



Debates

WEEKLY HANSARD
SEVENTH ASSEMBLY

Legislative Assembly for the ACT

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Tuesday, 3 May 2011

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Tuesday, 3 May 2011

The Assembly met at 10 am.

(Quorum formed.)

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

Legislative Assembly—warnings Ruling by Speaker

MR SPEAKER: Members, I wish to make a Speaker's ruling regarding warnings given by the Speaker and dissent from Speaker's rulings motions. Members will recall that twice this year, on 10 March and again on 7 April, there were motions moved by leave expressing dissent from Speaker's rulings. Both of these motions were moved after the chair warned a member. I would draw members' attention to page 188 of the *Companion to the Standing Orders of the Legislative Assembly for the Australian Capital Territory*, which states:

In naming a Member, the Speaker is not making a ruling; thus there is nothing before the Chamber to dissent from.

Further guidance on this matter can be found at page 189 of *House of Representatives Practice*, which states:

It is not in order to move dissent in relation to the allocation of the call, which is a matter for the Chair's discretion.

It follows from those statements that, if a naming of a member is not a ruling, neither is a warning. In fact, there is no requirement in the standing orders for a warning to be issued to a member; rather, it is a practice of the chair extended to members to facilitate the conduct of the chamber and signal the chair's expectation. On this basis, the two incidents this year should not be seen to have created a precedent, and I advise members to have regard to the fact that warnings issued by the chair do not constitute grounds for a dissent motion.

Justice and Community Safety—Standing Committee Report 2—government response

MR CORBELL (Molonglo—Attorney-General, Minister for the Environment, Climate Change and Water, Minister for Energy and Minister for Police and Emergency Services) (10.04): For the information of members, I present the following paper:

Justice and Community Safety—Standing Committee—Report 2—*Inquiry into the Crimes (Murder) Amendment Bill 2008*—Government response, dated May 2011.

I move:

That the Assembly takes note of the paper.

MRS DUNNE (Ginninderra) (10.05): I note that the attorney has taken 20 months to respond to this report, that this was a significant inquiry and that there was one item that the attorney responded to very expeditiously because it was useful for him to do so. But it is interesting that the government has been quite slack in responding to the rest of these matters.

I think it is interesting that, in relation to the substantial recommendation specifically in relation to the ACT Law Reform Advisory Committee, the government has not agreed with this recommendation. I think that the law reform advisory role that we have seen under the Labor government has declined substantially, and this is a matter of some concern. It is interesting that the government will not take the advice of all parties in this place, because this was a unanimous report representing all parties in this place that the government should raise the status of the law reform advisory processes in the ACT. I think that we are the poorer for it.

We see the poor policy formulation that is coming from the Attorney-General and we think that it is indicative of the fact that he will not take advice from anyone, even his own colleagues in committees, on these matters. I do note that the attorney has agreed in principle with the second recommendation, which is to refer the matter of the uniformity of murder provisions to SCAG. I welcome that. I hope that that will result in some progress.

I also note that the government has not ruled out the possibilities of reviewing the increase in the penalties for manslaughter and generally a review of penalties in the Crimes Act. However, seeing that we have waited 20 months for this response, I think that the people of the ACT will wait a very long time for that review to come about.

I think that the attorney, because he had nothing to say today, is embarrassed by his poor performance in this matter. I think that the paucity and shallowness of the response that really they cannot say no to the very sensible recommendations of the Standing Committee on Justice and Community Safety in relation to reviewing the penalties in the Crimes Act means it is one of these matters that have been put on the never-never, and I do wait with anticipation but not with bated breath for this review to unfold.

Question resolved in the affirmative.

Standing and temporary orders—suspension

MR CORBELL (Molonglo—Attorney-General, Minister for the Environment, Climate Change and Water, Minister for Energy and Minister for Police and Emergency Services) (10.08): I move:

That so much of the standing and temporary orders be suspended as would prevent:

- (1) any business before the Assembly at 2.30 p.m. this day being interrupted to allow the Treasurer to be called on forthwith to present the Appropriation Bill 2011-2012 and the Financial Management (One ACT Public Service) Amendment Bill 2011;
- (2) (a) questions without notice concluding at the time of interruption; or
(b) debate on any motion before the Assembly at the time of interruption being adjourned until the question “That debate on the Appropriation Bill 2011-2012 be adjourned and the resumption of the debate be made an order of the day for the next sitting” is agreed to;
- (3) at 2.30 p.m. on Thursday, 5 May 2011, the order of the day for resumption of debate on the question that the Appropriation Bill 2011-2012 be agreed to in principle, being called on notwithstanding any business before the Assembly and that the time limit on the speeches of the Leader of the Opposition and the ACT Greens Parliamentary Convenor be equivalent to the time taken by the Treasurer in moving the motion “That this bill be agreed to in principle”; and
- (4) (a) questions without notice concluding at the time of interruption; or
(b) debate on any motion before the Assembly at that time being adjourned until a later hour that day.

This motion is the regular machinery motion that permits the Treasurer to present the budget bill and associated legislation at 2.30 pm today, interrupting question time and according equal time for the Leader of the Opposition and the Parliamentary Convenor of the Greens to respond to the agreement in principle of the bill on Thursday.

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

Justice and Community Safety—Standing Committee Scrutiny report 36

MRS DUNNE (Ginninderra) (10.10): I present the following report:

Justice and Community Safety—Standing Committee (performing the duties of a Scrutiny of Bills and Subordinate Legislation Committee)—Scrutiny Report 36, dated 29 April 2011, together with the relevant minutes of proceedings

I seek leave to make a brief statement.

Leave granted.

MRS DUNNE: Scrutiny report 36 contains the committee’s comments on nine bills, three government responses, one private member’s response and proposed amendments to the Courts Legislation Amendment Bill 2010. The committee has held over consideration of the Education and Care Services National Law (ACT) Bill 2011 until its next report.

I also remind members that the committee is still trialling the consideration of amendments to bills for the remainder of this Assembly, and so I encourage members to provide proposed amendments to the committee. As I stated in the Assembly last July, amendments should be new, that is, not arising out of any previous scrutiny report and should fall within the purview of the committee's terms of reference. To enable consideration of amendments, they should be submitted at least 14 calendar days prior to the day proposed for further consideration of the bill.

The report was circulated to members when the Assembly was not sitting. I commend the report to the Assembly.

Public Accounts—Standing Committee

Statement by chair

MS LE COUTEUR (Molonglo): Pursuant to standing order 246A, I wish to make a statement on behalf of the Standing Committee on Public Accounts in relation to the committee's consideration of the audit office's 2011-12 budget submission.

Pursuant to section 22 of the Auditor-General Act 1996, the committee is provided with a role in determining the annual appropriation available to the Auditor-General. The committee considers the draft budget estimates of the Auditor-General and makes a recommendation to the Treasurer regarding the proposed appropriation and provides the Treasurer with the Auditor-General's draft budget.

This provision creates a process whereby the Legislative Assembly, through the committee, advises the Treasurer regarding the resources that should be made available for the operations of the audit office for the respective financial year. The committee resolved that this year it would also inform the Assembly of the outcome of its consideration of the audit office's 2011-12 budget submission.

The committee notes that, in its report inquiring into the ACT Auditor-General Act, it recommended that the committee, as part of its consideration of the audit office's draft budget estimates, be formally required to make a report to the Legislative Assembly, as part of the budget process, on the level of funding required by the Auditor-General.

To the degree that the Auditor-General's proposed budget for 2011-12 is sufficient to maintain the current level of service and permit their discharge of the statutory responsibilities required for the office, the committee fully supported and endorsed the proposed budget for 2011-12. However, the committee also recommended that a funding model supporting growth in the performance audit program be initiated as part of the 2011-12 budget.

The committee notes that financial audits are a statutory requirement and that it supports the current level of financial audits. The following comments are made with reference to the performance audit function.

In the case of the performance audit program, the proposed budget for 2011-12 is targeted to deliver six performance audits. The committee notes the findings of the

independent performance audit of the operations of the ACT Auditor-General and the ACT audit office. That audit commented:

... the existing performance audit function is viable, but just so ...

The size of the program provided by the current level of funding makes it difficult for the office to plan a series of successive audits on a particular theme such as environmental protection, governance or risk management.

The committee believes there would be considerable benefit to the ACT community and the Legislative Assembly if a funding model supporting growth in the performance audit program was developed and instituted as part of the 2011–12 budget.

The committee therefore recommended that the office receive additional funding to support growth in its performance audit function for 2011–12 to 2014–15. It was recommended that the office receive additional appropriation, in the first instance, to deliver two extra performance audits in 2011–12, two extra performance audits in 2012–13, one extra performance audit in 2013–14 and one extra performance audit in 2014–15.

By way of background, the committee recommended, without success, in 2009 that the office be funded to support growth in the performance audit function. The committee has again recommended additional funding to support growth in this audit function because it believes that the Assembly and the ACT community would be served well by the cost effectiveness of such an investigation in terms of its contribution towards (1) strengthening accountability for government performance and (2) identifying improvements in public administration and delivery of services.

The committee also notes that its request for additional funding is further supported by the following points. Firstly, compared to other jurisdictions, the office is significant in having a strong performance audit mandate as provided by legislation. Secondly, performance auditing provides an important role in governance and accountability. This is on the basis that financial auditing provides some assurance at a point in time, but it does not provide audited agencies, parliament or communities with any assurances about the government's service performance. Performance auditing provides such assurances. Thirdly, increasingly, on this basis, parliaments are seeking to support growth in their respective Auditor-General's performance audit functions.

The committee looks forward to the ACT Auditor-General's Office being funded to support an expanded performance audit program.

MR SMYTH (Brindabella), by leave: I thank Ms Le Couteur as chair for making that statement on behalf of the public accounts committee. It is an important issue. Later today, the budget will be made public. If you are looking for savings and efficiencies, one of the ways that governments can do that, of course, is to take the advice of the Auditor-General.

Around the world—indeed, around Australia—the standard that is normally accepted is that for every dollar you spend on the Auditor-General you can save \$9 or \$10 through increased efficiencies, through the advice that comes from an external body. If we are serious about making savings and improving service levels, clearly one of the ways that you can start that process is to back the Auditor-General.

The report last year into the Auditor-General's Office said that, with respect to the performance audit function, the funding that was currently devoted to it made it barely viable, and I think that is a shame. The ACT have in many ways led on performance auditing. They have been very successful—on both sides. Governments do not like criticism; they do not like getting reports that might call into account what they have been doing.

At the same time, if you are fair dinkum about looking out for the ordinary citizens of the ACT and ensuring that they get best value for their dollar, the taxpayers' dollar, which is what government is spending, one of the ways you can do that is to fund the Auditor-General. I am sure we all look forward to finding out later in the day what that figure will be.

What the public accounts committee has suggested is a sensible path forward. It is not saying, "Let's just double the budget," or some figure that we have plucked out of the air. We have consulted with the audit office. They have said that the costs are very well known for each performance audit, and what we have said is that we need to move to a path where we will be doing, as a minimum, some 12 performance audits a year, but hopefully we will see that get from 12 to 14 or 15 a year.

We have recommended that in the next couple of years there be two extra audits funded and then in the years after that one each. It is a very sensible and very reasonable path forward. Indeed, I look forward to seeing whether or not this government are willing to accept the advice of the audit office—whether they actually are willing to fund it to a level that will make savings for them or allow them to deliver extra services, which of course will take pressure off the cost of living for ordinary Canberrans and their families.

We need to ensure, though, that the audit office is viable. We need to ensure that we work towards the percentage which is emerging around Australia and around the world—as a rule of thumb, that you would like to be seeing about half the expenditure of the audit office on financial audits. Under our act they are mandated, they are statutory; so they have to be done. They currently absorb about 70 per cent of the audit office funding.

We want to see it move to a point where we are getting about a fifty-fifty split. We have proposed a very sensible path that will allow it to grow. That also means that the audit office can recruit the staff that are required. Qualified auditors and the sorts of staff required to do this work are getting quite rare. There is a big battle here in the ACT among our audit office, the National Audit Office, the departments and the various firms that work here.

It is a reasonable statement that the public accounts committee has made. I hope the government has taken it on board and understands what is required for the audit office. I look forward to all members of this place supporting the Auditor-General because, at the end of the day, in a unicameral house, the audit office takes on even more importance. Certainly, if you want to add efficiencies, if you want to make savings, if you want to take the pressure off the cost of living of Canberra families, one of the ways to do it, one of the most effective ways to do it, is to listen to your Auditor-General.

Courts Legislation Amendment Bill 2010

Detail stage

Clause 1 agreed to.

MRS DUNNE (Ginninderra) (10.22): Clause 1 has been agreed by members of the opposition. I want to take this opportunity to table the supplementary explanatory statement that goes with the amendments—both the supplementary explanatory statement and the amendments that have been circulated. This is just a formal matter of tabling. I seek leave to table the supplementary explanatory statement.

Leave granted.

MRS DUNNE: Thank you, members. I table the following paper:

Supplementary explanatory statement to the amendments.

Clause 2.

MRS DUNNE: I move amendment No 1 circulated in my name in relation to the commencement of this legislation [*see schedule 1 at page 1729*].

Today I am proposing a series of amendments to the government's bill. The primary purpose of the government's bill is to reduce the workload on the Supreme Court and to give it a chance to catch up on its backlog. In seeking to achieve this outcome the government's bill redefines an indictable offence to be one that carries a penalty of more than five years. Currently it is two and previously it was one year. This would result in a serious derogation of the rights of defendants to have their serious matters heard before a jury. It means that all matters that carry a penalty of five years or less would be dealt with as a summary offence in the Magistrates Court and that defendants would have no right to elect for a jury trial.

But it was not as simple as that, Madam Assistant Speaker, for the government wanted to ensure that some offences remained caught by the definition of indictable offence. In the government's amendments there are a range of consequential provisions that would seek to redefine what an indictable offence is across a range of offences.

The scrutiny report raised serious concerns about the government's approach, as did the legal profession. The ACT Law Society, the ACT Bar Association and Civil

Liberties Australia put forward an alternative approach that would preserve the right to jury trials but at the same time would assist the Supreme Court to overcome its backlog woes. Its approach was to provide that the prosecutor should be enabled to make an election that an offence carrying a penalty of two to five years be heard summarily. My amendments embrace that approach.

I put forward these amendments for four reasons. Firstly, they are very simple but achieve essentially the same proposed outcome as the government's proposal—that is, addressing the backlog. Secondly, the derogation of the right to a jury trial is significantly less than the government's proposal. Thirdly, it is subject to review after two years of operation. My hope is that, by the time the review takes place, the Supreme Court will largely have fixed its backlog and that accordingly the provisions proposed today, if passed, will no longer be required. Fourthly, the amendment can be easily reversed and certainly much more simply than would be required to repeal the provisions set out in the government's bill or the alternative approach suggested by the Greens.

I want to acknowledge the work of the ACT Law Society and the Bar Association. The amendments I am proposing today are not mine alone. They come from the legal profession and they are a result of extensive collaborative work between me, my office in particular, and the legal fraternity.

I turn to the first of the amendments I propose today. This amendment anticipates a range of amendments, which I have foreshadowed, and which, if passed, will obviate the need for the clause as presently constructed. It simply provides that the act commences on the sooner of the Attorney-General's written notice or six months after notification. I commend the amendment to the Assembly.

MR RATTENBURY (Molonglo) (10.27): As I indicated in the in-principle debate, the Greens will be supporting the package of amendments that are being proposed by Mrs Dunne. I will not go over the comments we made in the in-principle debate—we will come to more of it further into the debate—other than simply to say that we will be broadly indicating support for this package and we will be supporting amendment No 1 as it provides a new commencement clause, which, of course, is needed as the existing commencement refers to sections that have been deleted.

MR CORBELL (Molonglo—Attorney-General, Minister for the Environment, Climate Change and Water, Minister for Energy and Minister for Police and Emergency Services) (10.27): The government will be reluctantly supporting the amendments proposed by Mrs Dunne because we believe that some reform in this area is better than no reform. Of course, the prospect for the government, if these amendments are not agreed to, is that the bill will not pass in any form. That is regrettable from the government's perspective.

We continue to assert that the proposals put forward in the government's bill are the simplest and most effective mechanism to address the backlog in the Supreme Court, given the refusal of the Assembly to consider more significant structural reform and the establishment of a middle tier in our court system and a district court. That said, the proposals put forward by Mrs Dunne today are not optimal from the government's

perspective but, in terms of the drafting and operation, they are preferable to the alternative proposed by Mr Rattenbury on behalf of the Greens.

I think it is just worth making a couple of points at this point in the debate. I will not be engaging in the specific clauses because the mechanics of what Mrs Dunne and, indeed, Mr Rattenbury, have indicated they propose to implement through their amendments are, I think, now well understood by this place.

The issue that comes about is the right of access to a jury trial. The government recognises and reaffirms the importance of a jury trial. But we also recognise and reaffirm that it is all very well to assert the importance of access to a jury trial, but unless you also recognise the importance of accessing justice in a timely manner then such assertions are quite meaningless. That, of course, is the issue the government is seeking to address.

The right that is protected under the Human Rights Act is the right to a fair trial. The government would argue, and I do not believe anyone can reasonably or responsibly assert otherwise, that our magistrates are capable of dealing with matters that face penalties of up to five years in prison. I do not think anyone would doubt the competence or the impartiality of our magistracy to deal with such matters and to deal with them in an expedient and straightforward manner. That, really, is the issue that the government is trying to deal with in this bill and why the government adopts the approach it does in relation to the amendments that are now being proposed.

The fact is that in a small jurisdiction we should be utilising our judicial resource in an efficient and effective manner. We will never have the luxury of a large bench of judges to deal with the broad range of matters that are currently before the Supreme Court. The luxury that we have enjoyed up until now has gone; it has evaporated. It will not come back. With the growing size of the city, we will continue to face pressures in the administration of justice unless we more equitably share the workload between the two tiers of our court system that we currently have available to us. It makes no sense to have a large number of competent, professional and respected magistrates unable to deal with a broader range of matters and having a smaller number of judges having to deal with an inordinately large range of matters. That is the issue that the government seeks to address in this bill.

I put it on the record again, as I have repeatedly in the past, but it is worth saying it again, that without structural reform in our courts these types of reforms that the government will reluctantly support today in the amended form proposed by Mrs Dunne will simply not be adequate. I fear very much that in 18 months or two years time this Assembly will again be debating the issue of a backlog or delay in the Supreme Court with matters being listed for an inordinate amount of time before they are heard before a judge and people potentially being remanded in custody for extended periods of time because this place has not been prepared to grasp the nettle of serious structural reform about the way our courts operate. That, Madam Assistant Speaker, will, I think, be a debate for another day.

