieson.

The celebration on 5 February featured Ita Buttrose AO, OBE as the guest speaker, and she delivered a fantastic speech. She has had a very interesting life, including, of course, as the founding editor of *Cleo*, working for *Women's Weekly*, editor of the *Sydney Daily Telegraph* and the *Sunday Telegraph*, amongst many other things. It really was a fascinating presentation she gave and a fascinating link to Canberra. The stories that she told of her time in Canberra when she was working in the press gallery and doing other media work in Canberra were quite fascinating and a wonderful link and a wonderful correlation to the work of the Canberra Club over the last 80 years.

As a piece of trivia, I understand the Canberra Club was the second venue in the ACT to be granted a licence to serve alcohol, beaten just by a few hours or by a day by the Royal Canberra Golf Club, which I think is something which might annoy the club slightly, that they just missed out, but it certainly does show the role that the Canberra Club has had in the development of Canberra as a place where men until 1995, and men and women since have been able to share times with each other in a casual and relaxed atmosphere.

I would like to commend Neil Patchett, the general manager of the Canberra Club, for the great work he is doing there. They are certainly making, as I said earlier, some important strategic decisions about the future of the club. They are tough decisions and ones that do not always rest well with the membership. In well-established organisations, that sort of change can be hard to take but I think he and the directors are doing a great job.

Finally, I would like to thank Tracee Hancock for her work in putting together the function. She does a great job as manager of the functions and the work that she did in putting that event together was superb and was borne out by everyone having a fantastic time.

So, in conclusion, I congratulate the Canberra Club on their 80 years to date and look forward to the exciting future the club has to offer the people of Canberra.

Question resolved in the affirmative.

The Assembly adjourned at 6.33 pm.

Schedules of amendments

Schedule 1

Workplace Privacy Bill 2010

Amendment moved by Ms Bresnan

1
Clause 11 (1), definition of conduct
Page 6, line 3—

omit the definition, substitute

conduct surveillance—a person **conducts** surveillance if the person—

- (a) conducts the surveillance personally; or
- (b) causes someone else to conduct the surveillance.

Schedule 2

Workplace Privacy Bill 2010

Amendments moved by the Attorney-General

1
Proposed new clause 16 (2) and (3)
Page 11, line 3—

insert

- (2) For subsection (1) (a), the policy must state—
 - (a) how the employer's computer resources may, and must not, be used; and
 - (b) what information about the use of the employer's computer resources is logged and who may access the logged information; and
 - (c) how the employer may monitor and audit a worker's compliance with the policy.

- (3) In this section:

computer resources includes internet access and electronic communication applications.

2
Clause 18 (1), penalty
Page 11, line 16—

omit the penalty, substitute

Maximum penalty: 20 penalty units.

3
Clause 18 (2), penalty
Page 11, line 22—

omit the penalty, substitute

Maximum penalty: 20 penalty units.

4
Clause 18 (3), penalty
Page 12, line 3—

omit the penalty, substitute

Maximum penalty: 20 penalty units.

5
Clause 18 (4), penalty
Page 12, line 8—

omit the penalty, substitute

Maximum penalty: 20 penalty units.

6
Clause 22 (1), penalty
Page 15, line 12—

omit the penalty, substitute

Maximum penalty: 50 penalty units.

7
Clause 22 (3), penalty
Page 16, line 6—

omit the penalty, substitute

Maximum penalty: 50 penalty units.

8
Clause 23 (2)
Page 16, line 11—

omit clause 23 (2), substitute

(2) If an employer fails to allow the worker to have access to surveillance records under subsection (1), the records must not be used by the employer—

(a) in a legal proceeding between the employer and the worker;
or

(b) to take adverse action against the worker.

Note **Adverse action**—see the Fair Work Act 2009 (Cwlth), s 342.

9
Clause 23 (3)
Page 16, line 14—

omit everything before clause 23 (3) (a), substitute

- (3) Subsections (1) and (2) do not apply if—
- (aa) disclosing the surveillance records would be an offence under section 22 or otherwise unlawful; or

10

Proposed new clause 29 (2) (aa)

Page 22, line 15—

insert

- (aa) is independent of the employer; and

Example

the person is not an employee of the employer

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

11

Clause 35 (1), penalty

Page 24, line 25—

omit the penalty, substitute

Maximum penalty: 50 penalty units.

12

Clause 39 (1), penalty

Page 28, line 26—

omit the penalty, substitute

Maximum penalty: 50 penalty units.

13

Proposed new clause 41 (2) (fa)

Page 32, line 14—

insert

- (fa) a first-aid room;

14

Clause 42 (1), penalty

Page 32, line 19—

omit the penalty, substitute

Maximum penalty: 50 penalty units.