The government will support these amendments reluctantly, as I say. The mechanism is simpler and less open to injunctive orders than the mechanism proposed by

Mr Rattenbury. For that reason, as it is the lesser of two evils, the government will be supporting these proposals.

MRS DUNNE (Ginninderra) (10.33): I think we need to put it on the record—and the minister has, to some extent, put it on the record—that we are debating the Courts Legislation Amendment Bill today because the government feels the need to address the backlog in the courts. There are many ways in which the government could address the issue of the backlog in the courts. I think that the minister is correct when he says that there is a need for structural reform. He is pretty miffed that his version of structural reform has been roundly rejected by everybody else in the community. No-one had a good word for the proposal brought forward exactly a year ago today by the minister for a virtual district court and he is miffed about it.

It is true that we in this place will continue to address the issue of reform of the court system in the ACT. It is true that perhaps in 18 months time we will be back here in this place debating structural reform in the ACT court system. But it will be done with the Canberra Liberals on the government benches and the Canberra Liberals leading the debate and taking the Law Society, the Bar Association and the general legal fraternity with them rather than attempting to ride roughshod over them.

There are many approaches that we could take. The government put forward one fatally flawed one and said, “Well, we’ve done our bit.” They have now thrown up their hands. It will be the Canberra Liberals who will lead reform in this matter in the ACT because Simon Corbell has failed to do so. He went to the last election with a policy for a unified court system. But what we came up with last year in the 2010 budget was the absolute antithesis of a unified court system. It was a more disjointed court system than the one that we currently have.

Mr Corbell is correct to say that we have many eminent magistrates who have the capacity to deal with complex matters. But he does not give them the capacity to do so. In this bill he does not give magistrates the capacity to deal with complex matters; he derogates the rights of defendants to a jury trial. The Canberra Liberals are not prepared to lightly legislate away a 700-year-old tradition of a right to a jury trial because Simon Corbell cannot get his act together. We are not prepared to legislate away forever the right to a jury trial because Simon Corbell has not addressed the backlog in the courts.

There will still be a backlog in the courts after this debate today, Madam Assistant Speaker, and that is unfortunate. There will be people who will wait an inordinate length of time before their matters are heard in the Supreme Court. Some of those people will be on remand for long periods of time. I regret that, but in saying that there are rights that are being infringed I am not prepared to legislate away other rights to address that.

Simon Corbell has had five years as Attorney-General to address these matters. The law fraternity in the ACT, the prosecutors, the defending lawyers and prisoners’ rights organisations have been clamouring for reform for all that time and more. He will not lay at the feet of the Canberra Liberals responsibility for his failures. His failures are legion. They are highlighted today by, again, his failure to bring forward reform. His

reforms are flawed and they are unjust. That is why the Assembly is voting against them today.

Amendment agreed to.

Clause 2, as amended, agreed to.

Clause 3 agreed to.

Schedule 1.

Parts 1.1 and 1.2, amendments 1.1 to 1.6, by leave, taken together.

MRS DUNNE (Ginninderra) (10.39): by leave: I move amendments Nos 2 and 3 circulated in my name together [*see schedule 1 at page 1729*].

These amendments omit amendments 1.1 to 1.6 from schedule 1 to the bill. These amendments anticipate a range of other amendments which I have foreshadowed. The purpose of these amendments, if passed, is to obviate the need to redefine indictable offences as contemplated in the bill. There are a number of other amendments later which will do the same thing. I commend the amendments to the Assembly.

MR RATTENBURY (Molonglo) (10.39): The Greens will be supporting these amendments as they remove consequential amendments proposed by the government that have been rendered unnecessary now that the government's proposal will not be implemented.

Amendments agreed to.

Parts 1.1 and 1.2, amendments 1.1 to 1.6, as amended, agreed to.

Part 1.3, amendments 1.7 to 1.9, by leave, taken together.

MRS DUNNE (Ginninderra) (10.40): I move amendment No 4 circulated in my name [*see schedule 1 at page 1729*].

This amendment, like the previous amendments, anticipates essentially amendment No 9 which is coming up a little later, which is the main amendment. If passed, this amendment does two things. First, it obviates the need to redefine indictable offence as contemplated in the bill and, secondly, it amends the definition of serious offence for the purposes of the Bail Act 1992.

The amended definition will exclude from the definition of serious offences those offences for which an election is made for summary disposal under section 374. This is a consequential amendment which was drawn to my attention by members of the Criminal Law Group in the ACT Law Society.

The way the Bail Act currently operates means that there is lesser scope for deciding in favour of bail for someone who is being charged with a serious offence—that is,

something with a penalty of five years or more. But in this case, as matters are being dealt with summarily, the proposal is that the maximum penalty would be two years for those matters dealt with summarily.

There was a discontinuity. This amendment proposes to exclude those matters from the definition of serious offence so that we do not have the unintended consequence of people being remanded when they normally would be given the option of bail.

MR RATTENBURY (Molonglo) (10.43): The Greens will be supporting this amendment as well, as it updates the definition of serious offence for the purposes of section 9D of the Bail Act, to reflect the new model which will be created by later amendments.

Amendment agreed to.

Part 1.3, amendments 1.7 to 1.9, as amended, agreed to.

Parts 1.4 to 1.7, amendments 1.10 to 1.18, by leave, taken together.

MRS DUNNE (Ginninderra) (10.44), by leave: I move amendments Nos 5 to 8 circulated in my name together [*see schedule 1 at page 1729*].

Amendments 1.10 to 1.18 are from schedule 1 to the bill. Again, these amendments anticipate a range of other amendments which I have foreshadowed. Those amendments, if passed, will obviate the need to redefine indictable offences as contemplated in the bill.

MR RATTENBURY (Molonglo) (10.44): The Greens will be supporting these amendments as they remove consequential amendments proposed by the government that have been rendered unnecessary now that the government's proposal will not be implemented.

Amendments agreed to.

Parts 1.4 to 1.7, amendments 1.10 to 1.18, as amended, agreed to.

Parts 1.8 and 1.9, amendments 1.19 to 1.21, by leave, taken together and agreed to.

Part 1.10, amendments 1.22 to 1.26, by leave, taken together.

MRS DUNNE (Ginninderra) (10.46): I move amendment No 9 circulated in my name [*see schedule 1 at page 1730*].

This amendment omits amendments 122 to 126 from schedule 1 to the bill, relating to the Crimes Act, and inserts a new section 374 which sets out the substantive elements of the Canberra Liberals' approach which I outlined earlier. I note that during discussions we were talking about a new clause 375AA, but the ever-vigilant drafters pointed out yesterday that clause 374 had fortuitously been deleted some time previously; therefore we did not have to have AA numbering and we could go back to

374. If there is any confusion about amendments which were circulated for discussion earlier and this one, I point out that the drafters have found that there is a vacant clause 374.

By inserting a new section 374 we achieve the substantive elements of the Canberra Liberals' approach to the amendments to the courts legislation. My explanatory statement gives a detailed outline of the effect of such elements of this amendment and I do not propose to repeat them here because I dwelt on them at some length at the in-principle stage. Suffice to say that this amendment sets out the process by which the prosecution must make an election as to whether the matter carrying a penalty of between two and five years should be dealt with summarily rather than go to trial in the Supreme Court.

If the prosecution fails to make an election in accordance with the proposed provisions then the matter returns to the default—that is, it will be dealt with in accordance with the processes as they currently stand. It also sets out the maximum penalty that the court can apply.

I pause for a moment to reflect on this aspect of my amendment a little further. It is sometimes the case that the Supreme Court will deliver a sentence that is much less than the legislated maximum penalty. This amendment limits the court to delivering a maximum penalty of two years or \$5,000 or both. It is effectively a discounting of the maximum penalty that the Supreme Court might impose if a matter were heard in that jurisdiction.

Therefore, having legislated for what amounts to a discounted penalty, a couple of questions arise. Firstly, should the Magistrates Court consider any further discount at all on the two-year maximum penalty, given that the matter would have attracted a much higher sentence if it had been heard in the Supreme Court, or should the Magistrates Court consider a proportionate sentence based on what would have been imposed in the Supreme Court for the same offence? Or, further, should the Magistrates Court consider the sentence in the context of the maximum two-year penalty alone?

My amendment does not address this matter specifically, so it is a matter for the court's discretion as to how it might deal with this particular matter when it comes before it. Nonetheless, I consider that it is an important matter and I urge the government, should it still be in office, which is unlikely, to consider this matter in the context of the review in two years time and which is also established by this amendment. Certainly, if a Liberal government is in power, we will do so.

Finally, this amendment establishes that if a matter is on foot under the existing process when the amendment becomes law, the matter continues under the current process. There is a sunset clause provision of one year for this transitional arrangement. I commend this amendment, which is the centrepiece of the Canberra Liberals' reforms, 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) (10.50): This amendment provides for summary disposal of cases at the prosecutor's election. In particular, the provision provides that the DPP must make an election within 21 days.

I believe this raises some questions. Whilst not wanting to revisit the issue in principle about whether or not this is a desirable approach—I have already placed on the record the government's serious concerns with the approach that has been proposed—I want to deal with the mechanics of this particular clause.

I understand that the Director of Public Prosecutions has expressed reservations about the 21-day time period for him or his office to make an election. He has, I am advised, suggested a 42-day period instead. I am further advised that he has discussed this proposed change with the bar and other practitioners and has written to the opposition about the issue.

The director considers that in most cases he will be able to exercise his election within the proposed 21 days. However, he also believes that 21 days is too restrictive. For example, in some cases additional time may be required for the DPP to assess the material provided by the police in order to make an election—most importantly the statement of facts and criminal history. Many cases will clearly fall on one side of the line or another and a decision will be able to be made on the available material, but in some cases the DPP may want to make further inquiries of the police before committing to an election. The government's concern, based on the advice of the Director of Public Prosecutions, is that in these circumstances 21 days may not allow sufficient time.

This is an issue that Mrs Dunne needs to address in dealing with this clause. The government places on the record its concern that the time limit proposed may be insufficient in some circumstances to allow the DPP to make an informed election.

MR RATTENBURY (Molonglo) (10.53): This is the most substantive amendment today, and the Greens will be supporting it. The amendment creates the framework to determine which court will hear matters which carry a maximum potential sentence of between three and five years. Under the framework, the Director of Public Prosecutions will make the decision. This means that there will be no automatic referral of all matters in the three to five-year bracket to the Magistrates Court. This automatic referral was the model proposed by the government. Both the Greens and the Liberals indicated in the last sitting that we preferred a more refined approach such as that which has been put forward by Mrs Dunne today.

I will not go over those reasons for the more refined approach again as I did so in my comments at the in-principle stage. It is sufficient, however, to say that the amendment offers an approach that will ensure that serious cases that warrant a jury trial will have access to one. That is a well-established legal right, and I am pleased we have been able to work with the Canberra Liberals to guarantee it is respected in the ACT statute book and in our courts.

The Greens believe the amendment strikes the right balance between two competing rights: firstly, the right to be tried without unreasonable delay and, secondly, the right

to a jury trial. Each can pull in different directions. If we were to have a system where all charges were heard in the Magistrates Court, under their efficient and relatively streamlined processes, we would indeed have a speedy justice system. People would have their day in court quickly, and the right to be tried without unreasonable delay would be well and truly respected. On the other hand, if we were to go to the other extreme and give all defendants a full jury trial in the Supreme Court, then the wheels of justice would surely grind to a halt under the increased workload being placed on the courts.

Of course, neither extreme is realistic. The reason I draw them out is to illustrate the need for balance and to find a way through these two extremes. And we believe the amendment finds the best way through those two ends of the spectrum.

What the amendment will do is divert more cases to the Magistrates Court than are currently being heard there. This will play a part in getting the most efficient use out of our existing judicial resources and in turn work towards people having their day in court more quickly. On the other hand, the amendment will still retain access to a jury trial for more serious cases in the three to five-year sentencing bracket that do warrant it. We believe the data backs this up.

The framework gives a critical role to the DPP. It will be the DPP who makes the election as to what court a matter is heard in. The scrutiny committee made comment on this issue when it was looking at amendments I had circulated. My amendments were similar to Mrs Dunne's and the comments it made on my amendments equally apply to Mrs Dunne's amendments.

Scrutiny posed the question of whether it was fair to vest in the DPP the power to decide which court hears a matter and, consequentially, whether it was fair that the DPP have the power of determining whether a defendant has access to a jury trial or not. In my response to scrutiny I noted:

I hold the view that the discretion proposed for the DPP is consistent with existing discretions. At the heart of the issue is whether it is right that the DPP can make a decision about whether a case against a defendant should proceed without access to a jury trial.

I do not believe this is fundamentally different to other discretions, most illustrative of which is the discretion of which charges should be pursued through the courts. Often police will lay multiple charges. It is then accepted practice for the DPP to decide which of these charges is most appropriate to continue with. In exercising this discretion the DPP may also ultimately be exercising discretion about access to a jury trial and maximum available sentence. This is because differing charges will have different penalties and will need to be pursued through different courts if they sit either side of the relevant threshold.

Seen in this light, I believe the amendments add a degree of formality and legislative backing to the scope of current accepted DPP practice. It is worthwhile noting at this point that there are two existing published guidelines from the DPP that cover the various discretion afforded to them (*Prosecution Policy* and the *Guidelines for Prosecutors*).

There are two points of detail I would like to make comment on. The first is the number of days in which the DPP must make the election. The amendment requires the DPP to make the election within 21 days. In the amendment I had drafted, I did not propose to create a time frame. However, in consultation with the legal profession, Mrs Dunne has imposed this legislative time frame. There was a suggestion made from those who will implement the framework that 42 days would be a better amount of time, and the attorney has made comment on that.

I believe there are arguments both ways, and I am satisfied that 21 days is an adequate time frame within which the DPP can make the election. If, after 12 months of operation, it is found to be too short, I expect that the Office of the DPP will make representations to the attorney. Alternatively, it is an issue that the two-year review can give further thought to, which brings me to the second point of detail I would like to make comment on.

As the scrutiny report has noted, the only way in which Mrs Dunne's amendment will differ from my own materially is the two-year review created by the amendment. I think this is a useful amendment, as it is a chance for data to be gathered on how this framework is operating in the courts. I would hope that this data would have been collected in any event, but the legislative requirement is always a good guarantee that the work will be done and made publicly available for the benefit of members who come to look at this issue in the future.

To conclude on this amendment, the Greens support it. We believe it is a good framework to pass into law, and we look forward to seeing it operate in the courts and having the impact that we believe it will.

MRS DUNNE (Ginninderra) (10.59): I have just a few comments on some of the matters raised, principally the matter of whether 21 days is an appropriate period for election or not. The period of 21 days was one that was arrived at through discussion and consultation, which is something that the attorney is not very familiar with. I do note that about 10 days or a fortnight ago I was copied into some correspondence between the DPP and the Department of Justice and Community Safety, which I thought was somewhat unusual. It was quite clear to me that the DPP was sending me a message but it was not being done through conventional lines.

I have had a few problems over the years in actually being able to talk to the Director of Public Prosecutions on policy matters. My view, and the view of the Canberra Liberals, is that the DPP is an independent statutory office-holder, that he is not part of the Department of Justice and Community Safety and that members of this place should be able to have access to the DPP to discuss these matters.

I noted that I was being sent a message that said that the DPP had a different view and he had some reservations about the 21 days. So my office immediately approached the Attorney-General and asked the Attorney-General to facilitate a briefing and a discussion between my office and the Office of the DPP. And to this day, I have not received a response from the Attorney-General. I did take the view that I was open to having that discussion with the DPP. I think that 21 days is a reasonable time. The

DPP is someone whose office I respect, and I respect the office-holder. He works very hard for the administration of justice in the ACT, and his role is very important.

I think it is very remiss of the Attorney-General that my request to be able to have a formal discussion with the DPP on this matter which he raised has gone unacknowledged, and that we are here today and the Assembly does not have the benefit of actually hearing at length the DPP's views on this matter.

In anticipation of hopefully having that discussion, I went back to a range of people in the legal fraternity and asked them for their views on 21 days, as opposed to 42. The overwhelming view was that the matters that the DPP would elect to have dealt with summarily would be at the lower range for people who do not have an extensive criminal record and if there was any doubt the DPP probably would not be exercising an election and that these matters would be dealt with by the Supreme Court. On the basis of that, on the basis of the advice and the general belief that these would be straightforward matters and it would be clear to the DPP fairly early in the piece, I have elected to go with the 21 days rather than the 42.

I do note that the DPP is a very forthright officer who, because of his forthright views, always provides the most interesting annual report of any of the annual reports that one gets to read. I anticipate, as Mr Rattenbury does, that, if this matter presents a problem to him, he would report on that and he would bring it to the attention not only of the Attorney-General but of this place.

Through the officers of this place, I apologise to the Director of Public Prosecutions for not approaching him directly. I did ask for a briefing. I would have welcomed the discussion on this matter, and I think it is reprehensible that the attorney did not facilitate that.

MR CORBELL (Molonglo—Attorney-General, Minister for the Environment, Climate Change and Water, Minister for Energy and Minister for Police and Emergency Services), by leave: I am not aware of any approach from Mrs Dunne in relation to this matter but I am happy to make inquiries as to whether or not that is indeed the case. But I am unaware of any such approach.

But I would like to place very clearly on the record what my approach is in relation to these matters. The DPP is an independent statutory officer, and it is a matter for him as to how he engages on these matters. He does so without direction from me, and it is entirely a matter for him how he chooses to do so.

I am aware that, generally speaking, the DPP chooses not to engage in policy debate because he considers that that is a matter properly for elected representatives in this place but he chooses, as I understand, when and how he seeks to inform that debate if he believes issues need to be brought to the attention either of the government or indeed of other members of this place.

But I can state very clearly that at no time do I or my office direct or require the DPP to engage or not to engage with other members of this place. That is a matter entirely for him, and it is matter that he and I have specifically discussed. The understanding

between us is clear. It is entirely a matter for the director as to how he chooses to engage in these matters.

Amendment agreed to.

Part 1.10, amendments 1.22 to 1.26, as amended, agreed to.

Parts 1.11 to 1.16, amendments 1.27 to 1.35, by leave, taken together.

MRS DUNNE (Ginninderra) (11.06), by leave: I move amendments Nos 10 to 15 circulated in my name together [*see schedule 1 at page 1732*].

These amendments omit amendments 1.27 to 1.35 from schedule 1 to the bill. These amendments deal with the matters associated with the definition of indictable offences.

Amendments agreed to.

Parts 1.11 to 1.16, amendments 1.27 to 1.35, as amended, agreed to.

Part 1.16, amendment 1.36 agreed to.

Part 1.17, proposed new amendments 1.36A to 1.36D.

MRS DUNNE (Ginninderra) (11.07): I move amendment No 16 circulated in my name which inserts schedule 1, part 1.17, proposed new amendments 1.36A to 1.36D [*see schedule 1 at page 1732*].

This amendment makes a number of further consequential amendments. Primarily it disapplies the operation of section 92A of the Magistrates Court Act 1930 for a matter for which an election has been made that is dealt with summarily. Section 92A allows the Magistrates Court to commit a person to the Supreme Court for sentencing. It would create a nonsense if it were allowed to apply to matters dealt with under new clause 374 on the basis that the idea was to keep these matters in the Magistrates Court.

I think this is one of those issues where it shows that the new 374 will be used mainly for simple, straightforward matters for people who do not have a particularly long criminal history and, therefore, will be dealt with rather quickly. It would be a bit ludicrous if it was decided to deal with this matter summarily and impose a maximum two-year penalty and then the magistrate was in a situation where they wanted to refer the matter to the Supreme Court for sentencing. This amendment to section 92A of the Magistrates Court makes it perfectly clear that that cannot be the case in this circumstance.

MR RATTENBURY (Molonglo) (11.09): The Greens will be supporting this amendment. We believe it is an important amendment as it closes down a potential loophole that, if ever activated, would cause natural justice to be denied. The existing section 92A of the Magistrates Court Act allows a magistrate to hear an indictable offence, determine guilt, and then send the accused to the Supreme Court for the full

available sentence if the magistrate deems they are unable to impose an adequate penalty.

This is appropriate under the existing arrangements because the defendant will have elected to summary disposal on the advice from their lawyer that the magistrate may use section 92A. However, section 92A cannot apply to matters heard under the new framework because they will not have been involved in the election—the defendant, that is. If section 92A were able to operate, natural justice would be denied and the defendant could be heard summarily without the benefit of a jury trial, without their choice, but then be sent up to the Supreme Court for the full sentence, again without their consent. This amendment removes that possibility and on that basis the Greens support it.

Amendment agreed to.

Part 1.17, proposed new amendments 1.36A to 1.36D, as amended, agreed to.

Part 1.17, amendments 1.37 and 1.38, by leave, taken together.

MRS DUNNE (Ginninderra) (11.11): The Canberra Liberals will support the government amendments which increase the jurisdiction of the Magistrates Court from \$50,000 to \$250,000.

MADAM DEPUTY SPEAKER: We are up to schedule 1, part 1.17, amendments 1.37 and 1.38. Mrs Dunne, are you speaking to—

MRS DUNNE: I am speaking to schedule 1, the bits that are staying in schedule 1—amendments 1.37 and 1.38. It is a bit confusing. I apologise to members. I thought it was pretty straightforward until I saw the script for today. The actual passage is obviously much more complex.

These amendments in the government's bill increase the civil jurisdiction in the Magistrates Court from \$50,000 to \$250,000. We support this proposal. In doing so, I note that the Law Society and the Bar Association both put forward alternative approaches, principally out of concern that the increase might be considered to be too much. The Bar Association wanted the change to be limited to \$150,000, with the ability of parties to consent to the court exercising a jurisdiction up to \$250,000, and a review of positions in two to three years. The Law Society wanted the increase to be limited to \$100,000, with the matters by consent up to \$250,000.

The Law Society considered the increase to \$100,000 would represent a 100 per cent increase in the court's current jurisdiction and therefore be a significantly large single incremental increase, approximate the court's original jurisdiction since 1989 after allowing for CPI, be consistent with the recommendation of the ACT Supreme Court working group, be consistent with the proposed increase reflected in the government's access to justice initiative and allow the Magistrates Court to adjust to the volume and nature of the new civil matters likely to be heard by the court.

Additionally, the society considers that allowing the parties to consent to the Magistrates Court hearing proceedings between \$100,000 and \$250,000 would

provide appropriate flexibility for parties to determine the most appropriate jurisdiction in individual civil matters, having regard to factors such as complexity, consequence, listing time frames and the nature of the Magistrates Court as a court of summary justice.

I am sympathetic to the views of both the Law Society and the Bar Association, particularly to the arguments outlined by the society. Those arguments certainly were much more fulsome than the arguments which were put forward by the government, which was really a take it or leave it statement. On balance, however, I am satisfied that the Magistrates Court is sufficiently equipped and experienced to deal with civil matters within the limits proposed by the government.

Part 1.17, amendments 1.37 and 1.38, by leave, taken together and agreed to.

Part 1.17, amendment 1.38A.

MRS DUNNE (Ginninderra) (11.16): I move amendment No 17 circulated in my name [*see schedule 1 at page 1733*].

This amendment is merely consequential on the passage of amendment No 9.

Part 1.17, amendment 1.38A agreed to.

Part 1.17, amendment 1.39.

MRS DUNNE (Ginninderra) (11.17): I move amendment No 18 circulated in my name [*see schedule 1 at page 1733*].

Amendment 18 is, again, a consequential amendment to the new section 291K of the Magistrates Court Act, which inserts reference to the new “section 374 (Summary disposal of certain cases at prosecutor’s election)”.

Amendment agreed to.

Part 1.17, amendment 1.39, as amended, agreed to.

Part 1.17, amendments 1.40 and 1.41, by leave, taken together and agreed to.

Part 1.17, amendment 1.42.

MRS DUNNE (Ginninderra) (11.18): I move amendment No 19 circulated in my name [*see schedule 1 at page 1733*]. This is a consequential amendment. It deals with transition provisions which are no longer required.

Amendment agreed to.

Part 1.17, amendment 1.42, as amended, agreed to.

Part 1.17, amendment 1.43 agreed to.

Parts 1.18 to 1.22, amendments 1.44 to 1.51, by leave, taken together.

MRS DUNNE (Ginninderra) (11.19), by leave: I move amendments Nos 20 to 24 circulated in my name together [*see schedule 1 at page 1733*].

These amendments omit amendments 1.44 to 1.51 from schedule 1 of the bill. They deal with a range of transitional provisions and amendments to the definition of indictable offences which are now no longer required.

MR RATTENBURY (Molonglo) (11.20): The Greens will be supporting these consequential amendments. As we are coming to the end of the bill, I would also like to take an opportunity to comment on some of the procedural matters around this bill. Mrs Dunne, as the chair of the scrutiny of bills committee, made a statement to this Assembly last July, on 1 July, and she made similar comments in the committee's report this morning.

I will quote the comments from July last year where she talked about the new trial of amendments coming before the scrutiny of bills committee from non-executive members of the Assembly. She said at the time that amendments should be submitted for the committee's consideration at least 14 calendar days prior to the date proposed for further consideration of the bill and she went on to note that this is a trial that we should conduct until the end of the Seventh Assembly, which of course is a sensible approach because it is a new way of doing things.

However, when it comes to this bill, there have been two interesting examples where that time line has not been addressed. On 6 April my office was advised by Mrs Dunne that she had written to scrutiny and requested a response prior to debate on 7 April—that is, she had written to scrutiny with her amendments requesting that response. That was a 24-hour turnaround that was proposed for the scrutiny committee and well short of the suggested 14 calendar days.

On 7 April we decided to adjourn debate because there was still some work to be done. I think that was a sensible approach at the time. On 27 April Mrs Dunne again wrote to the scrutiny committee with the close-to-final Liberals' amendments, leaving one clear working day before the scrutiny committee reported on 29 April. Then on 29 April the scrutiny committee made comments on the Liberals' amendments.

It is of concern to me and my colleagues in the Greens that the suggested time line is being so blatantly disregarded. Clearly we are in a trial phase and there is some bedding down to be done of how this process exactly does work and what is an appropriate and practical way for this process to work. On that basis, I simply wanted to express our concerns about this use of the time frame and perhaps offer Mrs Dunne the opportunity to comment on what impact this 24-hour turnaround has had on the scrutiny committee, and particularly its adviser, and to invite some feedback, whether it is today or at another time, on what the appropriate time frame is considered to be. Is it 14 days? Is this short time frame that has been used on this occasion available to all members of the Assembly or is it only available to the chair of the scrutiny committee?

I think that these are important questions to consider as we test out whether this model can work. What is the best way for it to work? What is the best way for non-executive members of the Assembly to ensure that their proposed amendments receive suitable examination by the scrutiny committee, which I think we have all agreed is appropriate and a good idea. In view of the balance of the Assembly, it is, of course, possible for non-executive members to pass amendments. Today is a good illustration of that.

I think that is a positive for this Assembly, but it does put pressure on us to also ensure that the scrutiny committee is given a suitable opportunity to examine these proposed amendments. I think that is beneficial because the private members of the Assembly do not have the access to the government departments that the executive has. Whilst we are given good support by parliamentary counsel, I think that the opportunity to go to the scrutiny committee is a good one. It is certainly one that my colleagues, the Greens, and I will continue to avail ourselves of when it is appropriate.

MRS DUNNE (Ginninderra) (11.24): I welcome the opportunity to make some comments on the issues raised by Mr Rattenbury. I am heartily aware that the trial process proposed by the scrutiny committee was for 14 days. Mr Rattenbury did note that I made comments this morning in the tabling of the scrutiny report about the 14-day process. I was happy to do so.

It is important to note that I was at fault by not actually meeting those 14-day requirements. It is not a matter that is only open to the chair of the scrutiny committee. I think it is somewhat disrespectful to suggest that I exercised some sort of persuasion on the committee which was untoward. I think that the committee is quite flexible in dealing with these matters of amendments coming before the committee.

I note that the scrutiny committee and its advisers are very open to receiving amendments when they arise. The scrutiny committee is aware that sometimes the time frames on that are quite short. The scrutiny committee has taken the view, and I agree with this, that it is better that there is some scrutiny rather than none, and that was the approach taken on this occasion.

The adviser to the scrutiny committee was happy to assist the committee in providing comments, even at short notice. On this occasion—these matters have been proposed in various forms, by the Greens and in two versions of these amendments by the Canberra Liberals, which essentially are the same thing; there has been quite a deal of backwards and forwards—it was felt that this matter could be dealt with expeditiously, and that was the case.

We also discussed the fact that we had set ourselves and members a desirable time frame of 14 days, and we would like as much as possible to stick to that. However, as matters come before the Assembly at a time which is not necessarily of the choosing of the opposition and crossbench members, we have taken the view that we will be as flexible as possible in trying to address those amendments in the context of the terms of reference of the scrutiny committee.

Whilst I have reinforced today the desire for people to provide to the committee those comments as early as possible, we are aware that sometimes this will be honoured more in the breach than in the observance. Collectively, we will work as collegially as possible to ensure that amendments get the appropriate scrutiny that they deserve.

I do take the member's chastisement, but I do take exception to the assertion that I was exercising the privilege of being the chair. If any member of this place came to the scrutiny committee and said that they needed this matter to be dealt with expeditiously, I would deal with it in the same way.

Amendments agreed to.

Parts 1.18 to 1.22, amendments 1.44 to 1.51, as amended, agreed to.

Title agreed to.

Bill, as amended, agreed to.

Road Transport Legislation Amendment Bill 2011

Debate resumed from 31 March 2011, on motion by **Mr Stanhope**:

That this bill be agreed to in principle.

MR COE (Ginninderra) (11.29): The opposition will be supporting the Road Transport Legislation Amendment Bill 2011. I do not intend to rehash the bill, which is sometimes the practice in such speeches, other than to say that it looks like a very reasonable bill and it looks like the changes that will be made will make things much easier for our law enforcement agencies. Also, it is good legislative practice to make some of these amendments.

In particular, it is important for police to be able to collect stolen and altered or forged licence plates and documents. I am actually surprised, to an extent, that that provision is not already in the act. But I am glad that this bill will enable that process to be undertaken in the future.

To keep it succinct, the opposition will be supporting the bill.

MS BRESNAN (Brindabella) (11.30): The Greens will be supporting the Road Transport Legislation Amendment Bill. The bill makes a series of relatively minor updates and improvements to ACT road transport legislation.

The updating and modernising of road transport legislation is an important task. It ensures that road laws can be enforced effectively and that the laws and the authorities are able to best perform their roles and contribute to road safety.

This particular suite of amendments has a focus on unregistered vehicles and unlicensed drivers. It is, of course, important for road safety that vehicles are roadworthy and that drivers on our roads are licensed to drive.

I was interested to learn that statistically it is unregistered vehicles and unlicensed drivers that are more likely to be involved in motor vehicle accidents, particularly serious accidents. In fact, according to the explanatory statement to this bill, one-third of fatal motor vehicle accidents in the ACT last year involved either an unlicensed driver or an unregistered motor vehicle.

Enforcement of these provisions is also important to give efficacy to vehicle emissions standards, minimal as these are. As a brief aside on the issue of vehicle emissions, members may be interested to know that in March this year the Federal Chamber of Automotive Industries released the national average carbon emissions figures. They reported a reduction of 2.7 per cent. This means Australia has made a small reduction in the average CO₂ emissions of new cars. This is promising, but nowhere near enough. Even with our recent reduction, the average output of CO₂ from Australian vehicles is 212.6 grams per kilometre. As a comparison, the European Union has set a target of 130 grams per kilometre for car makers to average across their models by 2012. The Australian government should be mandating stricter emissions targets for the new car industry in Australia to speed up our reductions. I would request and urge that the ACT government push this issue with federal counterparts wherever possible.

I will briefly discuss the amendments proposed in the bill today. The Greens support the change that will allow people whose licences are suspended to make an election of good behaviour at any time during the suspension period. In the past this could only be done before the suspension commenced, which seemed unnecessarily rigid.

The legislation makes a number of technical amendments to ensure that existing sanctions can be enforced against interstate fine defaulters. This is, of course, a sensible amendment to ensure people do not escape legitimate penalties for offences in the ACT just because they are a driver from out of state.

The bill will require that the road transport authority returns suspended licences to drivers as soon as practicable. This is an appropriate amendment. The return of a suspended licence should not be dependent on the person applying to have it restored. The licence belongs to that person and, when a suspension ends, that right should be automatically restored and not be dependent on some further process.

Probably the most notable change in this suite of amendments is the clarification of the police power to seize false, fraudulent, expired or suspended numberplates and associated registration documents from vehicles. Previously, an officer was not able to enter a vehicle in order to remove the registration sticker. They will now be permitted to do this. As the explanatory statement points out, this is a necessary power to ensure that the legislation can be enforced properly. The power is also framed appropriately. It merely allows the officer to remove the registration document and not to search or intrude in the vehicle in any other way. This is an example of a power that is framed to be consistent with the intent of the law. The Road Transport (Alcohol and Drugs) Legislation Bill, contains a search power that I think is framed too broadly, and I will be proposing an amendment to that.

There are a variety of other amendments that will improve the implementation of road and transport laws and processes, and the Greens are in agreement with these. For example, these amendments clarify that licence photos and signatures are able to be used for the purposes of the Dangerous Goods (Road Transport) Act 2009, an act that is currently not classified as road transport legislation but which, for all intents and purposes, is part of this category.

I will refer briefly to the comments made by the scrutiny of bills committee. The committee has again raised the issue of whether a due diligence defence should be available in relation to strict liability offences where a person could have taken reasonable steps to avoid conduct to which the strict liability offence applies. In this case, the committee refers to the strict liability offence of driving while one's right to drive is suspended.

In the past we have accepted the government's reasoning that a due diligence defence is appropriate in schemes such as occupational health and safety law, food handling and hygiene law and environmental and heritage law—where the conduct targeted by the offence directly concerns itself with the harm caused or risk of harm created. Again, I agree with the government's reasoning that the driving while suspended offence is not one requiring a due diligence defence. It seems to me that this defence is relevant to scenarios concerning more complex behaviour, not where a specific action is either done or not done. That is the case here, where someone either drives while suspended or does not.

In conclusion, the Greens support this bill as a useful update to our road transport legislation.

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) (11.36), in reply: I thank members for their support of this bill and the amendments proposed.

As Mr Coe and Ms Bresnan have spelt out, there are a number of quite minor, in some respects, machinery amendments. Some of them are quite important and significant. Some of them do address quite obvious blank spots or omissions within existing legislation. It is a feature always of the legislative process. Mr Coe touched on this, and I too am from time to time surprised at gaps that appear. There is always the self-evident question as to why perhaps the gap was not acknowledged. But things do change—our views, our attitude. It is not uncommon in any reform process that these sorts of amendments are deemed to be necessary as we change our approach, our methodologies and our attitude to certain issues which we regulate.

These are, in the main, not at all significant or controversial; nevertheless they are important amendments to an important piece of legislation which really is all about the use of our roads and road safety. There are not many more important issues for governments or communities than keeping our communities safe. These amendments are designed to achieve that.

I thank members for their contributions and their support.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

Road Transport (Alcohol and Drugs) Legislation Amendment Bill 2011

Debate resumed from 31 March 2011, on motion by **Mr Stanhope**:

That this bill be agreed to in principle.

MR HANSON (Molonglo) (11.38): I indicate that the opposition will be supporting this bill. It is essentially a technical clean-up that arises from a series of drug and alcohol laws relating to transport, DUI and roadside drug testing that has occurred over the last 12 or so months. It has a number of elements, including providing enforcement measures for trainer drivers; that is, anyone that is essentially teaching a learner driver, to be tested for drugs and alcohol. And it fixes an anomaly that was in the legislation. I quote from the explanatory statement. It addresses “an unintended gap in the legislation that was identified following the introduction of the zero BAC for driver trainers that was introduced by amendments to the legislation last year”.

The legislation also clarifies licence classes and alcohol limits for holders of foreign licences, obviously an important issue in the ACT. It establishes the ability for police to take people requiring blood tests or alcohol tests to facilities other than hospital, requiring also that a nurse or doctor must be present. It establishes the ability for police to search people taken into custody but not arrested. This has been a contentious issue and I believe the Greens will be moving an amendment to this. I think that the big problem around this has been that the explanatory statement that has been provided with this legislation has been contradictory and has not reflected the intent of the legislation.

The intent of the legislation is to provide police with the powers to search and, as required, remove items from people taken into custody but not arrested. The explanatory statement, and indeed the briefing that was provided to my office and, I imagine, to the Greens indicated that this was only in the case of removing items or searching in the case of providing a safe environment, both for an individual that has been taken into custody and for the police who have taken that individual into custody.

However, that is not the intent of the legislation. The legislation itself actually does provide that the search can remove items that may, for example, be used in evidence at a later stage. So I just indicate at this stage that I am sympathetic in some regards to where the Greens find themselves, because it has been a somewhat confusing process.

But on reflection, examining the detail of the legislation, we will not be supporting the amendment when it is tabled by the Greens because we do want to make sure that the police have the powers that they already have with regard to search and with regard to removing items from individuals taken into custody.

An amendment has been provided by the government, I believe, that relates to allowing laboratories outside the ACT to process drug testing samples.

I would like to make a point here that this is not an unusual thing that we do here. We deal with complex legislation that is being passed by this Assembly. When those that are responsible for implementing that legislation in detail, be it police or other departments, look at that in detail and do discover anomalies with legislation and do discover ways that it can be improved, it is quite regular that in this place we will deal with that legislation, as we are doing here today. It is very important that it describes technical amendments as being obviously important to make sure that the legislation works effectively and efficiently and to make sure that those people are taken to court, as they may be in this case, so that the courts can do their job and administer justice to those people.

But it is worth reflecting on, as we move forward with this legislation today, the mock outrage and the indignation that we saw from Mr Stanhope and from the Attorney-General last year in relation to the random roadside drug testing legislation, which essentially had similar technical amendments that needed to be addressed. They were important. They were important to make sure that legislation was effective and would work on the ground, just as the legislation we are dealing with today and the technical amendments we are dealing with today are important to make sure that this legislation is effective and can be used by those people responsible and charged by us with the responsibility of implementing that legislation.

So when Mr Stanhope and Mr Corbell last year, in response to the random roadside drug testing legislation that essentially went through this process that we find ourselves in today, went to the media and put out press releases that described the legislation as fatally flawed and so on, they basically attacked the Liberal opposition and the Greens who had passed that legislation. It is worth noting what an exercise in political point-scoring that that was. I think that some of the media bought into that debate, responded to it and listened to what Mr Stanhope and Mr Corbell had to say. I think it is worth reflecting, as we pass this legislation today and as we pass numerous other bills which are brought forward to essentially tidy up previous bits of legislation and which are technical in nature, that it does not mean that the intent or that the legislation is fatally flawed.

I do not think that this legislation today, Mr Stanhope's bill that he is putting forward today and that is cleaning up legislation he has brought in, is fatally flawed. I think this is simply a necessary part of what we do in this place. It would be nice to get it 100 per cent right the first time, but we do have to be realistic, as we are in this place. There will be anomalies, there will be issues that need to be corrected, and that is what we are doing in this place today.

So we will be supporting this legislation. We will do so to make sure that it is effective and provides those people on the ground with the effective tools that they

need to do essentially what we all want to see in the ACT, which is to reduce the rates of people who are driving under the influence of an illicit substance or under the influence of alcohol and are putting us, our families and themselves at risk.

MS BRESNAN (Brindabella) (11.45): This bill proposes amendments to a number of acts to ensure that new drug driving laws can be implemented effectively. The issues around drug driving legislation have been debated here thoroughly. The result was that the Liberals and the Greens passed drug driving legislation. The legislation was proposed by Mr Hanson and the Greens made some amendments, and the outcome was a good one.

The government did not propose any amendments at the time. However, it later introduced another bill that in fact made amendments to assist with the implementation of roadside drug testing. Those changes were introduced and passed in the Assembly last year under the Road Transport (Alcohol and Drugs) Legislation Amendment Bill 2010.

Now we have the Road Transport (Alcohol and Drugs) Legislation Amendment Bill 2011. This is the 2011 addition to last year's amendment bill, and it makes further amendments to assist with drug driving legislation. I do not want to dwell on this fact, but I will say, as Mr Hanson has made some points, that we have seen on a number of occasions where the government has been—

Members interjecting—

MADAM DEPUTY SPEAKER: Members!

MS BRESNAN: Shall I keep speaking, Madam Deputy Speaker?

Members interjecting—

MADAM DEPUTY SPEAKER: Mr Stanhope and Mr Hanson, will you please desist.

Mr Stanhope: It was an appalling process; just admit that, Jeremy.

MADAM DEPUTY SPEAKER: Mr Stanhope!

Mr Hanson: You are an appalling individual, Jon.

MADAM DEPUTY SPEAKER: Stop the clock, please. Mr Stanhope and Mr Hanson, will you please allow Ms Bresnan to continue in silence.

MS BRESNAN: Thank you, Madam Deputy Speaker. I want to comment on the fact that we have seen on a number of occasions where the government, I would have to say, has been unwilling to engage with legislation introduced by the Liberals or the Greens. At the time of debate, the government does not propose any amendments but will vote a bill down, or later introduce identical or similar legislation—or, as in this case, introduce amendments to the bill later on. I think it would be stating the obvious to say that it would be a far better process if the government engaged at the beginning of the legislative process.

The fact that this is the government's second amendment bill about the same issue highlights the fact that bills are often very technical and often require technical amendments. This is a reality of legislation, whether it comes from the government, the Greens or the Liberal Party.

On the substance of the bill we are debating today, it makes a number of relatively minor amendments. The bill consolidates the law that driver trainers must have a blood alcohol content of zero. This change was passed last year. However, this new amendment adds a missing enforcement mechanism to ensure that driver trainers are subject to the random testing provisions for both alcohol and drugs, and that the offence provisions are available. The Greens agree with the rule in principle and this amendment is obviously a sensible one to ensure that it can be enforced.

The bill also makes some amendments to the blood alcohol content permitted for people holding foreign country licences. For anyone holding a licence from a country that is not on a federally managed list of countries recognised as having appropriately equivalent licensing requirements, that person is subject to a blood alcohol limit of zero. I do accept that this is an appropriate requirement. These drivers are considered to be in a special category, along with people like learner drivers and instructor drivers, unless they gain some recognised qualification. The change also brings us in line with equivalent rules around the country.

I do have some concerns about the way this change will be publicised. Currently, these drivers are subject to a blood alcohol content of .05, meaning obviously that they can drink some alcohol before driving. This will now be reduced to zero. It is important that the people for whom the rules are changing are made thoroughly aware of this. It would be quite unfair for someone's blood alcohol limit to change from .05 to zero and for them to not have an appropriate warning, particularly given the serious penalties and stigma that can arise from drink-driving charges. I would suggest that there will be a limited number of these special licence holders in Canberra—perhaps a number that would make it appropriate or able for them to be written to individually. I repeat my request that the government do this.

Another change made under this bill allows for blood samples to be taken by a doctor or nurse at a sampling facility other than a hospital. This is for the purpose of drug or alcohol testing. I agree that it is not appropriate for the samples to always be taken at a hospital, especially considering the resource pressures in hospitals, and that there will be other advantages to using other venues, such as increased privacy for the person being tested. The places prescribed as sampling facilities will of course need to be carefully selected and suitable. I would appreciate it if the minister could keep me and the Assembly informed of how these will be defined in the regulation.

The bill also allows for a body sample to be taken for the purpose of drug testing in certain situations. This is an invasive procedure that should only occur in very limited and specific circumstances. It would be inappropriate for this type of testing to be carried out just because the screening equipment was unavailable. I am satisfied with the limited circumstances that the bill prescribes. The procedure can only occur where the person has already committed a serious driving offence of negligent driving or

driving under the influence of alcohol, and it is not practicable or possible to carry out a full drug screening test at the time.

One further amendment, which was not in the bill as presented but has since been circulated by the minister recently, allows for the analysis of blood samples at an out-of-state testing facility. I understand this is necessary until the ACT is able to establish its own facilities. The amendment will allow roadside drug testing to take place in the interim.

Lastly, I want to foreshadow an amendment that I have proposed to this bill. Mr Hanson has already spoken in relation to that. Proposed section 18C of this bill gives police a new search power in order to search people who are being taken into custody for alcohol or drug testing. This is to allow police to remove weapons or other dangerous items that could harm the person or other people at the police station, hospital or sampling facility. I do not disagree with this new power on principle. Police do need to be able to ensure the safety of themselves and others, and that is obviously paramount.

However, I do believe that we must be very specific when we expand police powers. I take issue with the scope of the power as it is drafted. It should afford a power that matches its purpose, and no more than that. This is especially so when the new power engages human rights under our Human Rights Act, as this new search power does. It is also a search applied to a person who is not under arrest but being taken into custody for further testing. I do acknowledge that the government has responded to scrutiny issues in the response tabled today.

I raised this issue with the government two weeks ago during a briefing on the bill. The scrutiny committee then raised the same issue in its report, saying that there are issues concerning the scope of the power in proposed section 18C because the power proposed in the new section is very wide. The new section gives the police the power to search a person taken into custody and take possession of anything found in the person's possession. It should not be this broad when the stated reason for the power is only to assess the risk potential of the item in the person's possessions.

The explanatory statement explicitly states that the purpose of the search is "not to find evidence to establish the person's involvement in the commission of any offence, but to contain the risk of injury or harm".

My amendment simply makes the power consistent with its purpose, so that a police officer may search a person taken into custody and may confiscate items that the officer believes, on reasonable grounds, could pose a safety risk during the period of custody. That is the stated purpose of the section and that is how the power should be framed.

I understand that the government will not support this, and now Mr Hanson has indicated that the Liberal Party will not, because they want police to be able to confiscate any illegal or potentially incriminating items they find during the search. If this is the intended scope of the power then this is how it should be framed in the legislation. It is also how it should be described in the explanatory statement. The

explanatory statement should justify this power and, indeed, it should justify why it cannot be used without the kinds of safeguards that are present in relation to other police search powers.

If other parties want the search power to be one in which certain items can be confiscated because they are illegal or are likely to have evidentiary importance, I would ask them to amend this section so that it is expressed in that way.

I would point out that police already have powers for search and confiscation under other parts of our criminal law. This includes the ability to search people who are in custody. Importantly, these powers contain safeguards such as the fact that the details of the search have to be recorded or the search has to be conducted by an officer of a certain rank. This is not the case with the provision that the government has proposed.

Putting aside this point, the Greens are in agreement with this bill. We do look forward to seeing a smooth implementation of roadside drug testing in the ACT.

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) (11.55), in reply: I thank members for their contributions, as fragile as they were. Nevertheless, I do appreciate their engagement with the issue. It would be nice, too, for both of them, just in the spirit of the fragility and the defensiveness exhibited, to reflect on some of their own behaviour in relation to this issue, having regard to the refusal to accept the enormous work which departmental officers have done on this issue.

It is not so much that it was rendered irrelevant but I just wonder whether Ms Bresnan or Mr Hanson understand the effort, at the end of the day much of it wasted, that hard-working, dedicated departmental staff devoted to this particular issue and that at the end of the day was not able to be used or utilised—months of work that at the end of the day had to be redone.

I say to Ms Bresnan, in relation to her continued view of history in relation to this matter, that I had an undertaking from Mr Rattenbury that we would proceed to develop and conclude our draft and that I have a press release from Mr Rattenbury in which he specifically states that the Greens would be happy for the government's bill on this issue to be debated cognately with that of Ms Bresnan.

Ms Bresnan: And the bill never came.

MR STANHOPE: You will recall that, I am sure, Ms Bresnan.

Ms Bresnan: The bill never appeared, though.

MR STANHOPE: I am sure you recall that, Ms Bresnan. You recall the undertaking which Mr Rattenbury gave publicly that the Greens would agree to a debate. I am sure you recall that and you will not deny that, Ms Bresnan—that the Greens reneged on an undertaking, a public undertaking, to commit to a cognate debate on the legislation

which you then, after enormous effort by the department, reneged on. But let us put that behind us, shall we? It is a pity that you could not have done that today.

Mr Hanson: Don't be too precious, Jon.

MR STANHOPE: Poor little butterflies!

MADAM DEPUTY SPEAKER: Mr Hanson!

Mr Doszpot: Who is being precious now, Jon?

MADAM DEPUTY SPEAKER: Mr Hanson and Mr Doszpot!

MR STANHOPE: Poor little wilting violets; the fragile butterflies.

Mr Hanson and Ms Bresnan have gone to the issues of substance included within the amendments that are proposed. They are all very sensible and, as Mr Hanson rightly says, these are issues that were identified during that process of looking very closely at the implications for implementation and identified gaps or issues as a result of that very close attention to detail, most particularly by the ACT police and others in the context of just the practical implications of implementation and actioning of this important legislation.

I should say, for the information of members, that I have previously given undertakings that I would keep members informed of progress. I know that members have had briefings from ACT police and they may be up to date on where plans for implementation are up to. But once this legislation passes, and I understand it will pass today, the active process of drug testing will commence. I am advised that indeed it could commence within the next two to three weeks. That will be accompanied by a communication strategy advising the people of the ACT that the police will very shortly be undertaking random drug testing within the ACT.

An issue that has been raised, and one of the amendments goes to this of course, is that the ACT Government Analytical Laboratory is still in the process of validating and seeking accreditation for its oral fluid analytical capacity and, as a result of the fact that that has not yet been concluded, it has entered into an interim arrangement with the ChemCentre forensic laboratory in Western Australia under which analysts from that particular laboratory will undertake confirmatory analysis of oral fluid samples collected by ACT Policing. As members are probably aware, that particular centre currently provides services to the Western Australia Police. It is therefore necessary that we do pursue that amendment to allow that particular centre to have the necessary authorities to act for the ACT.

Having said that, this will be a temporary arrangement and it is our hope at this stage that the ACT Government Analytical Laboratory will be in the position to undertake those necessary fluid analyses within the next few months and certainly it is hoped that that will occur before the end of this year.

Again I thank members for their support of these amendments. They are important. They ensure that the legislation will at the end of the day operate in the method intended.

Ms Bresnan has foreshadowed an amendment in relation to preventative search. I understand too the essential nature of the point that Ms Bresnan makes in relation to searches. Searches are and should be closely controlled; they should only be pursued when it is reasonable. These are provisions that this government particularly pursues only after very deep consideration of the implications and context of civil liberties and human rights and persons' individual integrity in relation to what it is that they carry.

There was some commentary—and the government has responded to this, I know, only today—by the scrutiny of bills committee in relation to the breadth of the proposal. It is that particular issue that Ms Bresnan has taken on board. I have to say, and the government has said in its response to the scrutiny of bills committee today, that the breadth of the provision was quite intentional.

It has to be acknowledged, and I am sure members would if they thought about it, that it is regrettable but it is a fact that the range of items that are from time to time found during searches that could pose a safety risk is indeed very broad. It is a matter of regret, of course, that police and custodial officers are subjected to unwarranted, violent, unanticipated attacks from time to time by people that they take into custody. But we acknowledge too that on occasion a preventative search—and this is the point that Ms Bresnan goes to—where someone is taken into custody may result in the location of other items that are not directly relevant to the original purpose of the search but nevertheless disclose that an offence may have been committed.

A possible or potential result of the amendment that Ms Bresnan will move, and I think this would be ironic and not in the interests of justice, is that for an offence having being disclosed the disclosure or the evidence relating to that offence not be able to be pursued by police as a result of it being the original purpose of the search. If it were a lawful search, as one imagines it would be, conducted for a particular purpose and it disclosed an offence or evidence that an offence had been uncovered as a result of that, I think it would not be in the interest of justice—it is not practical, it is not pragmatic, it is not in the interest of justice—for that not to be available and no subsequent prosecution for that separate offence. Similarly to the opposition, the government will not be supporting the amendment.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail stage

Clauses 1 to 22, by leave, taken together and agreed to.

Proposed new clauses 22A and 22B.

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) (12.05): Pursuant to standing order 182A(a), I seek leave to move two amendments together which are urgent.

Leave granted.

MR STANHOPE: I move amendments Nos 1 and 2 circulated in my name together [*see schedule 2 at page 1734*].

I table a supplementary explanatory statement to the government amendments.

These amendments seek to insert new clauses 22A and 22B into the bill. Amendment No 1 replaces section 13G(3) with an amended provision. The replacement provision makes it clear that an analyst at the approved laboratory to which the Chief Police Officer has arranged for the oral sample to be delivered must, as soon as practicable, arrange for the analysis of the sample either at the laboratory or at another approved laboratory. The amendment provides a clear legislative basis with interim arrangements.

Amendment No 2 for a new clause 22B amends section 13G(4). The provision contains requirements for protecting and preserving a portion of the sample in case the person from whom the sample is taken wishes to have the portion independently analysed.

MR HANSON (Molonglo) (12.06): As I have previously outlined, the opposition will be supporting these amendments. But, given the opportunity to speak, I think it is appropriate that I just respond to a couple of points which were made in the earlier speech by Mr Stanhope that suggested that somehow the Canberra Liberals and the Greens had wasted the department's time.

I think it is worth reflecting on the reality that occurred and who actually did waste whose time. From about 2006 through to this Assembly, Mr Stanhope had described random roadside drug testing as "redneck legislation" and had opposed it vehemently. He was completely opposed to it. When I introduced the legislation in December 2009 he remained opposed to it. It was only in February of last year when the legislation was due to be debated in the Assembly, on the very day it was due to be debated in the Assembly, that Mr Stanhope came forward with his own plan on random roadside drug testing and gave his department a body of work to do. That was after attacking that legislation and refusing to implement it himself. But on the very day that it was due to be debated here in the Assembly he brought out his grand vision for random roadside drug testing. So I think that any even cursory analysis shows who was playing politics and who then created for his own department a monumental amount of work which he then failed to bring forward to the Assembly.

Mr Speaker, he mentioned your press release and where you stood with that. I remember the discussions that I had with the Greens, which the government refused to speak about, and I think that in this matter you were upfront and genuine in what you wanted to do and it came to a point where you said, "Well, we will look at both bits of legislation and we will take them on their merits."

The point was that Mr Stanhope simply could not bring forward what he promised to do. He kept saying he was bringing forward a package, bringing forward draft legislation, saying it was going to be different, saying it was going to be better, and on a number of occasions he failed to bring it forward and then when he did bring it forward it was shown to be almost the same legislation, with very little improvement—I would contend none at all—and that was recognised by the Greens.

So I just think it worth saying and making a point for the departmental officers that I acknowledge you have done hard work, and I think today Ms Bresnan and I are acknowledging that in passing this legislation. The random roadside drug testing and the amendments to the random breath testing legislation have been complex. There has been an enormous body of work and I really do appreciate the work that has been done by both the department and ACT Policing with regard to these issues.

It is disingenuous and inaccurate for Mr Stanhope to try and present that as work that has been created—unnecessary work that has been created—by the Canberra Liberals, when if he had followed through with the legislation that had been tabled that he rejected, that he attacked and then tried to copy, he could have saved a lot of people, including this place, a lot of work.

MS BRESNAN (Brindabella) (12.10): The Greens will be supporting these amendments as I have already indicated in my in-principle speech. This is obviously about allowing testing to take place and for random roadside drug testing to commence in the ACT, and for that reason we do support these amendments.

Amendments agreed to.

Proposed new clauses 22A and 22B agreed to.

Clauses 23 to 41, by leave, taken together and agreed to.

Clause 42.

MS BRESNAN (Brindabella) (12.11): I move amendment No 1 circulated in my name [*see schedule 3 at page 1735*].

Obviously I have already spoken about this in my in-principle speech and I have heard that neither the government nor the Liberals will be supporting this amendment. I want to point out again that this is actually about bringing this clause into line with what was stated in the explanatory statement and also what was stated in the briefings which I received on this bill and that Mr Hanson has noted he received also, and to note that we agree with what is stated in principle in this particular amendment, but it is actually about making clear that when it is about taking something in the person's possession it is actually about, as my amendment notes, "the officer believes on reasonable grounds could pose a safety risk during the period of custody".

This is not about trying to circumvent any process of search for the police. As I have already noted in my in-principle speech, the police do have powers available to them

in relation to search and confiscation under criminal law. So that power is still there available to them; this is not about removing that power in any way or form. This is actually about making it clear about what the intent of this legislation and this clause is. I think it is important to make that clear. We do agree in principle with what the legislation is doing, but we need to be clear about what is trying to be achieved with this clause.

I have already said it but I point out again that police already have powers of confiscation and search available to them. So that power would still be there. If there were grounds to suspect that there was something else which needed to be noted through the search, and if there were to be criminal convictions in relation to that, police still have the powers to be able to do that. I think it is just important to point that out in relation to this particular amendment and again note that it was something which was raised by the scrutiny of bills committee. I also note, as I already have, and Mr Stanhope has mentioned, that the government have responded to scrutiny in relation to this, but I still believe it is important that we are very concise with this power, that it is not too broad and that it is actually in line with the intent of this legislation.

Question put:

That **Ms Bresnan's** amendment be agreed to.

The Assembly voted—

Ayes 4

Ms Bresnan
Ms Hunter
Ms Le Couteur

Mr Rattenbury

Noes 13

Mr Barr
Ms Burch
Mr Coe
Mr Corbell
Mr Doszpot
Mrs Dunne
Ms Gallagher

Mr Hanson
Mr Hargreaves
Ms Porter
Mr Seselja
Mr Smyth
Mr Stanhope

Question so resolved in the negative.

Clause 42 agreed to.

Remainder of bill, by leave, taken as a whole and agreed to.

Bill, as amended, agreed to.

Sitting suspended from 12.17 to 2 pm.

Questions without notice

Land—rates and charges

MR SESELJA: My question is to the Treasurer. Treasurer, in the 10 years of the ACT Labor government, the cost of land rates and charges in the ACT has risen by

around 75 per cent. Treasurer, why has your government allowed this heavy burden on the cost of living for Canberra families?

MS GALLAGHER: I do sense a theme starting from those opposite that we might see more of this week. This government has a very proud record in achieving a balance between investing in additional government services, growth across the city and managing those increases in costs against our own efficiencies, and reducing, as much as we can, the impost that that has on the people of the ACT. Indeed, the budget that I am presenting in just under half an hour and the previous budgets that I have presented have absolutely sought to do just that. We have not seen increases against our own revenue lines, despite some pretty difficult financial circumstances. I think it is very easy for the Liberals to trot out one line around increases in charges and the price of delivering services but not to measure that up or compare that in any way with increases in wages across the community—

Mr Seselja: Have they gone up 75 per cent?

MS GALLAGHER: with increasing land values, with increases in the wealth of the community that has also grown over the last 10 years. You cannot just see it in isolation.

I note the comments from the Leader of the Opposition. I am sure that, in his budget reply this week, he will be outlining exactly what he will do and what commitments he will take to the next election around these lines.

Mr Seselja: You haven't delivered your budget yet. You're getting ahead of yourself.

MS GALLAGHER: It is all very easy to come out, Mr Seselja, and just criticise but have no alternative yourself. You are going to have to start standing up and delivering some commitments instead of just criticising. This government is very acute to the pressures that some families are experiencing across the ACT. I am sure Mr Seselja cannot wait to see the targeted assistance that this budget will deliver to meet those pressures for those families.

MR SPEAKER: A supplementary, Mr Seselja?

MR SESELJA: Thank you, Mr Speaker. Treasurer, what does this increase say about your government and its commitment to reducing the cost of living pressures on Canberra families?

MS GALLAGHER: I think I have just answered that. The budget overall has grown, services to the community have grown and we have sought to minimise the increased costs that we have sought from our own revenue lines at the same time. If you look at the past three budgets since the global financial crisis, if you look at those three budgets alone, where we have not increased taxes across the community, we have lost substantial amounts of revenue. Look at what we have actually delivered: 80 new hospital beds, new schools, more enrolments, more services in community services and more services in emergency services. The budget overall has grown.

We have sought internal efficiencies. We have asked for wage restraint. We have done a whole range of internal measures to make sure that we minimise the costs where we have influence on the Canberra community. I think any objective measure of those three budgets that I have delivered, or the one I am about to deliver, as Treasurer will be seen in that light. We have sought efficiencies from ourselves before we have gone to the Canberra community and asked them to have an increase in revenue.

That is not to say that our revenue lines will not grow. I will be interested to hear Mr Seselja's right of reply. I presume he is going to announce that he is not going to allow our own revenue lines to grow. But it is not unreasonable, in an environment where government services are growing—

Members interjecting—

MR SPEAKER: Order, members!

MS GALLAGHER: in an environment where services that government are providing are increasing, that you would index your own revenue lines. That is what we have done. We have done that in every budget and it is to pay for the additional services we deliver.

MR SMYTH: A supplementary, Mr Speaker?

MR SPEAKER: Yes, Mr Smyth.

MR SMYTH: Treasurer, are families receiving services that are 75 per cent better as a result of your taxes and charges?

MS GALLAGHER: If you look at the health budget alone—

Opposition members interjecting—

MS GALLAGHER: Mr Speaker, the opposition ask a question; I presume they are interested in the answer. If you look at the health budget alone, over 200 additional beds are being provided. Over 200 additional beds, from the beds that you guys ripped out, have been replaced and we now—

Mr Hanson interjecting—

MS GALLAGHER: for the first time, Mr Hanson—I know this is something that you will have known and been very excited about—in the hospital report we are now above the national average for bed numbers across our hospital system. We have more students in public schools. We have more public schools. We have more families using our community services.

Look at any area of government service delivery and you will see increases and expansion of services in line with the growth of our city, and we are going to have to

continue to do just that. We are going to have to spend more, but at the same time we are looking for our own efficiencies in order to pay for those additional services.

I am sure the opposition are going to criticise the savings measures. They are going to criticise the new spend. But then we will not have spent enough, and we should not do any savings, and they would still like the bottom line to look better; I just predict that that might be something that comes out of the next 24 hours. I do not know if I am right; I sense I might be. But that is what we are going to hear from those opposite.

MR HARGREAVES: A supplementary, Mr Speaker.

MR SPEAKER: Yes, Mr Hargreaves.

MR HARGREAVES: Thanks very much, Mr Speaker. I am dizzy from jumping up and down. I have a question to the Treasurer. In light of cost of living pressures, what is the government's attitude to people who require concessions?

MS GALLAGHER: I do not want to pre-empt the budget that I will deliver in 20 minutes, Mr Hargreaves, but this government have committed to a substantial review of our concessions program. In fact, we made some progress during last year's budget where we increased the concession and indexed it in the outyears. This was in recognition of those 25,000-odd householders that do rely on government assistance to help pay for their costs. Costs are increasing and the government's job is to provide targeted assistance.

Mrs Dunne: But not for anybody else.

MS GALLAGHER: Costs are increasing for others. I do not think the ACT is any different to New South Wales, Victoria, Queensland and, indeed, most economies across the world. Costs are increasing. The government's job is to respond to those families that need assistance from government, and that is what the budget last year did and it is what this budget that I will deliver in the next 20 minutes will also deliver.

This government are committed to providing additional support for vulnerable Canberrans but we are not going to expect that every household or every family in the ACT needs additional government support. We are going to continue to provide our excellent services across the community but there are some families that need an extra hand along from the government, and those families will get it.

Visitor

MR SPEAKER: I would like to draw members' attention to the presence of former member Mick Gentleman in the public gallery, and welcome Mr Gentleman back to the Assembly.

Questions without notice

Energy—costs

MS HUNTER: My question is to the Minister for the Environment, Climate Change and Water, and is in regard to the development of climate change and energy policies.

Minister, under the Climate Change and Greenhouse Gas Reduction Act 2010, you are required to set a renewable energy target within six months of the legislation being enacted. The government's review of action plan 1, released in January 2010, states that "renewable energy initiatives will be incorporated in the sustainable energy policy". During the March and April sittings, you said that the government's energy policy will not be released until action plan 2 is released, after the commonwealth decides on a carbon price. Minister, given that the ACT government has not yet released its sustainable energy policy, how has the government reached a determination of what the renewable energy target should be, and what factors will be taken into account to determine the renewable energy target?

MR CORBELL: I thank Ms Hunter for the question. I am not going to announce today what the government's renewable energy target will be. I am not going to preempt a policy announcement in question time, but I can assure Ms Hunter that the renewable energy target will be determined in accordance with the legislated time frame.

In relation to the issue of formulating what those targets are, and issues around action plan 2, I think I am being somewhat misrepresented. I think the point I made in answering previous questions about the timing of action plan 2 and the government's energy policy was that it was important to have regard to developments at a federal level that could impact on climate change policies, such as the introduction of a carbon price. I do not think I suggested at any time that we should wait and see what exactly the price was, but it would be prudent to have regard to developments at a federal level before concluding decisions at a territory level. That remains the government's position.

MR SPEAKER: Ms Hunter, a supplementary question?

MS HUNTER: Thank you, Mr Speaker. Minister, why has the government delayed the release of the sustainable energy policy such that both the renewable energy target and the feed-in tariff policies are being pursued prior to the policy framework itself being released?

MR CORBELL: The government can walk and chew gum at the same time, Mr Speaker. When the government announces its renewable energy policies, and indeed when it announces its renewable energy target, it will outline the basis upon which those decisions have been taken and the specific criteria and the specific considerations that have been taken into account in setting those targets.

MS LE COUTEUR: A supplementary, Mr Speaker.

MR SPEAKER: Yes, Ms Le Couteur.

MS LE COUTEUR: Minister, why has public consultation on action plan 2 been delayed for at least three months, and when will it commence?

MR CORBELL: It will commence when the government has finalised its consideration of action plan 2.

MS BRESNAN: A supplementary?

MR SPEAKER: Yes, Ms Bresnan.

MS BRESNAN: Minister, when will the government announce the composition of the climate change council for which it advertised for applicants back in December 2010?

MR CORBELL: Again, the government is currently finalising its decisions in relation to the membership of that council. I look forward to making an announcement in due course.

Sport and recreation—policy

MS PORTER: My question is to the minister for sport and recreation. Can the minister inform the Assembly about recent developments in long-term planning for the sport and recreation sector?

MR BARR: Mr Speaker—

Members interjecting—

MR SPEAKER: Order! Mr Barr has the floor; thank you. Order, members!

MR BARR: I thank Ms Porter for her question and for her ongoing interest in sport and recreation policy. I thank the opposition for being all ears this afternoon.

Opposition members interjecting—

MR SPEAKER: That is enough! Mr Barr.

MR BARR: Thank you, Mr Speaker. Members may be aware that the government launched last month the active 2020 strategic plan for the sport and recreation sector for the next decade. The plan is an industry-led document. It represents a continuation of our work in developing the sport and recreation sector. It takes a long-term view. It reflects the diversity of stakeholders involved in its development and in my view provides an excellent blueprint for the further development of the sport and recreation sector in the territory.

The development and release of this strategy emphasises a shared vision for Canberra to be enhanced through sport and recreation. It also indicates priorities to address infrastructure provision and participation. Whilst not solely a government strategy—it is something that has been developed with industry—we have been working closely with the sector to play a leading role in the final form of this strategy.

The government intends to use active 2020 as the guiding light for continuing investment in sport and recreation and as a basis for future decision making in this area. The report and the document represent a genuine partnership between the sector

and the government and represent, I think, an important ongoing active involvement by the sport and recreation industry in monitoring our implementation of this particular strategy.

The vision is that sport and active recreation in the Canberra region enable an enriched national capital. We support sport and recreation through a united system that connects and promotes the economic and social value of sport and recreation to the health and social wellbeing of our community. The goals are to increase participation in competitive and non-competitive social sport and active recreation activities at all levels, to provide opportunities for achieving excellence in sporting performance and to ensure access to quality and sustainable infrastructure for the delivery of these activities.

The strategic priorities contained within the strategy are to maximise community engagement, to promote the benefits of active sport and recreation, to increase the organisational capacity of sport and recreation organisations, to maximise individual success, to provide for sustainable team performances, to promote Canberra as the national sporting capital and to maximise the supporting infrastructure for sport and recreation.

The values that are drawn from this experience include demonstrated leadership from industry and government; inclusion and access to activities, programs and facilities; that sustainability be at the heart of our sport and recreation policy, environmentally, economically and socially; that we have affordability—particularly keeping participation in active sport and recreation within the reach of everyone in our community—that we are flexible and adept in developing programs and facilities for sport and recreation use and that there be clear communication—regular, appropriate and two-way—between government and industry. Sport and recreation are vital parts of our community and a significant contributor to the ACT economy.

MS PORTER: A supplementary, Mr Speaker.

MR SPEAKER: Yes, Ms Porter.

MS PORTER: Thank you, Mr Speaker. Can the minister provide further details regarding the benefits of sport and active recreation, including major events?

MR BARR: As I was saying in closing before, the sport and recreation sector is of profound economic importance to the ACT. A recent economic contribution study undertaken in 2010 by Access Economics demonstrated that the industry contributes nearly \$250 million to the ACT economy. It directly employs nearly 3,000 Canberrans and engages nearly 30,000 volunteers. So the sector has significant value for our economy. In economic terms, it contributes 0.6 of one per cent of the gross territory product, much of which is delivered, as I have just indicated, by volunteer labour.

The government, through this strategy, is committed to the growth of a vibrant, diverse and dynamic sport sector, a national leader in sporting achievement and sports science. We want to see the sector engaging with and impacting on other areas of

government and the economy in our community, most particularly health, education, tourism and planning.

The value of sport and recreation to preventative health is estimated at more than \$80 million per annum. A healthy lifestyle is at the forefront of the fight against childhood obesity and future chronic health issues. Obviously, there are many other benefits that are derived from participation in sport and recreation. These include fair play, teamwork, healthy competition and individual achievement, and these exist within the multitude of sport and recreation activities that are undertaken in this city each and every day, and most particularly on very busy weekends around Canberra.

The Hawke review has taken place in parallel with our development of this strategy and with the review of events and festivals. It is important to align these in one directorate, which we see through the economic development directorate. Territory venues and events and sport and recreation services will be moving into this new directorate. We are, of course, securing major sporting events for the city as part of our centenary year.

MS BRESNAN: Supplementary, Mr Speaker?

MR SPEAKER: Yes, Ms Bresnan.

MS BRESNAN: Minister, does this strategy include progressing a multipurpose indoor sports centre for the Tuggeranong area?

MR BARR: I would indeed advise the member for Brindabella to listen closely to the Treasurer's speech in a matter of moments.

Water—prices

MR SMYTH: My question is to the Minister for the Environment, Climate Change and Water. Minister, in the 10 years of the ACT Labor government, the cost of water charges in the ACT has risen by over 200 per cent. ACT families currently pay the highest charges for water in Australia. Minister, why has your government allowed this heavy burden on the cost of living for Canberra families?

MR CORBELL: We know the serious burden that Canberra families do share in relation to this matter, and that is that if there are water restrictions, if there are prolonged periods of time where there are restrictions on the use of water, there are very significant social, environmental and economic impacts that come from those restrictions. This government has responded to that issue by investing in measures that will provide long-term water security for our city. That should be the obligation and the responsibility of any responsible government.

It is, of course, one that those on the other side of the chamber squibbed on back in the early period of this decade, when they decided that their solution to water security—let us not forget it—was to build a dam in a permanent rain shadow. That was their policy. Who can forget the promise the day after the 2004 election that the bulldozers would be moving into the Naas Valley and building the dam! Indeed, it was Mrs Dunne—

MR SPEAKER: Mr Corbell, this is not the subject of the question.

MR CORBELL: It is entirely the subject matter, Mr Speaker, because it is about contrasting different approaches when it comes to infrastructure investment in water security projects in this city and the costs to Canberrans. They would have invested in a piece of infrastructure that was useless, that would have cost hundreds of millions of dollars to build and that would not have delivered the water security our city needed.

In contrast, this government has prudently and in a detailed and extensive way invested in infrastructure that will make the difference. And let us have no doubt about it: long-term investment in water security infrastructure means less cost on the economy, it means less cost on households, because the impact of water restrictions is lessened. We know what the average impact of water restrictions is across the economy. It is in the tens of millions of dollars every year if we face a future with long-term water restrictions.

So building the expanded Cotter Dam, building the Murrumbidgee to Tantangara transfer, is all about providing that long-term water security for our city. And that is an important investment. Are those opposite criticising that investment? Are those opposite suggesting that the alternative should be extended periods of time with severe restrictions? Is that the Liberal Party's position? Is that their policy? Do they think it would be better for Canberrans to have long-term water restrictions rather than invest now in water security projects?

Members interjecting—

MR SPEAKER: One moment, Mr Corbell. Stop the clocks. Members, we need to quieten it down. It is outrageous behaviour in question time today. Let us have a little bit of decent conduct.

Mr Seselja: On a point of order, Mr Speaker, you did earlier call the minister to order. He ignored you. Much of the interjection has actually been in response to that. Perhaps in calling us to order, you might also enforce your ruling on the minister for water.

MR SPEAKER: Thank you for your advice, Mr Seselja. I just invited the entire chamber to consider its own behaviour. Mr Corbell, let's have some focus on the question.

MR CORBELL: Thank you, Mr Speaker. I think it is important to contrast this issue of cost and impact on households and the community as a whole. Those opposite would invest in measures which would not deliver water security and which would come at incredible cost. Imagine that. Spending taxpayers' money on a dam which is in a permanent rain shadow.

MR SPEAKER: Mr Corbell, I think you have made the point.

MR CORBELL: In contrast, this government believes—

MR SPEAKER: Mr Corbell, that is enough. Thank you.

MR SMYTH: Supplementary, Mr Speaker.

MR SPEAKER: Yes, Mr Smyth.

MR SMYTH: Minister, what do you have to say to families that are now paying 200 per cent more for their water as a result of your government's policies?

MR CORBELL: I would say to those Canberrans two things. The first is that they want and they need long-term water security for their children and their children's children. They need to know that this city will have secure water supply for the next 100 years. They need that security of investment. Without it, there can be no jobs, there can be no economic activity and there can be no amenity in this city, an inland city in the driest continent on the planet. That is the first thing I would say.

The second thing I would say is that shortly the Treasurer will outline a very important range of measures that are designed to assist those most vulnerable in our community dealing with these pressures, because as a Labor government we have always taken the view that we will invest in protecting those who are vulnerable, protecting those who are on low incomes, protecting those who struggle to make ends meet, in a targeted and deliberate way which delivers equity, fairness and justice on these issues. That is what this Labor government will continue to do.

Let me give you an example. In the last 12 months we have invested over \$1 million on a program that has brought down the cost of utilities for low income households in the order of \$200 to \$400 per household per year, and that is by making an investment that gives them water efficient appliances, that gives them energy efficient appliances, that improves the retrofitting of insulation and other measures in their household, and which has been targeted not just at public housing but at those in private rental—those people who are most vulnerable and most difficult to assist. We have done that by providing them with payments and assistance so that they get an energy efficient fridge, so that they get a water efficient washing machine. These have meant real savings for those households and it is the type of approach this government will continue to take.

MR HARGREAVES: A supplementary.

MR SPEAKER: Yes, Mr Hargreaves.

MR HARGREAVES: Thanks very much, Mr Speaker. Minister, in the context of Mr Smyth's assertion that the prices have gone up by 200 per cent over a period, could you please tell us where the ICRC fits into all of this?

MR CORBELL: Of course, the opposition are quite happy to ignore the fact that pricing paths are determined by an independent regulator at arm's length from government. The pricing regulator has legislated statutory obligations to have regard—

Members interjecting—

MR SPEAKER: Thank you, members.

MR CORBELL: They do not like it, Mr Speaker, but it is, of course, the truth. And in so many things—

Mr Coe interjecting—

MR SPEAKER: Order, Mr Coe!

MR CORBELL: those opposite are quite prepared to throw the truth out the window if it does not suit their political argument. But the fact is that the independent pricing regulator is responsible for determining the price, the prudent and efficient price, for the delivery of energy and water to our community—not the government but the independent pricing regulator. And the formula that is put together is the formula that is put together by the regulator.

The government believe that the formula is in need of updating, and that is a matter that we will be pursuing further with the independent regulator. But we will do so in a way which has regard to their statutory independence, to their legislated obligations, and the fact that it is they, not the government, that determine the ultimate price of energy and water in this city.

MRS DUNNE: Supplementary question, Mr Speaker?

MR SPEAKER: Yes, Mrs Dunne.

MRS DUNNE: Minister, do Canberra families have a right to feel angry at the more than 200 per cent increase in the cost of water over the last 10 years?

MR CORBELL: I would pose an alternative question in response, Mr Speaker, and that is that Canberrans will be angry—

Mrs Dunne: I raise a point of order, Mr Speaker. I did not ask him to pose an alternative question.

MR CORBELL: You cannot tell me how to answer the question, Mr Speaker.

Members interjecting—

MR SPEAKER: Order, members! This is really intolerable today. Mrs Dunne, you have a point of order.

Mrs Dunne: I asked the minister a question and it is not within his purview to tell me what question I should have asked. His job is to answer the question directly.

Mr Hargreaves: On the point of order, Mr Speaker: the question was put by Mrs Dunne to Mr Corbell, the minister, and I would believe that it is in fact within the

minister's responsibility to phrase the answer in any way which can give a positive response to the member opposite. If the member opposite does not like the form of the response then the member opposite might just have to suck it up.

MR SPEAKER: As long as the minister remains directly relevant to the question asked, he is free to answer it in a range of ways.

MR CORBELL: Thank you, Mr Speaker. Of course I think Canberrans would be very unhappy if they knew that their future was a future of permanent water restrictions, of reduced economic opportunity, of reduced environmental and social amenity, because governments had failed to make investments to improve water security for our city. This government will stand proudly by decisions that guarantee the long-term water security for our city so that people will have playing fields to play on, so that industries will have water to access to create jobs and economic activity and so that Canberrans can continue to enjoy the garden city of which we are all so very, very proud.

That will be our approach. That will be one that is based on prudent and detailed technical analysis of where additional water resource capacity should be put into place, and we will not make bold, rash, and, quite frankly, stupid promises to build dams in places where it is never going to rain, where it is never going to deliver the water security we need for the future.

It being 2.30 pm, questions were interrupted pursuant to the order of the Assembly.

Appropriation Bill 2011-2012

MS GALLAGHER (Molonglo—Deputy Chief Minister, Treasurer, Minister for Health and Minister for Industrial Relations) (2.30): I present the Appropriation Bill 2011-2012 and the following papers:

Explanatory statement to the Bill.

Human Rights Act, pursuant to section 37—Compatibility statement, dated 3 May 2011.

Budget 2011-2012—Financial Management Act, pursuant to section 10—

Speech (Budget paper No 1).

Working Smarter. Delivering More (Budget paper No 2).

Budget Overview (Budget paper No 3).

Budget Estimates (Budget paper No 4).

Reader's Guide to the Budget.

Financial Management Act, pursuant to subsection 62(1)—Statements of Intent 2011-2012—

ACT Building and Construction Industry Training Fund Authority, dated 27 and 28 April 2011.

ACT Gambling and Racing Commission, dated 19 and 28 April 2011.

ACT Insurance Authority, dated 25 and 28 April 2011.

ACT Long Service Leave Authority, dated 21 and 29 April 2011.

ACT Public Cemeteries Authority, dated 28 April 2011.

Canberra Institute of Technology, dated 22 and 29 April 2011.

Cultural Facilities Corporation, dated 21 and 29 April 2011.

Exhibition Park Corporation, dated 28 April 2011.

Independent Competition and Regulatory Commission, dated 20 and 28 April 2011.

Land Development Agency, dated 29 April 2011.

Legal Aid Commission (ACT), dated 29 April 2011.

Public Trustee for the ACT.

Title read by Clerk.

MS GALLAGHER: I move:

That this bill be agreed to in principle.

Working Smarter. Delivering More

Mr Speaker, it is my pleasure to present the 2011-12 ACT Budget—my third Budget as the ACT Treasurer.

The Budget is focused on meeting our commitments to the community, increasing frontline services experiencing demand pressures, and supporting those in our community who need additional support.

This is a disciplined Budget. It carefully manages our growing costs, seeks to improve the efficiency of government services whilst meeting areas of increasing demand, and continues the record investments in the Territory's essential infrastructure.

Mr Speaker, this has been a tough Budget to put together. It is a Budget delivered against a backdrop of changing economic conditions, including the continual loss of GST revenue and increasing pressures on our Budget.

In this Budget we are improving public service processes, implementing new approaches to working, reducing duplication and delivering increases in services, whilst managing our own costs more efficiently.

Mr Speaker, this Budget returns the Territory to surplus in 2013-14, as planned.

This is a Budget that is fiscally responsible. As outlined in our original fiscal recovery plan, we are systematically and sustainably working to return to surplus, improving our own efficiency without slashing service delivery.

Targeted, recurrent expenditure with a net impact of \$266.5 million over four years is made in this Budget for sensible and needed investments in healthcare, schools, community safety, and municipal and community services.

The Budget invests in measures to deliver affordable housing, addresses cost of living pressures for those most in need and continues to respond to the challenges of climate change.

Positioning Canberra for our coming of age, the Budget supports our preparations for the celebration of Canberra's Centenary, the need for public transport expansion and continued urban renewal to meet the demands of our growing city.

Mr Speaker, since the last Budget, revenues have improved due to the strength of economic activity in the Territory. The Budget returns to surplus in 2013-14 as forecast last year and two years ahead of the original recovery plan.

We have maintained fiscal restraint. Expenditure on new initiatives is largely supported by savings. We remain focused on prioritising essential service delivery, building our frontline services and tightening areas where efficiencies can realistically be achieved.

This Government has consistently rejected a slash and burn approach to our Budget recovery. Whilst our focus remains on expenditure restraint, savings do need to be realised to return our Budget back to surplus. These are never easy tasks.

In 2011-12, we are estimating expenditure of around \$825 million on new works and works in progress. In doing so we provide critical support for local jobs, provide long term certainty for the private sector and at the same time deliver for our community high quality public infrastructure for the future.

There are no new taxes in this Budget. In fact, tax subsidies are provided to support transition through microeconomic reform.

Economic Outlook

Mr Speaker, compared with other jurisdictions, the Territory's economy performed very well this year, recording some of the highest growth rates through the year.

The Territory's economy is significantly influenced by the decisions and actions of the Commonwealth Government. There is no doubt the austerity of the upcoming Federal Budget will impact on our economy. State Final Demand growth is forecast to moderate to 1¾ per cent.

The labour market is also well positioned for 2011-12. Employment is forecast to grow by 2½ per cent in 2010-11. We have the second lowest unemployment rate in the country at 3.2 per cent, and the second highest labour force participation rate at over 73 per cent. Employment growth in 2011-12 is forecast to moderate to ¾ per cent consistent with the moderation in the overall economic growth.

Mr Speaker, the global financial uncertainty continues. Natural disasters around the country will impact markedly on the Commonwealth Budget and bring risks to the ACT economy. However, our strong labour market, relative job security and population growth will continue to support the economy. The prospects for the ACT economy remain positive.

Fiscal Outlook and Budget Objectives

Mr Speaker, the fiscal position of the Territory was significantly impacted by the effects of the global financial crisis.

To make matters worse, we have also seen a drop in our GST revenue due to a reduction in our Commonwealth Grants Commission relativities. This is in part because our needs have been assessed as relatively lower. Our economy has performed relatively better than the other States. But our Budget has suffered as a result.

The Government adopted a robust and flexible plan in 2009-10 to restore the Budget to surplus in 2015-16. Last year, we advanced the target to 2013-14.

The longer term plan means greater discipline, and we have exercised discipline in working towards this target.

It means neither savagely cutting programs and services, nor recklessly spending. It means a measured approach.

The Territory will be returned to surplus as planned. New policy initiatives, necessary to meet the needs of the community, are largely offset by savings.

Savings measures are aimed at reducing administrative costs, both in the resources consumed by staff as well as through reducing duplication and increasing productivity.

An Efficiency Dividend commenced in 2010-11 and continues in this Budget. Applied only to non-frontline services, the Dividend delivers \$66.6 million in savings over four years.

The Budget incorporates further savings initiatives to reduce administrative costs by \$150.7 million over four years.

Agencies are being asked to reduce expenditure in areas such as travel and accommodation, stationery, consultants and contractors, recruitment and training, electricity and fleet leasing.

Mr Speaker, in 2006-07 in order to achieve whole of government efficiencies, procurement, information technology, finance and human resource management were centralised in the Shared Services agency.

This Budget commences stage two of the Shared Services rationalisation reform program with savings in business processes of around \$15.5 million over four years.

This Budget continues our efforts to manage the size of the ACT Public Service. With wages and staffing costs consuming around 47 per cent of the Budget in 2010-11, managing the growth in staff is essential to managing the Budget overall.

Mr Speaker, this Budget introduces a process of reprioritising and redirecting staffing resources to areas of greatest need.

Under this Budget the size of the ACT Public Service continues to grow.

The initiatives in this Budget increase the size of the public service by around 320 full time equivalent staff, with many for frontline services.

However, the Government intends to limit the growth in the public service overall, and will be seeking staffing reductions in the order of 210 full time equivalent staff.

These will be managed through normal staff turnover and targeted redundancies, through voluntary processes.

Mr Speaker, there will be no involuntary redundancies.

We will work with our colleagues in the union movement to ensure that these reductions are managed carefully and appropriately.

Mr Speaker, this Budget provides for \$928.5 million in capital initiatives, including plant and equipment and Information and Communications Technology.

General Government borrowings will increase to \$650 million. These borrowings will fund the capital investment in the health system and the upgrade to Majura Parkway. The Territory's balance sheet remains strong.

Restructured Public Service—The ACT Public Service Review

The initiatives in this Budget will be delivered by a streamlined Public Service. Adoption of the ACT Public Service Review's recommendations and undertaking significant structural changes to the ACT Public Service are required to ensure this occurs. A single structure will facilitate greater integration of services and foster more innovative and holistic approaches.

It will deliver a public service designed to work smarter and deliver more.

A single Public Service will be more flexible, more collaborative and more connected. It will facilitate new approaches to delivering services.

A new Government Office Block will bring together ACT public servants and increase integration of services and effort. Work will commence on the Office Block

in 2013-14, with funding of \$124.9 million commencing over the last two years in this Budget. The total investment in the Office Block will be around \$432 million, offset by \$114 million in asset sales. This is a large project, a significant civic building with a strong commitment from this government to prepare our city for the future.

The Budget also invests \$0.150 million for a study into the cost and design of a new office block in Gungahlin for ACT public servants. This will be a significant boost for local jobs in Canberra's fastest growing region.

The Government Performance and Accountability Framework and the Evaluation Policy is supported through funding of \$1.5 million over four years to assist in improving the quality of government service provision.

Training for public servants with disabilities and Aboriginal and Torres Strait Islanders is being continued, along with leadership and management opportunities for other staff through funding of around \$1.6 million.

An ACT Public Service Workers' Compensation and Work Safety Improvement Plan will be developed and implemented through funding of \$4.0 million over two years. The Plan will include a new case management model, strengthen the capability of case managers, contribute to a healthy and productive Public Service, and curtail costs.

The Government's core services depend on reliable and up to date information and communications technology.

Strategic investments are being made by the Government in Information and Communications Technology. This Budget allocates around \$35 million to technology projects that will ensure our high service standards are maintained.

Mr Speaker, I now turn to more detail about the Budget initiatives.

Economic Development and the Arts

Economic development is essential to the well being of our city, our livelihoods and our future. It facilitates business opportunities and creates jobs. It promotes confidence, retains and attracts viable businesses and creates an environment where investment flourishes.

This Budget delivers initiatives that will continue our record of being a good place to do business and work. It funds more initiatives that will attract people to Canberra, and improve the city's reputation as a good place to live.

Skill shortages are being addressed, with the Skilled and Business Migration Program provided with further funding of \$1.1 million over four years.

Small companies developing innovative products and services, and commercialisation opportunities are further supported through funding of \$1.6 million over four years for the Innovation Connect Program. Advisory services deliver support for high growth potential firms and attract external development finance and this Budget will provide \$760,000.

The Government's investment in the city's coming of age, our Centenary, will further contribute to our economic development, attracting new visitors and will showcase the city and our business potential.

A Centenary Marketing Fund of \$1.8 million over three years, for a national Canberra marketing campaign, will further promote our city as the nation's capital.

Community members and groups can now access funding to assist in the delivery of Centenary events, with just over \$1.0 million provided for this purpose.

A Centenary Trail will be constructed for walkers and cyclists featuring the ACT's iconic sites and notable landmarks through funding of \$3.3 million.

The Street Theatre will be extended, with \$3.2 million allocated to create a performing arts hub in City West.

The National Arboretum, soon to become an iconic Canberra landmark, receives additional Commonwealth funding of \$20 million over four years as a gift to the National Capital for the Centennial year.

Based on the success of "*Masterpieces from Paris*" an annual "blockbuster" fund of \$2 million over two years will assist Canberra's major cultural institutions acquire large scale exhibitions. The fund will be used to attract increased interstate and international visitors and focus positive national and international attention on the ACT.

Sport and Recreation

Canberra is recognised as an important sporting centre and this brings economic and lifestyle benefits.

The Canberra Stadium is provided \$4.3 million in the Budget over four years to host seven games in the 2015 Asian Cup, as well as \$2.2 million for the design of improvements to facilities.

\$26.3 million is allocated for a 50 metre swimming pool complex at Gungahlin, \$2.8 million for future planning and design at Stromlo Forest Park, \$2 million for redeveloping Kippax playing fields and \$1.1 million for the restoration of Isabella Plains and Charnwood sports grounds. This sees continued investment in local community sport and recreation facilities.

A multi use indoor sporting facility will be constructed at Greenway for community use, with funding of \$2.1 million provided. This facility will also house a Men's Shed.

Housing Affordability

Mr Speaker, there is no doubt that the ACT housing market has performed well over 2010-11, with dwelling commencements and dwelling completions reaching record

levels. Residential building approvals are significantly above long-run averages while dwelling commencements and completions are recording the strongest growth in more than ten years.

We have seen increases in residential property prices of just over 7 per cent, a 47 per cent increase in residential building approvals and annual growth in dwelling commencements of almost 38 per cent.

The ACT housing market continues to provide an attractive investment option due to a tight rental market, gains in house prices and a stable labour market.

Above average population growth continues to drive demand for new and existing homes.

Although it's expected the housing market will soften somewhat during 2011-12, the market is still forecast to grow at sustainable levels. Increases in housing supply, higher interest rates and the withdrawal of Commonwealth stimulus measures will see first home buyer activity return to long-run average levels, however, non-first home buyer activity still remains at high levels due to our strong population growth and favourable investment environment.

Affordability is clearly not an issue for many ACT residents. For others, however, it is a major concern and one the Government shares. This Budget will deliver more affordable housing for Canberrans. The ACT Government is continuing to invest in student accommodation and community housing, release more land and investigate new models of meeting the challenges of housing affordability in a prospering city.

Mr Speaker, while all governments are struggling to address housing affordability, in the ACT we are providing real and practical options for people seeking to purchase or rent a home, or who are homeless. This Government is continuing to implement its Affordable Housing Action Plan, which is recognised across Australia and internationally.

In 2011-12 the Government will release 5,500 dwelling sites and a total of 18,500 over the next four years. As a result of the accelerated residential land release program, housing supply has significantly increased.

Additional funding of \$1.6 million over four years will establish an inventory of release ready land to deliver affordable housing in green field areas. Land release and supply continue to be key Government responses to affordability.

Further land is being released in Ngunnawal for aged care, a pressing area of housing need, with funding of \$2.4 million allocated.

A rolling program of master plans is being implemented with funding of \$4.2 million. This will assist the Government identify future opportunities for land release.

Significant funding of \$44.5 million over two years is provided to support necessary infrastructure including water and stormwater for initial land releases in Stage Two of

Molonglo. John Gorton Drive is being extended to improve access to the new suburbs. Horse Park Drive is also being extended to improve access to new suburbs in North Gungahlin with funding of \$24.2 million.

A further \$20 million loan is provided to Community Housing Canberra for 90 properties for affordable rental in Crace, Bonner and Bruce. This loan builds on the \$50 million already provided to the company for affordable housing and will help deliver 1,000 affordable housing properties for rental and sale by 2018.

A \$23 million loan and a \$6 million grant over nine years is also made to the University of Canberra for the purchase and refurbishment of Wing 5 of Cameron Offices in Belconnen for 212 student accommodation places.

Social housing is being expanded with funding of \$9.5 million for an additional 32 dwellings to address housing affordability. In particular an intentional community will be developed at Phillip to house people with a disability who need family and other support nearby.

Further policies and programs connected with the Affordable Housing Action Plan, including further measures for the homeless, will improve housing affordability, with funding of \$1.4 million over two years.

Narrabundah Long Stay Caravan Park is being upgraded, financial assistance provided to eligible residents, and 25 new mobile homes being constructed with \$7.7 million allocated.

People who are homeless will also be further assisted to re-engage with support services in order to obtain and sustain a successful tenancy, through funding of \$508,000.

Support will also be provided for a Common Ground feasibility study—an internationally recognised supportive housing model.

Health Care

Mr Speaker, this Budget continues to ensure the Health Budget grows to meet the needs of the community. The increases target the expansion of existing services, provide for new services and ensure the continued development of new hospital and community health facilities.

Over \$129.1 million is provided over four years for the continued implementation of the Capital Asset Development Plan, to build a sustainable and modern health system.

This investment provides \$41 million to progress the next stage of planning and design for new infrastructure such as a new tower block at the Canberra Hospital which will be designed to accommodate the majority of all inpatient activity at the hospital in the future. The new tower block will ensure that our tertiary referral hospital is able to meet projected increases in inpatient bed numbers in a modern hospital setting able to provide health care in the safest and most efficient way.

The 2011-12 Budget also provides \$4 million for preliminary work on the future expansion of hospital services for the North side of Canberra. The Government will be building a new hospital on the North side of Canberra and this funding will be used to explore location options as well as undertake detailed project scoping and documentation, and explore financing options.

Funding of \$15.1 million will enable the inclusion of further enhancements, and additional treatment spaces to the ACT's new Integrated Cancer Centre, construction of which will begin shortly.

The annual Health Budget this year will grow to \$1.1 billion as demand for health services across our community continues to increase.

Around \$17.4 million in recurrent funding is allocated to increase the capacity of ACT hospitals by providing for the equivalent of 20 additional acute care beds, and will establish a new service for people suffering from neurological disorders such as Parkinson's Disease.

A further \$8.3 million over four years is provided to increase the Canberra Hospital's Intensive Care Unit by two beds and ten nurses and expanding its outreach services.

Access to surgery will be increased with an additional \$10.4 million over four years to provide both increased access to elective and emergency surgery, bringing our annual target to 11,000 operations per year, and enhance paediatric ophthalmology and plastic surgery services.

This Budget also provides \$7.7 million over four years for growth in obstetrics, gynaecology and other specialised birthing services for women and children, which will be delivered at the new Women and Children's Hospital.

The Capital Region Cancer Service is provided with funding of \$4.2 million over four years to meet increased demand for services and \$6.7 million over four years is provided for the commissioning of a fourth linear accelerator in the Radiation Oncology Department.

The ACT Labor Government continues to invest in supporting the growing number of people in our community who live with mental health issues. Increased funding of \$19.8 million over four years for mental health includes \$13.8 million for the new Adult Mental Health Inpatient Facility. Other funding targets early intervention, prevention, and training for teachers, police and ambulance workers in addressing mental health issues, better equipping them to recognise and appropriately refer those needing support to overcome mental illness.

This Budget provides additional support for rehabilitation, aged and community care with funding of \$4.2 million over four years to support the therapy programs delivered at the Village Creek Centre.

Education and Training

This Budget continues the Government's commitment to invest in education, to ensure better outcomes for students in public education in the ACT. We are continuing to invest in our teachers and our students to ensure we continue to deliver the highest standards in education and training.

We recognise the pressure placed on our schools and tertiary institutions to deliver these outcomes for our young people and those undertaking further education and training. We continue to believe that educational success is the key to a productive and fulfilling life, a thriving economy and a competitive Canberra.

Helping to meet the growing expectations we have of our teachers, with responsibility for helping students achieve educational success, this Budget will invest over \$11.8 million to implement educational reform and provide enhanced career paths for teachers.

We all recognise that students with disabilities need to be given extra support to achieve educational success. An additional \$20.0 million over four years is provided for educational programs for students with disabilities to give them similar opportunities to others.

This Budget allocates around \$147 million to build new schools and to improve existing facilities.

A new early childhood school will be constructed at Franklin, along with a new primary school at Bonner. Majura and Macgregor Primary Schools are being expanded, with other school facilities upgraded. Further work is being undertaken at Namadgi P-10 School, Gungahlin College and Harrison Secondary School.

A new pedestrian bridge will provide safe access for students crossing Drakeford Drive to attend the new Namadgi P-10 School at Kambah.

Funding of \$1.6 million over four years is provided to increase accountability for primary school business managers.

Secondary schools will see funding of \$800,000 provided to implement improved approaches to learning and teaching and new pathways for students. Student engagement often declines in these years.

Funding of almost \$15 million is provided for school building and facility improvements, along with \$6.2 million to upgrade preschools to meet national quality standards.

Quality school facilities need to be complemented by up to date technology. This Budget allocates \$4.4 million for Information and Communications Technology in public schools.

The Territory depends on a well functioning vocational education and training sector, supported by an effective information system. \$1.8 million is also being provided in this Budget to replace the Vocational Education Management System.

The CIT receives \$1.2 million to support its expanded footprint of buildings and the increased complexity of its Information Technology systems. Forward Design for a CIT Learning Centre in Tuggeranong is also funded with \$700,000.

Municipal Services

Mr Speaker, Canberrans rely on and expect good municipal services. As Canberrans we have a sense of pride in how our city looks and we, as a community like to see it maintained and protected. Mowing the grass, removing our garbage, cleaning our suburbs and maintaining urban amenity is important to all of us.

The ACT Government is working to balance greenfield and infill development, with urban projects that enliven the city and the suburbs. Transport networks assist in creating dynamic urban spaces that optimise the use of existing and new infrastructure.

This Budget allocates \$4.3 million to maintaining and sustaining the essential municipal services upon which we rely.

To further improve our city's amenity, funding of \$4.3 million is allocated for the completion of Bunda Street from East Row to Northbourne Avenue and improvements to Veterans Park, Petrie Plaza, City Walk and Civic Carousel.

An additional \$7.5 million is allocated to looking after our urban trees and to assist the natural regeneration of Box-Gum woodlands. Canberra boasts the largest urban forest managed by a single jurisdiction in Australia, with over 700,000 trees.

Managing and reducing our waste remains a key challenge. Around \$8.4 million in this Budget is directed to problem and stockpiled building waste at West Belconnen Resource Management Centre and to the upgrade of land fill cells to meet environmental standards. A feasibility study into acquiring a new landfill site is also being conducted with \$2.8 million allocated.

Transport

Fast and reliable public transport is the foundation of a well functioning city.

ACTION requires ongoing investment to ensure it meets commuter needs. This investment is complemented by ongoing efficiencies.

Funding of \$21.4 million over four years is invested in making ACTION buses more accessible and effective. Services to Gungahlin and the Inner North, Fyshwick, Kippax and the Canberra Hospital are being improved. A dedicated mini bus will increase transport options for the Aboriginal and Torres Strait Islander community.

The ways in which we communicate with Canberrans about bus routes, frequency and accessibility are being strengthened to improve patronage and help reduce greenhouse gas emissions from other forms of transport.

Capital funding of around \$20 million is provided for public transport infrastructure, including \$3.7 million to upgrade the Woden bus depot, \$2.5 million for the forward design of the Northbourne Avenue Transitway, \$4.4 million for fuel depots and \$1 million for bus stop upgrades. The ACTION radio system is being replaced with \$4.5 million in funding being provided.

A primary point of contact for the taxi industry and other stakeholders will be established through funding of \$776,000 over four years. Service standards to improve taxi performance will be developed, as well as fare levels and compliance monitored.

Canberra's walking and cycling infrastructure continues to be enhanced with \$1.5 million provided for construction of new cycle ways and shared paths.

Road safety is a paramount concern and the key driver in the Government's continued investment in maintaining and upgrading roads. The Budget provides \$144 million over three years for the Majura Parkway and \$5.5 million for intersections in North Weston and West Belconnen.

Funding of \$3.3 million over four years is also provided for the enhancement of the Road Transport Authorities' Computer System.

Community Services

Mr Speaker, Canberra is a compassionate city that cares for its people. This Budget provides additional funding to support those in our community who need additional assistance whether it be through the provision of specialist services, transport, or financial support to meet increasing costs of living pressures.

A progressive city provides practical support for its residents with disabilities, helping them to participate in the economic and social life of the community.

This Budget provides additional emergency accommodation support places for people with disabilities whose natural or formal supports have failed or who need to exit the hospital system.

In response to community need, a specialist, ten place, after school care program and ten place, full time holiday support program for young people with complex behaviours associated with autism and other developmental delays is being established at a cost of \$1.7 million over four years.

Existing programs that support school leavers with disabilities are also being expanded, with an additional 15 places available each year for two years with funding of \$2.8 million over four years provided.

This Budget makes provision to ensure specialist transport services are more affordable and accessible for people with disabilities. The number of taxi vouchers and the subsidies per trip for people with disabilities are increased, with over \$2.3 million allocated over four years.

A centralised wheelchair accessible taxi booking service will be introduced and incentives will be implemented for improved services for people with disabilities with \$2.2 million in funding over four years.

In recognition that the rising costs of energy and water are placing pressure on low income households, this Budget provides for a significant boost to utility concessions in the order of \$131 per annum.

Further practical help is being provided to low income households to reduce costs by increasing their energy and water efficiency with around \$4.4 million provided over four years. This Budget funds further retrofitting of older public housing properties to improve their energy efficiency. This will assist in reducing tenants' utility costs, with \$8 million over four years allocated.

People on low incomes will now be able to access a Legal Aid Commission Help Desk to help resolve their legal problems, with funding of around \$1.7 million over four years provided.

Mr Speaker, the task of supporting children and young people at risk is not an easy one. This Budget provides additional assistance for those children and young people who live in foster or kinship care, with funding of \$2.2 million over four years provided.

Kinship carers now form around half of all carers of children in out of home care and are further supported with funding of \$1.7 million over four years.

Young people who are transitioning from out of home care to independent living, are being provided with the additional assistance of \$2.1 million over four years.

Young people at risk need to be diverted from the justice system if their lives are to improve. The Government is providing supplementary funding of \$5.5 million over four years for the Bimberi Youth Justice Centre to increase funding for staffing, program and security.

This funding includes further support to assist young people minimise their involvement in the justice system and improve responses for those at risk of remand.

Funding of \$1.9 million over four years is allocated to the Office for Multicultural Affairs and Aboriginal and Torres Strait Islander Affairs to strengthen support for Indigenous Canberrans and people from a range of diverse cultures. This includes funding to enhance the Multicultural Festival and the Work Experience Support Program.

Further capital funding of \$4.5 million is provided to complete the refurbishment of the Flynn Community Hub and the former Holt Preschool. A Holder Early Childhood Centre will be constructed with \$7.5 million in funding allocated.

Early childhood facilities are being upgraded, with \$10.5 million in recurrent and capital funding provided, to ensure they meet national quality standards. In total, more than 800 long day care places will be created.

A children's services scholarship program will be established with funding of \$785,000 to assist childcare workers improve their qualifications.

Justice and Community Safety

Our justice, policing and emergency services require significant resourcing. In this Budget, the Government recognises that while ongoing investments need to be made, they need to be targeted to areas where they can deliver the greatest benefit for the community.

Funding has been provided for \$2.9 million over four years to ACT Policing for the implementation and ongoing support of random roadside drug testing.

Court security is further improved, with \$4.6 million over four years allocated for additional sheriff and correctional officers and upgrades to facilities.

Around \$21.1 million is allocated for an additional 30 front line Ambulance Service paramedics and five ambulances in response to the need for more services in Dickson and West Belconnen. Six additional headquarter ambulance staff are also funded to improve response capability.

Work on the Emergency Services Authority's station upgrades and relocation continues, with \$4.7 million allocated for due diligence and forward design of fire and ambulance facilities across Canberra.

In recognition of the demands of our growing city, giving priority to investing in our frontline services and anticipating the retirement of a number of long serving senior staff, we will invest \$1.1 million in the Fire Brigade Recruit College. Two new recruit colleges will be conducted in the next financial year. Protective equipment for our fire fighters is also funded with \$2.0 million provided.

The Alexander Maconochie Centre receives additional operating funding of around \$5.1 million over four years to better support offender programs, with \$1.4 million for security upgrades.

Funding of \$702,000 is provided for improved access to justice services for Aboriginal and Torres Strait Islander people. A Guidance Partner will assist young Aboriginal and Torres Strait Islanders who are involved in restorative justice. Galambany Circle Sentencing Court panel members will also receive appropriate remuneration.

Climate Change and Sustainability

The Government strongly believes that we need to meet the challenges of climate change and lead the way in addressing its impacts.

Despite being a small jurisdiction, the ACT continues to lead by example, increasing our uptake of Green Power from 32.5 per cent to 37.5 per cent from 2011-12 at a cost of \$2.9 million. This will reduce the Territory's carbon footprint.

A Resource Management Fund of \$2 million will provide an incentive for the ACT Public Service to improve resource and energy efficiency.

Funding of \$1.5 million is being allocated to improve the quality and reliability of energy efficiency ratings for residential properties for sale. To ensure that new dwellings meet expectations of quality, safety and environmental sustainability, \$6.7 million is provided for additional building inspectors.

The urban waterways program, trialling replacement of a proportion of potable water with stormwater, is also supported with just over \$900,000 allocated over four years.

Funding of almost \$800,000 has been allocated for further work on an ACT Government data management system, which will provide information on energy and water usage, recycling and green house gas emissions.

Conclusion

Mr Speaker, this is a Budget that delivers additional services to our community, while at the same time delivering the savings that are required to return our Budget to surplus in the short term.

This Budget creates a single public service focused on delivering high quality and efficient services to the community that we serve.

This Budget balances competing interests and demands and seeks to deliver a fair outcome for all.

Within the fiscal constraint that was required, this Budget also shows vision and optimism for the city we are becoming as we approach our second century.

Mr Speaker, I commend the Appropriation Bill and the 2011-12 Budget to the Assembly and to the ACT community.

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

Financial Management (One ACT Public Service) Amendment Bill 2011

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

Title read by Clerk.

MS GALLAGHER (Molonglo—Deputy Chief Minister, Treasurer, Minister for Health and Minister for Industrial Relations) (3.09): I move:

That this bill be agreed to in principle.

Mr Speaker, today I am tabling the Financial Management (One ACT Public Service) Amendment Bill 2011. This bill provides amendments to the Financial Management Act 1996 to facilitate the new public service model which establishes a single agency, with nine directorates, as the administrative basis of the ACT public service from 1 July 2011.

In September 2010, the government engaged an independent reviewer to evaluate the structure and capacity of the ACT public sector. The review identified that the ACT government needed to work together as one, to present one public service and one public service face, so that we can serve our customers, our citizens, in the best possible way and meet their demands.

To begin this process, all existing administrative units will be abolished by 1 July 2011 and the ACT public service will be reconfigured as a single entity, reporting to a single chief executive who will also be the head of the ACT public service.

In order to implement the single agency model, amendments are required to the FMA. The FMA is the principal financial management legislation in the territory. The objective of this legislation, as with all jurisdictions' financial management legislation, is to promote the highest standards of financial accountability to the Legislative Assembly and the community, and to provide appropriate transparency in resource allocation and management.

This bill amends the FMA to implement the directorate structure within the single agency model by simply replacing references to "department" with "directorate". This will provide the Legislative Assembly with the same level of detail with which to scrutinise the government's proposed budget, on behalf of the community.

The 2011-12 Appropriation Bill has been prepared on this basis to reflect the new administrative structure which will be operational on 1 July 2011.

Another consequence of the single agency model is that chief executives of departments are being replaced with directors-general of directorates.

As financial accountability essentially remains unchanged, the bill replaces the words "chief executive" with the term "director-general". This ensures that directors-general are held responsible for the efficient and effective operation of their respective directorates.

Part 8 of the FMA relates to the financial provisions for territory authorities. Section 54 provides a list of the ACT's territory authorities to which part 8 applies. Rather

than the legislation containing the list of applicable territory authorities, the bill provides that the list is to be provided in a financial management guideline.

This is a more efficient process to facilitate necessary changes without diluting transparency. As financial management guidelines are disallowable instruments, the Legislative Assembly continues to have the ability to debate proposed changes to the list of territory authorities to which part 8 applies.

For similar currency reasons the list of territory authorities with governing boards which was contained in section 76(2) of the FMA has been removed. The list is not legally required as section 76(1) specifies that a territory authority has a governing board if the establishing act for the authority establishes a governing board for the authority.

This bill is aimed at aligning the FMA to support one ACT public service. The changes ensure that the highest standards of financial accountability provided to the Legislative Assembly and the community are retained.

I commend this bill to the Assembly.

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

Paper

Mr Speaker presented the following paper:

Standing order 191—Amendments to the Health Amendment Bill 2011, dated 8 and 11 April 2011.

Executive contracts Papers and statement by minister

MR STANHOPE (Ginninderra—Chief Minister, Minister for Transport, Minister for Territory and Municipal Services, Minister for Business and Economic Development, Minister for Aboriginal and Torres Strait Islander Affairs and Minister for the Arts and Heritage): For the information of members, I present the following papers:

Public Sector Management Act, pursuant to sections 31A and 79—Copies of executive contracts or instruments—

Long-term contracts:

Graeme Dowell, dated 17 March 2011.

Robert Neil, dated 7 March 2011.

Stephen Ryan.

Short-term contracts:

Alan Traves, dated 4 March 2011.

Catherine Jackson, dated 11 March 2011.

Denise Lamb, dated 11 and 17 March 2011.
Heather Tomlinson, dated 28 February 2011.
Janelle Day, dated 25 March 2011.
Lana Junakovic, dated 3 March 2011.
Michael Reid, dated 9 and 11 March 2011.
Paul Wyles, dated 9 March 2011.
Sheryl Harrison, dated 25 February 2011.

Contract variations:

Anita Hargreaves, dated 19 March 2011.
Lisa Holmes, dated 27 March 2011.
Mark Huxley, dated 22 March 2011.
Megan Young, dated 22 and 25 March 2011.
Narelle Ford, dated 10 March 2011.
Peter Maybury, dated 22 March 2011.
Rosemary Kennedy, dated 10 March 2011.
Shane Kay, dated 10 and 11 March 2011.
Susan Lebish, dated 19 March 2011—

I ask leave to make a statement in relation to the papers.

Leave granted.

MR STANHOPE: Thank you, Mr Speaker. I present another set of executive contracts. These documents are tabled in accordance with sections 31A and 79 of the Public Sector Management Act, which require the tabling of all chief executive and executive contracts and contract variations. The contracts were previously tabled on 5 April. Today I present three long-term contracts, nine short-term contracts and nine contract variations, the details of which will be circulated to members.

Papers

Mr Stanhope presented the following paper:

Public Accounts—Standing Committee—Inquiry—Auditor-General's Report No 7/2010—Management of Feedback and Complaints—Government submission.

Mr Corbell presented the following paper:

Public Accounts—Standing Committee—Inquiry—Auditor-General's Report No 4/2010—Water Demand Management: Administration of Selected Initiatives—Government submission.

Mr Corbell presented the following papers:

Subordinate legislation (including explanatory statements unless otherwise stated)

Legislation Act, pursuant to section 64—

ACT Teacher Quality Institute Act—ACT Teacher Quality Institute (Fee) Determination 2011 (No 1)—Disallowable Instrument DI2011-44 (LR, 31 March 2011).

Electricity Feed-in (Renewable Energy Premium) Act—Electricity Feed-in (Renewable Energy Premium) Rate Determination 2011 (No 1)—Disallowable Instrument DI2011-48 (LR, 1 April 2011).

Public Place Names Act—

Public Place Names (Acton) Determination 2011 (No 1)—Disallowable Instrument DI2011-45 (LR, 4 April 2011).

Public Place Names (Belconnen) Amendment Determination 2011 (No 1)—Disallowable Instrument DI2011-51 (LR, 8 April 2011).

Public Place Names (City) Determination 2011 (No 1)—Disallowable Instrument DI2011-46 (LR, 4 April 2011).

Public Place Names (Harrison) Determination 2011 (No 1)—Disallowable Instrument DI2011-50 (LR, 7 April 2011).

Public Sector Management Act—Public Sector Management Amendment Standards 2011 (No 3)—Disallowable Instrument DI2011-49 (LR, 7 April 2011).

Taxation Administration Act—Taxation Administration (Amounts payable—Utilities (Network Facilities Tax)) Determination 2011 (No 1)—Disallowable Instrument DI2011-47 (LR, 4 April 2011).

Adjournment

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

That the Assembly do now adjourn.

Death of Osama Bin Laden

MR HANSON (Molonglo) (3.14): Given the events of yesterday evening, Australian time, when we were informed that Osama Bin Laden was killed by US forces, I think it is worth passing comment because I think that we have all been touched in some way by the repercussions of the evil that has been inspired in the last couple of decades by Osama Bin Laden. I think we can all reflect on some of the key events of September 11. There were events before that such as the attack on the USS *Cole*, the US embassy and marine base in Lebanon; the Bali bombings, which of course affected Australians; the London bombing; and the bombings in Spain. We have seen many other countries suffer similar outrages, including Pakistan, Iraq and throughout the Middle East.

Many Australians have lost their lives and lost loved ones. But this is a truly global phenomenon and is indeed a multi-faith phenomenon. This is not something that has just affected Westerners or Christians. It has affected people of all faiths. And most particularly, it has actually affected Muslim people.

I think that if we look at the events of recent times we see that the Arab world is turning away from the sort of terror that was inspired by Osama Bin Laden. And we see the outbreak of democracy movements in Syria, Iran, Egypt and Libya and other places throughout the Middle East. I think it gives us great encouragement that the Arab world has seen the atrocities that have been inspired by Osama Bin Laden and, in large part, has rejected them. Of course there are many that still follow his mad doctrine. But hopefully the events that were announced yesterday will serve to diminish some of the inspiration that he has provided to those people.

I think that this is a significant event to people of the US because, of any country in the Western world, they have borne the brunt of the terrorism inspired by Osama Bin Laden. We think of September 11 most particularly. But the Americans, in taking their fights to the terrorists, have made mistakes along the way. It is easy, in retrospect, to say that they may have made some mistakes but they have certainly led the way in the cause of freedom. They have lost, I think it is, over 4,000 lives in Iraq. They have lost a growing number of troops in Afghanistan. They have carried a significant burden, as I mentioned. So I commend them on what they have done in the leadership of the Western world.

It has obviously been a burden on Australia and a burden on our forces as well. We only have a small defence force and a particularly small army. And in many ways our army has been at war since 1999, with the East Timor intervention and then Afghanistan and Iraq. For many of our soldiers and other servicemen, it is going to be a great boost to their morale. Osama Bin Laden, regardless of whether he is technically in control and whether he is calling the shots anymore, is, I guess, in some ways the iconic figure for those who would wish to do harm against us.

I think that it is going to be a long fight ahead of us. No-one thinks that this is the end of terrorism. I think that is years if not decades away. But there is no doubt that this is a blow to the enemies of freedom and is a great boost to the morale of those who are fighting the enemy. So I think it is worth reflecting on this great event. Although no-one rejoices in death and in killing, I think that the death of Osama Bin Laden is something that we can all welcome in the ACT.

Rotary Club of Belconnen

MR COE (Ginninderra) (3.19): On 20 April the Rotary Club of Belconnen celebrated 40 years of serving the community with a celebration dinner held that evening with 114 people in attendance, including a number of MLAs. Unfortunately, I was unable to attend. The club was chartered as the Rotary Club of Canberra—Belconnen in 1971 with 20 members. Since that time the club has grown and has chartered two other clubs—Ginninderra and Hall. The club is actively engaged in the community. Particular thanks are due to the enthusiastic executive led by the president,

Rod Menzies, and president-elect Lynton Dixon. Other executive members include Len Glare—a past president—Des Walsh, Teresa Dickinson, Mary Cruickshank, Rod Gardiner, Neil James, Michael King, Peter Oldham and Peter Kain.

The Rotary Club of Belconnen is active in the local community and undertakes many projects throughout Belconnen, the region and overseas. This year the club's main projects include a Rotary youth program of enrichment, which helps young people broaden their horizons culturally, socially and academically; the Murray-Darling School of Freshwater Research in Albury; the National Youth Science Forum, a two-week course in January each year for students from all over Australia who are interested in a science career; study scholarships to ANU, CIT, UC and the Canberra Rep; Rotary youth leadership awards, which provide leadership training seminars for young adults; Christmas hampers, which are distributed through local churches and charities; replacement library books for Marysville school, which were destroyed in the Victorian bushfires; the shelterbox and aquabox emergency kits, which are sent to areas of natural disasters, including overseas; the "end polio now" campaign, an international Rotary project to eliminate polio from the world; and the Kintore project—a project in conjunction with the Rotary Club of Woden to provide a dialysis treatment facility for the western desert people in the Northern Territory. Since 1974 the club has raised over \$4 million from its weekly trash and treasure market at the Jamison centre car park.

Community groups like Rotary punch above their weight. They undertake tasks for our community that often governments could not do even with limitless funds because governments cannot buy commitment, they cannot buy dedication and they cannot buy the goodwill that such organisations exhibit on a daily basis. I commend the club for their 40 years of service and I thank them for their continued commitment to serve our community.

Kiribati

MS LE COUTEUR (Molonglo) (3.21): I rise today to reflect briefly on the trip that I took with Mrs Dunne and Mr Kiermaier to Kiribati at the beginning of April. And it was a truly fascinating trip. As members would be aware, we are twinned with the Kiribati parliament. We formed a parliamentary delegation. The decision has been made that once in each term of the Assembly we should visit our twin. It was fascinating from a number of points of view.

I might start off with, I suppose, the most obvious one applicable to us. We visited the House of Assembly and we read their standing orders. There are a number of things which I think we could learn from them. The first, I guess, is the absolute total silence in which all the speeches are delivered. It was absolutely stunning, I have to say, as someone who has been here for a couple of years. I think that both of my fellow visitors would agree with me that it was a very different atmosphere.

Something else that was done, which I think we could look at but which I suspect will not actually happen, is that they have afternoon tea together at 4 o'clock. Everyone stops for half an hour. And it is not just a cup of tea. They have cakes. They have sushi. They have a substantial meal. I thought that was a very friendly, collegiate way

of doing things. If we were to be more like that, I suspect there could be some positive improvements in the Assembly.

They also require people to give 25 days notice of amendments. I do think 25 days notice might be a little overly legalistic and certainly a bit ambitious but possibly there is somewhere between the current standards in the Assembly and 25 days that we could go to as a possible improvement on our practice.

The other thing I would like to mention, just from a legislative point of view, was questions. I was going to say questions on notice but there is sort of a combination. What they do there is they do not ask questions without notice. All questions have to go to the Speaker and then, through the Speaker, they are given to the ministers. The Speaker has apparently the right of veto, which I did not think was a very good idea.

Given that the questions have been notified and there is a written reply given by the minister, the interesting thing is that there are five supplementary questions after that. So I thought that possibly we should change the timing a bit. But there is some future in that—the idea that the minister would know the topic on which the question was going to be asked but then you had the scope to ask further questions on it. I think that is a refinement on what we do at present and has some potential.

I have unfortunately only got less than two minutes left to talk about the rest of Kiribati. And it certainly deserves more than that. As people may be aware, the main island is very long and narrow. Its highest point—and we all went over this a couple of times a day—is three metres above sea level. But most of it is only two metres above sea level. And a couple of times we were in places, we were told, which in storm surges had been under water. We saw land which used to be part of the productive or residential part of Kiribati but which has now been effectively reclaimed by the sea. So climate change is certainly one of the significant issues for Kiribati.

Kiribati is in the UN's list of the bottom 50 in terms of development index. AusAID regards it as a hardship posting. It is a coral atoll, which means that it is made up basically of sand. If you have been to Papua New Guinea, which I have, or Fiji, which are volcanic, while they are islands and they are substantial, this is basically flat. You are just above sea level.

As I have only got 20 seconds left, I will speak more in another adjournment speech about non-parliamentary, non-geographical features of Kiribati. But suffice it to say, it was a very interesting trip and I will tell you more about it next time.

Autism Asperger ACT

MR DOSZPOT (Brindabella) (3.26): A few weeks ago I was invited by Autism Asperger ACT to attend the 2011 Bubble Day event at Cranleigh school along with the president of the association, Mrs Gay von Ess, and other committee members.

It was a pleasure to join children and parents from the Southern Cross early childhood school and children from Cranleigh school as we celebrated Autism Awareness

Month with an exciting performance of bubble making and bubble blowing. I would like to thank Autism Asperger ACT and many members of the community who were there joining Cranleigh school students and all of us who were able to make it on the occasion for highlighting some of the issues that surround autism. Bubble Day has become quite a traditional way of raising the profile of the issues that this community, led by Autism Asperger ACT, contend with on a daily basis in our community.

I would also like to pay tribute to Cranleigh school and their very committed principal, Karin Wetselaar, for all of the work that they conduct in all areas of special needs, including autism/Asperger related issues. Cranleigh school collaborate with therapists and parents to develop individual learning plans. They provide additional educational programs for children with developmental delays; autism, moderate and severe; and intellectual or multiple disabilities in the age range of three to 12 years. They have a range of facilities including a hydrotherapy pool, gymnasium, multisensory room, sensory garden and outdoor play areas. Their motto is “Achieving potential together” and they welcome parents and community members into the life of the school.

They also have a partnership with Therapy ACT who work together with the children, teachers and parents. Communication, independence skills and information and communication technologies are taught across all the curriculum and assistive technologies also allow the children to access the curriculum.

I would like to again pay tribute to Autism Asperger ACT which does such a great job in highlighting the works that are required to be carried out by not only members of their community but all members of the Canberra community who assist this very worthy cause, Bubble Day, which takes place once a year. Certainly the way it was conducted in conjunction with the Cranleigh school was commendable and I thank all those who participated to again highlight Bubble Day in the ACT.

Question resolved in the affirmative.

The Assembly adjourned at 3.30 pm.

Schedules of amendments

Schedule 1

Courts Legislation Amendment Bill 2010

Amendments moved by Mrs Dunne

1

Clause 2

Page 2, line 4—

omit clause 2, substitute

2 Commencement

This Act commences on a day fixed by the Minister by written notice.

Note 1 The naming and commencement provisions automatically commence on the notification day (see Legislation Act, s 75 (1)).

Note 2 A single day or time may be fixed, or different days or times may be fixed, for the commencement of different provisions (see Legislation Act, s 77 (1)).

Note 3 If a provision has not commenced within 6 months beginning on the notification day, it automatically commences on the first day after that period (see Legislation Act, s 79).

2

Schedule 1, part 1.1

Page 3, line 3—

omit

3

Schedule 1, part 1.2

Page 4, line 4—

omit

4

Schedule 1, part 1.3

Page 4, line 11—

omit schedule 1, part 1.3, substitute

Part 1.3

Bail Act 1992

[1.7] Section 9D (6), definition of *serious offence*

substitute

serious offence means an offence punishable by imprisonment for 5 years or longer (other than an offence in relation to which an election for summary disposal has been made under *the Crimes Act 1900*, section 374 (Summary disposal of certain cases at prosecutor's election)).

5

Schedule 1, part 1.4

Page 5, line 4—

omit

- (8) In this section:
Magistrates Court includes the Childrens Court.
- (9) The Minister must—
- (a) review the operation of this section as soon as practicable after the end of its 2nd year of operation; and
 - (b) present a report of the review to the Legislative Assembly within 3 months after the review is started.
- (10) Subsection (9) and this subsection expire 3 years after the day this section commences.

[1.23] New section 375 (2A)

insert

- (2A) However, this section applies to a case to which section 374 applies only as mentioned in section 374 (5).

[1.24] Section 377

before

section 375

insert

section 374 or

[1.25] Section 378

before

section 375

insert

section 374 or

[1.26] New part 31

insert

Part 31 Transitional—Courts Legislation Amendment Act 2010

610 Application of amendments

- (1) The amendments of part 17 (Offences punishable summarily and summary procedure generally) made by the *Courts Legislation Amendment Act 2010* do not apply to a proceeding if, before the amendments commence, the defendant has consented to the case being disposed of summarily.
- (2) That part, as in force immediately before the amendments commence, continues to apply to the proceeding.

611 Transitional regulations

- (1) A regulation may prescribe transitional matters necessary or convenient to be prescribed because of the enactment of the *Courts Legislation Amendment Act 2010*.
- (2) A regulation may modify this part (including in relation to another territory law) to make provision in relation to anything that, in the Executive's opinion, is not, or is not adequately or appropriately, dealt with in this part.

- (3) A regulation under subsection (2) has effect despite anything else in this Act or another territory law.

612 Expiry—pt 31

This part expires 1 year after the day it commences.

10

Schedule 1, part 1.11

Page 9, line 4—

omit

11

Schedule 1, part 1.12

Page 9, line 10—

omit

12

Schedule 1, part 1.13

Page 10, line 1—

omit

13

Schedule 1, part 1.14

Page 10, line 8—

omit

14

Schedule 1, part 1.15

Page 10, line 16—

omit

15

Schedule 1, part 1.16

Amendment 1.35

Page 11, line 9—

omit

16

Schedule 1, part 1.17

Proposed new amendments 1.36A to 1.36D

Page 11, line 18—

insert

[1.36A] Section 90A

before

section 375

insert

section 374 or

[1.36B] New section 92A (4)

insert

- (4) This section does not apply to the summary conviction of a person charged with an indictable offence if the case was dealt with summarily under the Crimes Act, section 374 (Summary disposal of certain cases at prosecutor's election).

[1.36C] Section 208

before

section 375

insert

section 374 or

[1.36D] Section 219B

before

section 375

insert

section 374 or

17

Schedule 1, part 1.17

Proposed new amendment 1.38A

Page 12, line 5—

insert

[1.38A] Section 288 (2)

before

section 375

insert

section 374 (Summary disposal of certain cases at prosecutor's election) and

18

Schedule 1, part 1.17

Amendment 1.39

Proposed new section 291K (2)

Page 14, line 9—

before

section 375

insert

section 374 (Summary disposal of certain cases at prosecutor's election) and

19

Schedule 1, part 1.17

Amendment 1.42

Page 17, line 1—

omit

20

Schedule 1, part 1.18

Page 18, line 10—

omit

21

Schedule 1, part 1.19

Page 19, line 1—

omit

22
Schedule 1, part 1.20
Page 20, line 3—

omit

23
Schedule 1, part 1.21
Page 20, line 12—

omit

24
Schedule 1, part 1.22
Page 20, line 17—

omit

Schedule 2

Road Transport (Alcohol and Drugs) Amendment Bill 2011

Amendments moved by the Minister for Transport

1
Proposed new clause 22A
Page 10, line 24—

insert

22A **Oral fluid—confirmatory analysis**
Section 13G (3)

substitute

- (3) An analyst at the approved laboratory to which the sample is taken under subsection (2) must, as soon as practicable, arrange for the analysis of the sample at the laboratory or another approved laboratory to work out whether a prescribed drug is present in the sample.

2
Proposed new clause 22B
Page 10, line 24—

insert

22B **Section 13G (4)**

omit

The analyst

substitute

An analyst responsible for testing the sample

Schedule 3

Road Transport (Alcohol and Drugs) Amendment Bill 2011

Amendment moved by Ms Bresnan

1

Proposed clause 42

Page 18, line 7—

omit

found in the person's possession:

substitute

the officer believes on reasonable grounds could pose a safety risk during the period of custody:
