DEBATES

OF THE

LEGISLATIVE ASSEMBLY

FOR THE

AUSTRALIAN CAPITAL TERRITORY

HANSARD

24 November 1999

Wednesday, 24 November 1999

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

CHIEF MINISTER
Motion of Want of Confidence

MR STANHOPE (Leader of the Opposition) (10.33): Mr Speaker, I move:

> That this Assembly no longer has confidence in the Chief Minister, Ms Carnell, MLA.

Mr Speaker, I ask for the leave of the Assembly to speak without limitation of time.

Leave granted.

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

At the outset some parameters to the debate need to be set. Mr Madden's report is quite clearly written on two themes - the issue of criminality and the issue of administrative failings. At the beginning of his report, Mr Madden addressed in unequivocal terms the nature of the coronial function - that it is one of fact finding. As the coroner explained, his role was threefold: To make certain findings as to the manner and cause of death; to comment on any matter connected with the death; and to make recommendations to the Attorney-General on any matter connected with the inquest. The coroner went on to say that his role was primarily inquisitorial. It is not a method of apportioning guilt, or criminal or civil liability. These, he said, are issues for other jurisdictions.

In addressing the criminality issue, Mr Madden has discharged the first of his obligations. The coroner was required to find, if possible, the identity of any person who contributed to Katie Bender's death. Mr Madden identified certain people - I stress that the Chief Minister was not among them - and committed two for trial and made certain recommendations about others. He found explicitly:

No one can seriously attribute to Mrs Kate Carnell MLA, the Chief Minister for the ACT, personally or directly, any responsibility for or

> contribution to the death of Katie Bender. The evidence simply does not support such a conclusion being drawn or reached.

Mr Speaker, there is no need to comment further in this debate on the criminality theme of Mr Madden's report. On this side of the Assembly, we accept the coroner's findings in respect of the criminality issue. Unfortunately - and I hope that this is not true – I anticipate that there will be others in this place who will argue that we are at odds with the coroner, that we are somehow trying to tie the Chief Minister to the personal or direct responsibility for the death that the coroner says does not exist.

The signs of this foreboding are already evident in the language of some members of the Government in the weeks since the coroner brought down his findings. Despite that, it is not Labor who will debase the seriousness of this debate with unfounded and unsupportable innuendo. That said, we do not resile from our contention that, in discharging the second of his obligations, Mr Madden has sealed the fate of the Chief Minister.

As Mr Madden pointed out in the executive summary of his findings, the coroner has the discretion to comment on any matter connected with the death that is the subject of his inquest, quite apart from any recommendations that he might make to the Attorney-General. Mr Madden availed himself of that discretion and, in so doing, guaranteed the inevitability of Assembly scrutiny and debate on these issues.

The coroner's comments chronicle a devastating parade of administrative ineptness. He reveals sham tender processes; inadequate and fundamentally defective Cabinet submissions; governmental involvement in tenders; most unsatisfactory management and organisation of a key agency; the adoption of a demolition process that was fraught with risk; a process that failed the primary requirement of public safety; unwarranted intrusions from sources outside the project site; the absence of monitoring agencies that was a matter for significant concern; the unwarranted involvement by officials, some from the Chief Minister's own office, who had no technical expertise; an unwarranted intermeddling in the work of on-site safety inspectors; a total abrogation of responsibility to the safety and wellbeing of the Canberra community; and incompetent officials - all of which led the coroner to refer to the systemic failures of this Government's administrative procedures.

These are matters on which members must today judge the performance of the Chief Minister and the need for her to discharge her responsibilities. Because of the breadth of the coroner's criticisms and the extent of his adverse findings, my colleagues will draw out aspects of the systemic failings for which Mrs Carnell must be held accountable, while I will deal more broadly with a range of issues.

One aspect of the management of the hospital demolition that particularly disturbed the coroner was the manner in which the company Project Coordination was appointed as project manager. It was a process that the coroner ultimately referred to as appearing to be a sham, as well he might, given the evidence put before him. It was quite clear to the coroner that Project Coordination was the subject of favoured treatment.

Mr Madden found that the company had been given some early information that the demolition project was to be reactivated in late 1996, after a period in abeyance. A meeting to discuss the project was arranged for 11 December 1996, and the company attended, carrying a draft works program it had prepared. Project Coordination was the only company to attend the meeting.

It is worth emphasising that, before any selection of a project manager had been made, one company had met with those responsible for letting the contract and had drafted a works program. At a subsequent meeting, on 13 December, attended by the most senior representatives of Totalcare and the ACT Government and ostensibly called for the purpose of evaluating competing claims for the job, the Government's representative brought with him a letter appointing the company as project manager. As the coroner remarked, this subsequent meeting had all the hallmarks of simply rubber-stamping the earlier decision to appoint them. As Mr Madden remarked:

> The meetings of 11th and 13th December 1996 leave me with a great deal of concern. It is hard to gauge the genuineness of those involved in the appointment process. The meetings have all the hallmarks of a sham arrangement convened simply to lend credibility to the appointment process. The impression is one of a rubber stamp process. None of the persons involved with Totalcare or Project Coordination had any ability, knowledge, appreciation, understanding or experience as to the magnitude of the project yet they were making final conclusive decisions some four to five months before the tender process had been finalised.

But that was not the end of Mr Madden's criticism of the appointment of Project Coordination. The company, he found, was quite a suitable appointment in the early stages of the project, that is, the necessity to erect a fence urgently, but the appointment was continued past the initial stage "without any form of review which is unsatisfactory particularly as Project Coordination did not have any relevant experience in implosion demolition".

Other candidates simply were not considered, some because they were not pre-qualified with Totalcare. Mr Madden found:

> The inevitable inference that can be drawn from all this is that Project Coordination on any objective view of the evidence would appear to have been in some favoured position for its appointment.

Favoured indeed! According to the coroner, Project Coordination's performance was inept. It did not fulfil its responsibilities and it was deficient, to the extent that the coroner recommended:

> The Government ought not be making any appointment of Project Coordination to any future projects until clearly satisfied the company and its Board fully understand the nature of their appointment in both fact and law.

Mr Speaker, we are entitled to know what response the Government has made to this recommendation of the coroner. We are entitled to ask what work the company has won from the Government both before and particularly since the demolition of the hospital. We are entitled to ask whether the coroner was correct to assume that the company held a favoured position with the Government; and if it did, why.

Project Coordination was appointed to a key position in the implosion project. It was an appointment that led directly to the further appointment of contractors the coroner has found were incompetent in the chosen demolition method and incompetent in the supervision of it. We are entitled to know how the tender system came to be so corrupted in this way and to ask who should be held accountable.

Mr Speaker, there were two contracts associated with the implosion that were the subject of the coroner's interest. If we are entitled to answers about the first - the appointment of Project Coordination to the project manager's job - then we are certainly entitled to answers about the second, which is the final tender for the demolition contract, and the only one who can answer responsibly is the Chief Minister.

The coroner's comments about the first of his contract investigations were damning. His criticism of the second is scathing and goes to the heart of this Government. At its essence is surely the most fundamental tenet of government contracting - the need for absolute integrity. Government simply must stay at arms length from decisions about procurement if integrity is to be preserved and if perceptions about integrity are to be protected. Yet the coroner refers to evidence given to the inquest by Mrs Carnell to the effect that she had discussed with her media adviser, a senior member of her personal staff, some days before the contract was let details of the price differential between tenderers. The coroner makes no comment, and was not in a position to do so, on whether such discussions were normal practice in the Chief Minister's office - or, indeed, in her department - but we are entitled to ask the question and are deserving of an answer. The coroner made the point:

> Mrs Carnell agreed that this aspect of the tender process had not been negotiated at arms length from the government officials. There is no doubt that this particular aspect of the tender process should have been conducted in a more responsible manner in terms of its independence from the Government.

Who were the others, apart from the media adviser, that the coroner said had access to the same information? How did they come to have that information? From whom did they obtain it? Was it, and is it still, normal practice for Ministers, ministerial staff and government officials not involved in tendering processes to have access to such information? Is that how business is still done in this Government? Those are important questions. The coroner makes quite clear how important they are. He says:

Parties are said to negotiate at arms length when one is not under the control or influence of the other. If the parties are not at arms length the possibility of some form of undue influence being exerted by one

> party on another must arise. Undue influence is any influence, pressure or domination in such circumstances that the person acting under that influence may be held not to have exercised his free and independent volition in regard to the act.

That is the coroner's definition of negotiation not at arms length. The intrusion of the Chief Minister's office into this critical tender process is even more worrying, given the coroner's remarks about how the contract was awarded to City and Country Demolition, a company that had submitted a bid he found was non-conforming. The coroner said evidence to the inquest illustrated that:

> ... if proper checking of not only City and Country Demolition, but also Controlled Blasting Services, had occurred, Mr McCracken never would have been given permission to do this job. Mr Loizeaux summarised the failure to make any objective checks in this case as a "lack of diligence" which extended from City and Country Demolition through to the ACT.

Later the coroner refers to evidence that the relevant officials:

> ... maintained the position that despite the lack of detailed discussion about the variation in tender prices, despite the pre-signed approval letter and expenditure form, despite the lack of documentation ... and despite having very little knowledge of the identity or experience of the implosion expert ... the review meeting of 11th of April was not just a formality. This is contrary to the evidence.

The coroner said:

> The approval meeting on the 11th of April was a rubber stamp meeting -

another rubber stamp meeting -

> at which the failure properly to address those issues resulted in the meeting accepting the lowest priced tender for the preferred option of implosion. The exclusion of Delta -

another company -

> for the Stage 4 bid raises many unanswered questions.

The coroner went on to conclude:

> The handling of the tender selection process was nothing less than appalling.

I repeat: "The handling of the tender selection process was nothing less than appalling". Given the coroner's definition of the notion of arms-length negotiation, this Assembly is entitled to ask why the tender process was so appalling. Was there, in fact, any undue influence - any influence, pressure or domination - on the officers responsible for the negotiations? If there was, given the intrusion of the Chief Minister's office in the process, what was the source of the undue influence? The Assembly is entitled to ask these questions and entitled to an unequivocal answer.

The Assembly is also entitled to know the Government's response to the coroner's criticisms of the procedure that saw government officials prepare a pre-signed letter of acceptance for part of the tender before the meeting to approve the recommendation. The coroner criticised this process in the most trenchant terms. He says unbelievingly:

> This procedure surely cannot be regarded as sound government business practice and should be reviewed. It seems to me that if such a practice exists it places the Government at serious risk in terms of the potential for fraudulent conduct by unethical operators.

Does the Government have a response to this criticism that its fundamental business practice was so flawed as to expose it to fraud? How did this business practice become so flawed? Why was it not identified and corrected? Why has the Government not reacted more strongly to the coroner's findings?

These dealings were the dealings that saw Messrs McCracken and Fenwick appointed, and the coroner, of course, has found that the actions of those contractors on site contributed to the tragedy. They should not have been appointed. As the coroner reported:

> The process by which those persons were appointed was connected to ... death. If proper efforts had been made to check that these people were qualified, they would never have been given the job.

Those are the coroner's findings in relation to the appointment of the contractors. I repeat: The coroner said:

> The process by which those persons were appointed was connected to ... death. If proper efforts had been made to check that these people were qualified, they would never have been given the job.

Almost every page of this 657-page report contains an indictment of the Government's administrative processes. There is none more serious than that I have just read.

I spoke a little earlier about the discussion of tender details outside the tender process. Of course, these discussions between the Chief Minister and her adviser were not the only evidence of the unwarranted intrusion by the Chief Minister's office and department into the day-to-day affairs on the demolition site. A senior executive in the department authorised the payment of an additional $50,000 to accept the final bid for the implosion. A departmental officer at a significantly lower level authorised - on

behalf of the Government, in the words of the coroner - the change of date for the event from Wednesday, 9 July to Sunday, 13 July 1997. As the coroner said:

> This single act of a public servant in the whole project warrants the highest disapprobation ... It was totally inappropriate for this officer to exercise a function properly reserved for Totalcare.

The coroner had no option but to find:

> There was an interest and intrusion by the government officials in what in essence was a commercial industrial building project.

Yet, on the evidence, what else could the people of Canberra expect from a government that presided over the systemic failures in its administrative processes revealed by the coroner's review of this terribly botched project? This is, after all, the government that failed to inform its insurer that the demolition had been turned into a public spectacle that would draw thousands of citizens as spectators. This was a government project in which the advice of a structural engineer in relation to pre-weakening work undertaken on steel columns before a comprehensive engineering report had been provided was met with the termination of his services - a case of shooting the messenger. This was a government project in which the term "quality assurance" had more to do with making sure that the paperwork was in order than with ensuring what was happening on site met safety and construction standards. As the coroner said, this Government is a government that presided over systemic failures in its administrative processes and this project was a project driven from the Chief Minister's office by her closest advisers.

If there is a single classic example of how the systemic failings of this Government's administrative processes had an impact on the Acton demolition project, it lies with the regulatory agency WorkCover. As the coroner wrote:

> There is no doubt that one of the more serious issues that arose in the inquest was the total confusion that existed as to who carried the responsibility for the supervision and use of explosives on the Acton Peninsula ... The end result was that there was practically no regulatory supervision of the use of explosives.

The coroner found that WorkCover was an inefficiently run organisation, fragmented and disjointed in its administration. This is the key agency with the responsibility to ensure workplaces are safe. This is the agency with the responsibility to enforce legislation that requires employers to ensure that people at or near a workplace are not exposed to risk to their health or safety. It was a key agency and its operations were a shambles.

Who is responsible for that? "Not I", says Mrs Carnell. She told the media that WorkCover was not her responsibility then or now. She told the media that her department in fact oversighted the entire project, but not WorkCover because WorkCover operates at arms length and always has.

I have spoken about the notion of arms-length operation. It seems that Mrs Carnell's understanding of the notion is that it is okay to discuss confidential tender details before contracts are let, but it is not okay to be responsible for the administrative failings of an agency being oversighted by her own department. That is despite the coroner's view that WorkCover was no separate legal entity, but an administrative unit of the Government, and despite Mrs Carnell's repeated assurances that she is Chief Minister so she is responsible for everything that happens right across government. A review of WorkCover's administrative set-up was under way before the implosion but, unhappily, not completed. It is only in recent days that the Government has brought forward legislation to establish the agency as a statutory authority, and then only after legislation had been introduced by the Labor Party.

Mr Speaker, some mention needs to be made of the manner in which the demolition of the Canberra Hospital was turned from an industrial project into a public spectacle. The coroner referred in his executive summary to a "matter of fundamental importance". That was that the Acton Peninsula was a construction and demolition site. In the words of the coroner:

> It is ... an inescapable conclusion of fundamental importance, no matter what the form of the event may be, that all administrators and organising authorities ensure that the safety of the public is not compromised and is absolutely protected.

It is in his discussion of this aspect of the demolition that the coroner most closely links the Chief Minister and her office to the project. The coroner is absolutely damning in his criticism of the cavalier fashion in which those officials closest to the Chief Minister acted. One of the Chief Minister's senior advisers, Mr Dawson, had a major coordinating role, the coroner found, in the promotion of the demolition as a public spectacle. The Chief Minister gave full approval to the promotion of the implosion as a public event, as an exchange of emails between Mr Dawson of her office and other officials reveals. This was despite the fact that, as Mr Madden said:

> It was not appropriate on a global view of the evidence for a celebration to occur, in any form, in respect of the demolition of a building on what was in reality an industrial site. There is no doubt that the events of Sunday the 13th July 1997 failed such a primary requirement of public safety.

In fact, the coroner found that the promotion of the implosion as a public event, as a celebration of change, was so flawed as to represent a total abrogation of responsibility for the safety and wellbeing of the general Canberra community. I repeat: A total abrogation of responsibility for the safety and wellbeing of the general Canberra community.

How could the Chief Minister, her personal staff and the chief executive of her department all have failed to foresee the likelihood of danger to any spectator? Certainly, both the Chief Minister and the head of her department had access to Cabinet submissions which pointed out the need for extreme care in demolishing a building,

especially when using the implosion method. You do not need to be an expert to realise that explosives are dangerous.

What more damning indictment of a government can there be than for it simply to walk away from its fundamental obligation to ensure the safety of its citizens? What more reckless abdication of responsibility could there be than to encourage citizens to attend an inherently dangerous event, compounded by the failure to undertake anything remotely resembling a risk assessment? I can think of none.

Having acted to encourage people to come to a spectacle that ended in tragedy, what remedy should apply? I can think of only one - that the official principally responsible concede the responsibility she bears and accept that she can no longer command the confidence of the community she purports to represent. It is sobering to reflect on the evidence of Dr Krstic, a defence scientist, to the inquest. He told the corner:

> I'd like to say that it is purely by the grace of God that that shoreline didn't look like a battlefield, actually.

Mr Speaker, in great part this debate revolves around the notion of ministerial responsibility. How is a Minister held to account for the responsibilities imposed by his or her duties? How far into the operations of the departments and agencies under his or her administrative direction does a Minister's responsibility extend? These questions have been argued in diverse forums outside this place over many years and some reference to those arguments is apposite to this debate.

The Chief Minister herself has submitted an opinion on the notion of ministerial responsibility. Just over five years ago, in evidence to the VITAB board of inquiry, the Chief Minister argued that ministerial accountability is absolute - ministerial accountability is absolute. That was said in sworn evidence. Pressed by the chair of the inquiry, Professor Dennis Pearce, about whether there were differences between government departments and statutory authorities, the Chief Minister said:

> I suppose there are some differences, that the whole purpose of having statutory authorities does give them somewhat more flexibility than is the case in a department, but at the end of the day the minister is responsible ...

At the end of the day the Minister is responsible. Where the implosion of the old Canberra Hospital is concerned, of course, Totalcare is a statutory authority, though it was not for the entire time of the dealings that we are concerned with today. The Chief Minister's Department is a department of state. The Chief Minister's office is another matter. But, in terms of the extent of ministerial responsibility, if responsibility for the actions of a statutory authority is at one end of the spectrum, surely responsibility for the actions of the Minister's personal staff is at the closer end of the spectrum, the very sharp end. Her office is entirely her direct and personal responsibility.

The Chief Minister's view was reinforced shortly after she took government in 1995. In April of that year the Chief Minister released a "tough new code of conduct for

Ministers", one that would form a "key part of the Liberals' commitment to open government". I should emphasise for those members who may be somewhat confused as to which Chief Minister made these comments that they were, in fact, taken from a media release of Kate Carnell, Chief Minister, of 24 April 1995, headed "ACT Government releases code of conduct for Ministers".

"Ministers", said Mrs Carnell, "must accept standards of conduct which are different from those applying to others having office in the Assembly or the wider community". Whilst the code of conduct dealt primarily, as perhaps befits a document emanating from a Liberal government, with issues concerning interests with private companies and businesses, it has this to say about the principle of accountability:

> All ministers will recognise that full and true disclosure and accountability to the Parliament are the cornerstones of the Westminster system which at the present time is the basis for government in the ACT ... Ministerial responsibility also requires ... the individual responsibility of ministers to the Assembly for the administration of their departments and agencies.

This is the Chief Minister's definition:

> Ministerial responsibility ... requires ... the individual responsibility of ministers to the Assembly for the administration of their departments and agencies.

That is the Chief Minister's code of conduct. Members of this place know only too well how shoddily this Government has treated the Westminster conventions. It is only five months since we debated a similar motion, central to which was the Chief Minister's failure to observe the fundamental Westminster convention - and the Government's laws - that public money should not be spent without appropriation. In the current case, there has again been a failure of government agencies to observe the law, a failure to obtain planning permission for the demolition, a failure to observe the requirements of the Occupational Health and Safety Act, and a failure to follow the demolition code of practice.

As another example of how this Government views the Westminster principles, members will recall that, as part of the earlier debate I referred to, this Assembly asked for a raft of papers, but the Chief Minister chose to deliver only part of the request. More recently, she has refused to allow public servants to appear before an Assembly committee. Both of those interventions contravene long-held principles and demonstrate the Government's contempt for the system that the Chief Minister says is central to parliamentary practice in the ACT.

We can well understand that the Government has little demonstrated commitment to the notion of Westminster governance, so we are entitled to ask: What commitment has the Chief Minister to her stated views about the importance of ministerial responsibility? Does she still believe, as she told Professor Pearce, that at the end of the day the Minister is responsible? Does she still believe, as her code of conduct attests, that

Ministers are required to accept higher standards than other members or those prevailing in the community? Does she still accept that the bar is set higher for Ministers and that she, as Chief Minister, has an even more pressing obligation? We are entitled to ask these questions on behalf of the community and the community is entitled to an unequivocal answer, just as it is entitled to anticipate that the answer will be yes. The community is entitled to see those commitments honoured, in this case, in the only appropriate way.

Mr Speaker, as early as 10 October 1997, the Chief Minister accepted responsibility for what happened when the Canberra Hospital was imploded. On that day, she told Detective Sergeant Ranse, investigating the matter:

> ... I'm the leader and therefore I wear it - whatever happens.

In more recent days, the Chief Minister's willingness to accept responsibility has been more vocal. On 4 November, the day after the coroner handed down his report, she told ABC radio:

> Look, I'm Chief Minister, therefore I feel, always, feel responsible for anything that happens at any level of government ... it's part of the job.

And later:

> ... but ultimately at the end of the day I'm Chief Minister. It's that simple. I fully accept that.

Fine words. But somewhat of a contrast to another comment the Chief Minister made to the police officers:

> Remember - it's very important - I'm actually not the Minister responsible. I don't run Totalcare. Trevor Kaine is the minister responsible ... those sorts of day to day things don't actually flow through my office at all simply because I'm not the minister responsible.

Words, of course, are empty without action to back them, and what has the Chief Minister done to discharge the responsibility that she says she accepts, the acceptance she has repeated like a mantra? The answer is that she has done nothing. That failure to act is central to the motion that we are debating today. The Chief Minister says that she accepts responsibility, but she has done nothing. In contemporary political life, arrogance and politicians are often linked. But the Chief Minister, in her failure to discharge the responsibility that she says she bears, has displayed an arrogance that almost defies description. Perhaps it is not unexpected.

This is, of course, the Chief Minister who is proud of the can-do culture that breaks a law to build a football stadium, who defies an Assembly request for papers and declares contracts with football teams to be too secret to be revealed to the parliament,

who refuses to allow public servants to appear before an Assembly committee, who turns an inherently dangerous project into a public spectacle, and who allows unwarranted interference on an industrial site. This is the can-do Chief Minister who cannot do the one thing required of her now.

The coroner acknowledges the manner in which the implosion is indelibly imprinted on the collective consciousness of the Canberra community. The coroner said:

> One only needs to view and listen to the video evidence to gain the sense of outrage and anger expressed by the spectators on that Sunday afternoon.

The anger and outrage have barely faded in the 2½ years since. But this is the Chief Minister who thumbs her nose at the anger of the Canberra community by refusing to accept that she must act to discharge the responsibility for appalling administrative failures that she says she accepts. This the Chief Minister who so arrogantly told the *Canberra Times* that she was absolved from now having to act to discharge her responsibility because she had been re-elected only months after the implosion. The Chief Minister was reported as follows:

> "That's the political side of it", she told the *Canberra Times*, "I am not worried about that at all. We had an election some seven months after the implosion at which I was re-elected. I think that says it all."

Have you ever heard such arrogance? It says something, all right.

It is not difficult to anticipate the defence that the Government will run to this motion. The Government will say that, as the coroner indicates, the fact that the hospital buildings were to be demolished by means of implosion meant a crowd would attend out of simple curiosity. Of course, in recognition of this fact, when implosion has been used to demolish buildings in other places, the time has been carefully chosen to avoid crowds. In fact, it is not unusual to demolish buildings at night to achieve precisely that.

I do not dispute the curiosity value of an implosion, but I do dispute that a crowd of 100,000 would have attended. I do dispute that a crowd of any notable size would have attended if the act had been carried out on a weekday without any glitzy promotion, without a radio station running a competition on pushing the plunger. I do contend that the decision to conduct the implosion as a public event was made in the Chief Minister's office, and driven by that office, without any understanding of the dangers or attempt to assess the risk and with the full knowledge and approval of the Chief Minister - as the coroner says, with her full imprimatur.

There is nothing in the coroner's report to indicate whether the Chief Minister or her advisers ever considered any alternative arrangements to the spectacle that they concocted on 13 July 1997. Did they consider warning the public not to attend? Did they advise people to stay at home and watch it on television? To the contrary, the Chief Minister chose to accept the advice of people close to her that there was no danger when

she knew that they had no expertise in the use of explosives. That single act is enough to warrant members' support for this motion.

The Government will say that the very mechanism by which this debate is proceeding has been debased by its overfrequent use in this place, and I reject that contention. Mr Rugendyke says that he is cautious because this is the third no-confidence motion we have moved in six months. There is a clear reason for that. Motions of want of confidence or censure are legitimate tools by which governments are called to account, particularly in jurisdictions where there is such an arrogant disregard for the obligation to be accountable as in this Territory under this Government. If governments are found wanting, they must face censure.

Mr Osborne has suggested that we are acting precipitantly in moving against the Chief Minister before the Auditor-General reports on another issue - the financial farce surrounding the Bruce Stadium redevelopment. I am concerned that Mr Osborne has declared his hand without hearing the argument. This is not a precipitant move. It is not something we do lightly. It is the only possible reaction to the scathing criticism of the coroner, and the Chief Minister's failure to act responsibly to the legitimate anger of the Canberra community.

Mr Speaker, the Government will maintain that no Minister can possibly be expected to know everything that occurs in the line areas of the departments and agencies for which he or she is responsible, but the coroner confirms that this whole project was conceived at the highest levels of government and driven from the Chief Minister's office by her closest advisers. She cannot use the defence that she simply did not know.

The Government will run the line that the Labor Party has moved this want of confidence simply because it is besotted with the idea of seizing government without winning the confidence of the electorate. That is not the case. I have moved this motion because the Opposition no longer has any confidence that the Chief Minister is capable of meeting the responsibilities of the office she holds. This is a motion against the Chief Minister, not the Government. The coroner found that the Chief Minister was the Minister assuming responsibility for the project. The Chief Minister presided over the appalling and systemic failures of administrative practice and corruption of process that led to the Government totally abrogating its responsibility for the most fundamental of its obligations - to protect its citizens. The coroner referred to systemic failure because, as the coroner said, "it starts at the Government as client".

The *Canberra Times* editorial of 8 November got it right, saying:

> ... she can be and must be held to account for the way in which she has organised her resources. The style of ACT administration is very much her baby. The senior officials are largely her appointments. The reporting lines, and the reward systems, are matters in which she has been involved. The question is not whether her dabbling was a factor in the disaster, but whether and why the system and the people failed.

The *Times* got it right but, in arguing for a further inquiry, drew the wrong conclusions. The coroner got it right in drawing attention to the systemic failings of this creaking, teetering administration, but then he blinked. He would not draw a conclusion. Given that the Chief Minister has demonstrated that she is not prepared to accept the responsibility she says is hers and resign, the only available sanction has to be a political one. That sanction is applied, rightly, by this Assembly. That is why members of this place must support this motion, or cogently and immediately explain to the community why they continue to support the wilting head of a flawed government.

There is no sense in waiting to act, as is the preference of Mr Osborne and Mr Rugendyke. Why wait? This matter is more than two years old, and what damage has the Chief Minister done in that time? What more will she do while we wait for the Auditor-General? And why should we expect the Auditor to be the judge? No, the time is now. If the Chief Minister will not act to discharge the responsibility for the failings of her administration that are so chillingly reported in the coroner's report, then the Assembly must tell her to go.

MR STEFANIAK (Minister for Education) (11.15): Mr Speaker, I listened with interest to Mr Stanhope's, at times, emotive argument and with particular interest to the quotes he attributed to the Chief Minister in relation to ministerial responsibility and the responsibility of the Chief Minister. I have also listened with interest to what he has said outside this place over the last few weeks in relation to this matter. At no time, however, have I heard him actually state in a clear form, or in any form, what is Labor's definition of ministerial responsibility. What, indeed, is the test that they would wish to apply? They have not told us to date. Mr Stanhope has not done so to date. It will be interesting to see whether anyone else on the other side of the chamber will do so or whether he will address that in his concluding remarks.

Mr Speaker, I wish to commence my contribution to this debate by reading a quote from a recent coronial inquest:

> The evidence put before this inquest revealed a situation in which an environment had developed over a long period of time involving both workers and management in which persons employed ... failed in varying degrees in the proper execution of those responsibilities.

I wonder whether any of the members opposite recognise those words. No, they are not the words of Coroner Madden in his report on the death of Katie Bender, although they almost could be. They are, in fact, the concluding comments of Coroner Somes at the inquest into the death of the young person who tragically hanged himself at the Quamby youth detention facility in 1996. That report - I said that it was a recent one - was handed down in June of this year.

There are some remarkable similarities between that report and the most recent coronial report by Shane Madden into the equally tragic death of Katie Bender. There is, however, a marked difference in the treatment of those two reports by the Opposition. In the case of the Quamby inquest, there is reference to severe failings on the part of

officers of the ACT Public Service. Did those opposite move a motion of no confidence in me as a consequence of that conclusion reached by the coroner? Not on your nelly!

There has never been any suggestion that I, as the Minister responsible for Quamby, should step down or take personal responsibility for the breakdown of management at the youth detention facility. Indeed, both Mr Wood and Mr Hargreaves very graciously acknowledged the very significant improvements that my department and I had initiated at that place, and I thank them for that. I think that it was most appropriate. That situation was very different from the one in which we find ourselves today.

Members will also recall that there have been two deaths in recent times at the Belconnen Remand Centre. A coronial inquest into the first death concluded some time ago. Indeed, it concluded some time prior to Michael Somes' inquest into the Quamby death. Coroner Michael Somes was also involved in the BRC matter. He found in the BRC inquest a litany of systemic problems within ACT Corrective Services which included problems of management of the BRC and in the way staff performed their duties. He found an unhealthy work culture had developed at that place.

Have members of the Opposition called for my colleague the Attorney-General to resign over the failings of these officers? No, of course, not. Have they called for his resignation over the second death at BRC? Of course not. Nor would such a call be warranted for him to take personal responsibility for the breakdown of management at the BRC.

Mr Speaker, the principle of ministerial responsibility must be applied in a uniform way and on a consistent basis. Government cannot function if the Assembly applies the principle on a selective basis. Both coronial inquests have identified shortcomings in the administration of a public facility or program. There is criticism of process in these three inquest reports, with individuals who were seen by both coroners to have particular responsibility for performing certain functions as part of their duties being severely criticised for their failings, and rightly so.

However, there is a glaring difference as to how this Assembly has treated these three so similar reports. In the case of Quamby, the coroner recommended that action be taken, where still relevant, to dismiss certain staff. There were five staff whose dismissal he recommended. Four had already left. Disciplinary action is occurring in relation to the one still in the service. In the BRC matter, I am advised that the coroner recommended that three staff be charged with perjury and that two be charged with attempting to pervert the course of justice. He recommended that four staff be dismissed. At the time of that conclusion being reached by the coroner, I think the four staff had already left the service.

In the case of the matter before us today, the coroner has recommended that charges be laid against certain individuals. Did the Leader of the Opposition or any other member of the Assembly suggest that Mr Humphries or I should resign because of the shortcomings of some staff in our departments? Of course not. Why, then, is Mr Stanhope suggesting that the Assembly find a lack of confidence in the Chief Minister? There can be only one reason. This is part of a concerted campaign by the

Opposition against the Chief Minister. It is part of the naked ambition of Mr Stanhope and the Labor Party, who are not prepared to accept the outcome of the last election and are desperately attempting to usurp the election result by stealth. They are not prepared to wait for the next election in just under two years.

Mrs Carnell has indicated, quite rightly, that seven months after the tragic death of Katie Bender this Government was returned. If in two years' time, for whatever reason, the people of the Territory decide to make a change, so be it. But Labor is not prepared to wait. Labor is so arrogant that it believes it is still the natural party of government in the ACT. Even though the electors have not agreed with Mr Stanhope or his party over the past two elections, he is desperately attempting to grab power by the tactics he is using.

One could take this argument to ridiculous extremes, Mr Speaker. Should the Attorney-General resign because he is the Minister for police when a citizen is tragically murdered during a home invasion? Did the Opposition call for my colleague to resign or did it move a motion of no confidence in that regard? Of course not. Should the Health Minister resign because an operation goes wrong in a hospital due to the negligence of hospital staff, nurses and doctors? Of course not. Should Mr Berry have resigned over complications and problems in the hospitals when patients were not properly attended to and died in hospital because staff were not doing their job? Of course not.

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

It is appropriate, Mr Speaker, that I quote Sir Billy Snedden in giving a talk on ministerial responsibility, amongst other things, back in 1980. He stated:

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

I will read the last part again, because I think that it is terribly important. He said:

> ... there is no convention which would make him absolutely responsible so that he must answer for, that is, to be liable to censure for all actions done under his administration.

That is a very sensible statement. Ministers cannot be everywhere. It is absolutely impossible for any Minister to be aware of what is going on with all the employees of his department at any point in a day. That statement by Sir Billy Snedden is, I think, a very good summary of the convention and the extent of ministerial responsibility.

I listened with interest to Mr Stanhope's speech. He made a number of points by quoting Coroner Madden. For example, he said that if people had done their job properly, the contractors would never have been given the job. That may be so. It is an official's job to check these things. It is not the job of the Chief Minister or a Minister. Mr Stanhope said that WorkCover was an inefficiently run agency. The coroner made that finding. The Government has a duty to fix it up as a result of that. Again, the actions were of the officials, which is very different in terms of what ministerial responsibility means in relation to the proper conduct of no-confidence motions. A no-confidence motion can be merely a vehicle for debate. That is also something that Sir Billy Snedden recognised in his address. It is then simply a political matter whether people wish to support it; it is really a matter of numbers. But we are talking about ministerial responsibility.

We have a few precedents for no-confidence motions being successful in this place. Let us look at the successful no-confidence motions over the past 10 years. The first was on 5 December 1989 when Bernard Collaery moved:

> That this Assembly no longer has confidence in the Chief Minister of the ACT and the minority Labor Government and has confidence in the ability of Mr Kaine to form a government.

That motion was moved as a consequence of a quite improper approach by the government of the day to the Speaker, who was an Independent, seeking to secure the Speaker's vote on a money Bill before the Assembly. That motion succeeded. On 6 June 1991 we had another motion of no confidence, being moved this time by Ms Follett. The key issues revolved around school closures and the retention of the Royal Canberra Hospital. It is, in fact, pertinent to digress to some comments made by Rosemary Follett at the time of the debate. I quote from page 2167 of *Hansard* of 6 June 1991:

> In voting on this motion members can choose to work towards retaining a public hospital on the Acton Peninsula ...

What hypocrisy and hyperbole on the part of the Labor Party! Within months of resuming the ministerial benches, Mr Berry as Health Minister closed the old Royal Canberra Hospital. The decision taken by the Alliance Government effectively was endorsed by the new Follett Government and preparations were made to transfer operations to Woden Hospital. On 12 April 1994 we had the infamous VITAB debate in the Assembly, where Mr Berry was found by a majority of the Assembly to have misled the Assembly - to quote from the motion, "deliberate or reckless misleading of the Assembly".

In none of those three successful no-confidence motions has the Assembly adopted an interpretation of the principle of ministerial responsibility as espoused by Mr Stanhope, as I read into what he is saying. He still has not articulated exactly what is his

interpretation of ministerial responsibility, what is his test or what is his standing. In two instances, both involving the Labor Party, there was sufficient misconduct on the part of Ministers for a majority of the Assembly to accept those two no-confidence motions. In the other matter the Labor Party took advantage of the split in the Alliance Government over the closure of schools and succeeded in the no-confidence motion.

At no time in the past 10 years has a Minister had to resign because of the actions of departmental staff. It has been when Ministers have acted improperly or have misled the Assembly that Ministers have been forced to resign or governments have fallen. Mr Stanhope says that this Government disregards Westminster conventions and principles. I differ with him on that. I think we would be disregarding Westminster principles if we were to support his motion. I will say that again. Precedent is important, and at no time over the last 10 years has a Minister had to resign because of the actions of departmental staff. It has been when a Minister has acted improperly or has misled the Assembly. Those are the two classic situations where Ministers, governments, Chief Ministers, Premiers or Prime Ministers have been forced to resign - where they have acted improperly or they have misled the parliament, not because of the actions of departmental staff.

It is now the duty of this Government, as a result of the lengthy findings by Coroner Shane Madden, to fix up any systemic problems that occurred and led or contributed to the absolutely tragic death of this young girl. It is the duty of any government in any coronial inquest where government officials are involved to improve any systemic problems or individual problems in terms of staff in the operations of their department. That is what the Government has done over the last two years in terms of the death of the young man at Quamby and what, to date, it seems to have done quite effectively. That is what occurred in relation to the tragic death at the Belconnen Remand Centre. Okay, there was another one not long after that, but improvements were made as a result of recommendations by Coroner Somes in the BRC matter.

The Government has taken steps already in relation to problems identified by Coroner Madden and, no doubt, will continue to take steps to overcome inefficiencies and incompetencies in the system. Indeed, it is the duty of government to get rid of people who have failed so much that they are no longer deserving of keeping their jobs. It is the duty of a government and it is the duty of the Ministers responsible for those departments to ensure that that occurs. But, traditionally, no Minister has had to resign because of the actions of departmental staff. That is simply a fundamental part of the Westminster system.

Were the Assembly to vote today to dismiss the Chief Minister it would, in fact, be departing not only from established precedent, albeit there have been only three instances in this place because we have only been going for 10 years, but also from probably several centuries of Westminster principle in the British Parliament and the parliaments of the British Commonwealth. I would ask members to think very carefully about that. Let us ensure that we do not impose a new set of standards on Ministers which neither side of politics could ever hope to live up to.

MR OSBORNE (11.33): As I have already publicly stated, I will not be supporting this motion of no confidence today. It is not that I do not see incompetence, failure, unnecessary bureaucratic and political interference, and culpable behaviour in the coroner's findings. On the contrary, such actions are tragically numerous. In considering this report, I have taken the point made by the coroner that he found evidence of unprofessional action by public officials at all levels and that there were systemic failures with the way the project was handled from start to finish.

In fact, I have taken the point on board so strongly that I have become convinced that only a deep-seated change to the structure of the senior levels of our Public Service can prevent such comprehensive failure in the future. The question has been asked of me this past fortnight that, given my recognition of the senior bureaucratic failings, why is that, in itself, not enough to change Chief Minister or indeed to change government. In response to that question, it is at times like this that I am too aware of my responsibilities as an elected member of the parliament. In my time here as a member of this Assembly I have come to hold certain principles and responsibilities in very high regard.

I believe in giving government stability to perform. I believe very strongly that government, including individual Ministers, and the performance of their departments, are called to be accountable to this parliament and to the people of Canberra. I also believe that the people of Canberra are the ones who should rightly choose at each election, if it is clearly evident, which of the major parties is to govern the Territory - whether that be this Liberal Party with 37 per cent of the vote, or perhaps the Labor Party at some time in the future. At my previous two elections I have been guided by the people of Canberra on this matter and I believe that it has been right and proper for me to have done so.

However, while I am extremely loath to support the sacking of an individual Minister or to force a change of government, there are circumstances under which I will, indeed, do so. That I have not done so yet should not be taken by anyone, especially this Government, to mean that I will never take such action in the future. In fact, it is the gravity with which I view the findings of the coroner in regard to the performance of our senior public servants that has caused me to wait for the Auditor-General's report. I wish to weigh up the performance of these officials and the performance of the administrative structure within which they operate, in the context of the Bruce Stadium redevelopment.

I believe that this is a fair and reasonable approach for me to take, given that many of the people involved were the same. And, to a large extent, the systemic failings of the bureaucracy appear to be the same. To this end, I regard the Auditor-General, not as an umpire, but rather as a research assistant and do not believe that I have placed either him or the position that he holds under undue pressure. I expect that he will carry out his investigation into Bruce Stadium in the same professional and capable manner with which he has always operated, and that he will report when the investigation is complete.

In considering the coroner's comments, Mr Speaker, on the systemic failings within our Public Service, I have considered the history of public service in Australia, especially the Commonwealth Public Service, and the traditional role of public servants in general, in part to gain a better understanding of the principles of individual ministerial responsibility, and also to compare the current structure of the ACT Public Service with the historical traditional foundational values. The lazy, overpaid bureaucrat has been the butt of jokes for so long that they have almost become part of the Australian culture.

Nonetheless, I believe this image is false. I am sure that such people have existed and probably always will, but I accept that they are few and there are certainly not enough to substantiate the image. Public servants make convenient scapegoats while they go about their business of implementing government policy, such as increased fines, rates and taxes, and are easily blamed for the ever-rising cost of public expenditures. For too long they have had to unjustly wear the label of contributing nothing to production and the wellbeing of society. The fact is that public servants are no different from other members of Australian society and in a crowd are indistinguishable.

What differentiates them is their employer, the place where they work and the duties they perform. Even in these respects, the differences are more imagined than real. The conditions of employment in the Public Service are a little different from those in comparable occupations. Government workplaces are found in buildings indistinguishable from other workplaces, except that the Australian - or in our case, an ACT flag - flutters overhead. The nature of much of the work performed in the Public Service is exactly the same as that performed in private employment. I am sure that there are conflicts, rivalries and hatreds as well as friendships, loyalty and cooperation.

Public servants have their good days as well as their bad and, accordingly, are affected by what goes on around them. Their job is to either carry out the policies of the government of the day or to assist in the formulation of the policies as required, regardless of personal political beliefs. In 1974, after just over seven decades of operation, a royal commission was established to review the Commonwealth Public Service. A year later, Mr Speaker, the royal commission established a task force on efficiency to further investigate the service and to make specific recommendations for change.

In its first report, entitled *Towards a More Efficient Australian Government Administration*, the task force tabled an initial 50 recommendations to revamp the whole system, as it was described. The report recognised the common public perception of the service, one of numerous inefficient officials lacking in productivity and of governments becoming increasingly critical of the speed with which their policies were being implemented, and who had demanded the change. The report said that the Public Service in Australia worked too sluggishly, that technology was passing them by as they clung to the old ways and they could not retain their competent staff.

However, little mention was made in the report of the lack of criteria with which to measure the efficiency of the Public Service in the first place nor of the dwindling resources being allocated to the service by successive Commonwealth governments. The public was vocally discontent. The service was seen as elitist and the government of

the day was frustrated. In other words, public servants were an easy target. The task force came up with four general failings of the Commonwealth Public Service which I could summarise into one simple phrase: That the service was generally cautious in its approach. The task force preferred to refer to the service as being arrogant, insensitive, indifferent and stubborn and recommended five actions to prevent such attitudes, three of which are relevant to this debate. They were:

> 1. Senior officials be deprived of guaranteed tenure and placed on a contract basis of competence system.
> 2. Senior officials demonstrate their capacity for an innovative management before their appointments.
> 3. Proven maladministration if cited by official reports, court decisions, and justified complaints, to constitute misconduct liable to penalty and removal from office.

In other words, the push is on for senior public servants to think and act outside the box. In theory, senior officials with this quality would be identified and employed on a performance-based contract with an increase in salary as an incentive, with more of the responsibility for actions of the department being transferred from the Minister to themselves. If things went well, the Minister would still be able to take the credit as in the good old days. When things went wrong, it was "goodbye public servant", instead of "goodbye Minister". Endorsed by the royal commission, this type of management structure is becoming entrenched in senior levels of all public services in Australia, including the ACT.

I still remember, Mr Speaker, being somewhat bewildered - the bewildered new kid on the block - when asked to support such a change for our Public Service in 1995. My staff and I had the usual briefings, did our research, and, after consideration, the theory seemed sound, and I gave it support. It is a fine theory, but with hindsight, Mr Speaker,
I can see that in practice it just has not worked. In fact, it has been an unmitigated disaster. And I regret ever supporting this change, cleverly disguised at the time as reform, when in fact it was just a change which has underpinned the incompetence of both the failed hospital implosion and the vagaries of the Bruce Stadium redevelopment.

In case members think I am being too harsh on our senior public servants, I will refer you to examples from other States, which also now have this type of structure. Firstly, South Australia and the redevelopment of the Hindmarsh Soccer Stadium. I have been following this one, Mr Speaker, for several months as it has such a familiar ring to it. Exchange "Hindmarsh Stadium" with "Bruce Stadium" and the names of local identities involved and I am sure we can all guess the story line. In order to attract Olympic soccer to Adelaide, the South Australian Government set up to spend $8m on upgrading the local sports stadium and ended up spending close to $40m. Some of the reasons for the escalated costs are different to our experience. However, I fully expect that underneath the veneer, and now under the close scrutiny of the South Australian Auditor-General, are several senior public servants who are not prepared to say no.

The second example is the real life soap opera of the Sydney Olympics themselves. If there was ever a time for a more cautious and measured Public Service approach needed for a national project, I have yet to see one.

While the can-do approach to government can get things done and done quickly, I am gaining a new and increasing appreciation for a bureaucracy which is both prepared to - and just as importantly allowed to - say, "No, let's just all take a deep breath and consider what we are thinking of doing here". I believe that our new-fangled performance-based contract system contains the inherent weaknesses of senior officials keeping one eye on the contract renewal clause when the pressure is on them to say yes, perhaps even against their better judgment.

If that means admitting that I made a mistake in supporting this change in 1995, then so be it. However, in doing so, I also declared my determination to right the wrongs of this flawed management system. The Chief Minister has recently uttered words in public to the effect that my concerns are imagined. On the evidence, which I plainly see in the coroner's report, and which has come to light about Bruce Stadium so far, all I can say is that I strongly disagree.

According to her public comments, Mrs Carnell's support for the current based system is centred on two arguments: Firstly, that every other government in Australia has this system; and secondly, it would require our senior public servants to take a 10 per cent pay cut which had previously been awarded to balance the loss of tenure. Firstly, and quite frankly, her first argument is nonsense. And I am still waiting to hear the downside of the second. Both the Chief Minister and the architect of our current bureaucratic structure, John Walker, have made the comment - restated by Mrs Carnell at the weekend - that running the ACT was "really like running a very big business". This is clearly not true. Government is not business.

Government is about creating an environment which is healthy to live in; where people can get jobs; where their children can get a good education; where there is justice; where there is good access to services such as a hospital and public transport; and where assistance is available for those who, for whatever reason, find themselves in hardship or difficulty. Government requires true leadership, a strong sense of duty and responsibility; the nurturing of public trust; and the installation of an efficient and accountable administration, not the creation of ACT Inc.

I wish, Mr Speaker, to comment briefly on why I am determined to effect a change to our present bureaucratic structure. But I will first read extracts from two books about the traditional career Public Service. The first is from *Career Service: an Introduction to the History of Personnel Administration in the Commonwealth Public Service of Australia 1901-1961* by Gerald E. Caiden. His study of the history of the Commonwealth Public Service found that the seven foundational principles of the service which were incorporated into the law, were:

> 1. Standardisation of conditions of employment;
> 2. administration covering uniform conditions of employment, recruitment and promotion by an independent central agency which is free from political obligation;
> 3. recruitment by open competitive examination wherever practicable; 4. promotion by merit. While practice often tended to favour senior officials, this was offset by the development of appeal procedures;
> 5. position classification aimed at identifying defined promotion ladders and providing a proper career channel wherever possible;
> 6. a code of rights and duties; and
> 7. adherence to career service principles in spirit. A permanent appointment meant a guaranteed full-time career until the age of retirement, provided the officer had not been dismissed for misconduct or retired for incapacity.

I do not think we have, Mr Speaker, very much of this very important and strong foundation left, and more is the pity.

The second extract is from the book *Politicisation and the Career Service* by Curnow and Page, and I will quote:

> ... the career service provides continuity and stability of administration. Political crises may occur in rapid succession, but the security of tenure enjoyed by public servants ensures that essential services continue to be performed. Public servants become the repository of considerable expertise, not merely because of continuity, but also because their appointment and promotion by merit ensures a relatively high level of competence.
>
> Overall, the system is more formally rational, more certain and predictable than any other, and possibly more efficient as well. And although the career service does not guarantee the absence of corruption, it does place a premium on professional behaviour. The independent, secure public servant, providing impartial advice, can act as a counterweight to balance the more passionate enthusiasm of political masters whose decisions are, understandably, alleged to be based solely on short-term political gains.
>
> A career service is loyal and responsible to the democratically elected government of the day in accordance with the doctrine of the Westminster system. The career service which existed in Australia during the mid-20th century was remarkable not only for its purity, but also the extent of its coverage of public service positions. Future generations may look back on this period if not as a golden age, then as an aberration in administrative development. If changes to the career service do not function as intended, then all that will have happened is that one insulated, self-perpetuating elite will have been exchanged for another.

Of course, the career Public Service has its shortcomings, but nothing like the systemic incompetence, which was uncovered by the coroner. *(Extension of time granted)* I would ask members to examine this extract at length. However, it is on the final sentence that I would like to focus. Let me read it again:

> If changes to the career service do not function as intended, then all that has happened is that one insulated, self-perpetuating elite will have been exchanged for another.

The restructure of public service in Australia has been touted as "reforms". However, it appears that they have merely been "changes". And where these changes have not worked - and from my brief examination so far I believe the problems are endemic - all that has happened is that one supposed flawed system has been replaced with another flawed system.

Here in the ACT I can see indications that the structure of our senior bureaucracy is systemically flawed, and it must go - period. And it must go because I have no confidence that a Liberal government led by someone else, or indeed a Labor government if it were installed today, would fare any better than the present one. Simply, one set of yes men and women would be replaced with another set of yes men and women, working under the same flawed performance-based system.

I am more concerned, Mr Speaker, right now, with recognising the true extent of the failings of the present system and changing them, than rushing to change the leader of the government for a new leader to merely preside over the same system. Once the Auditor-General's report is tabled, I believe we will have a clear picture of the workings of our senior public officials, and at that time I will be in a position to finally decide the fate of the Minister who instigated and currently presides over that system.

The failure of some levels of our bureaucracy has absolutely staggered me, not only those highlighted by the coroner, but from what I have already seen in relation to Bruce Stadium. It has become increasingly clear to me that our so-called Public Service reforms have been a disaster. Last week, the Chief Minister announced an independent review of the Public Service in regard to matters which were highlighted by the coroner. While I do not doubt the ability of her appointee, Mr Tom Sherman, to carry out that review, Mrs Carnell's comment on the weekend that Mr Sherman's views on the Public Service fit very well with her style of government cause me to believe that this review is just window dressing and will effect little real change.

I challenge members to consider the coroner's findings on our Public Service and also their understanding of the Bruce Stadium redevelopment in light of the comments I have made today, and perhaps measure them against the comment from one of Britain's most able Labour Ministers, Herbert Morrison, who said:

Civil servants take enormous pains to give a minister all the facts and warn him against pitfalls. If they think the policy he contemplates is wrong, they will tell him why, but always on the basis that it is for

> him to settle the matter. And if the minister, as is sometimes the case, has neither the courage nor the brains to evolve a policy of his own, they will do their best to find him one. For, after all, it is better that a department should be run by civil servants than it should not be run at all.
>
> It was my task in 1929-31 to change the policy, which had so far been pursued by the Ministry of Transport. We argued it all out. We examined all the snags which the civil servants found for me and which I found for myself in plenty. But at the end of the discussions, when I made it clear what the policy was to be, the civil servants not only gave their best to make my policy a success, but nearly worked themselves to death in labours behind the scenes, in the conduct of various secondary negotiations. Responsibility for policy rests upon ministers, whether they are weak or strong, and it is important that the civil servants should be instruments and not the masters of the policy. They would have been just as loyal to the Conservative ministers, and that is well.

I do not believe that anything like the process which I have just described occurred during the failed hospital implosion. There was no civil servant going to any pains at all to give the Minister all the facts about the implosion. No-one came forward to say that the policy was flawed. There was no argument and no examination, just a total commitment to a can do ethic that made a tragic mockery of the fine tradition that public servants used to follow under the Westminster system.

In summary, Mr Speaker, I await the Auditor-General's report with anticipation to see how our senior officials measure up there. I fear a similar pattern will emerge where public servants have not acted as traditional public servants. The Government has argued that it would be unfair to hold the Chief Minister responsible, Mr Speaker, or her departmental officials have been negligent in their job. Perhaps, but perhaps not. That is a decision for another day.

MR QUINLAN (11.53): Now, Mr Speaker, the day may come when we ask each other, "Where were you on 13 July 1997, the day of the implosion and the day that Katie Bender was killed?". In fact, I was a long way away. I was in Port Douglas with a handful of guys from Canberra, all feeling quite mellow after having completed the 1997 Variety Club Bash. And then the telephone messages started coming in. We heard of the tragedy around the same time as it came on the TV news, and a very, very heavy melancholy came over that room, that one motel room where we gathered, because of the report of one death. Canberra had lost something that day.

I made my phone calls home. I spoke to my daughter who had been at the event and, in fact, had been in the area of the fatality. She described how her husband had gone forward to talk to someone he knew and had seen the splashes coming across the lake, and virtually turned and was screaming for her to get the kids down. She could not make out what he was saying because of all the hubbub. But at that point over the phone, my daughter broke down as she said, "That could have been our kids, dad. That could have

been Kirsten or Martin". It was scarier to discover that the lethal piece of steel was only one of many, many that flew beyond the crowd on that lakeshore.

I want to read the bulk of a paragraph from the first page of the coroner's report. I am sure even the slow readers are up to this one.

> The fragments of debris were propelled distances of up to one kilometre from the site of the demolition, in the direction in which Katie Bender was located, and further around and beyond the area of the Canberra Yacht Club. Items of debris were located in the area at the southern end of the Commonwealth Avenue Bridge, the lake foreshore, the National Library of Australia, the Treasury car park, the Hyatt Hotel, the Lennox Gardens, and the area towards and beyond the Canberra Yacht Club. An item of steel weighing 16 kilograms was later retrieved from Lake Burley Griffin on the southwestern foreshore adjacent to the Yacht Club. It is trite to say that many hundreds of Canberra citizens, drawn to the spectacle, were at grave risk.

I think the coroner observed that 30,000 to 40,000 people were in the area where Katie died. And from time to time we see the TV footage where an obviously huge chunk of concrete or steel splashes into the lake between two loaded boats very near to each other. How close were we to a tragedy of very great proportions. The defining statement, I think, belongs to Dr A. Krstic. Jon Stanhope mentioned it early. He said:

> I'd like to say that it is purely by the grace of God that that shoreline didn't look like a battlefield, actually.

Had it resembled a battlefield, I am not sure that we would be here having this debate today; whether one life is somehow less valuable than 10. And I do not think because of the very danger, because of the consequences of this, the comparisons that Mr Stefaniak has made today are appropriate at all. What we are talking about here is a situation that was created and that could have caused a massive tragedy far beyond the actual results. Maybe if the shot firer had used less explosive, then a lot of that debris might not have cleared the crowd. It is purely by the grace of God; that has to be remembered.

What placed all of the people in mortal danger was lousy administration, lousy general administration; not a staffer but an administration; an administration clearly involved from the Chief Minister's office down. The coroner is unequivocal in this regard. Others before and after me today will refer to the coroner's statements.

But I will just remind people of the words - the sham processes for letting tenders without regard for experience or competence, the total abrogation of responsibility. We have heard earlier claims through Mr Stefaniak that occasionally tragedies happen. Let us go to another quote from the coroner:

It is inevitable and regrettable that accidents do sometimes occur despite the best precautions, but what happened when Katie Bender was killed was inexcusable. It is inevitable and regretful that accidents

> do sometimes occur despite the best precautions, but what occurred when Katie Bender was killed was inexcusable.

It was an inexcusable event that put very many more people in danger. It should not be forgotten through the course of this debate that it was only by the grace of God that so few, in fact, suffered.

I very much doubt if anybody here will stand to defend the administration. But if it is administration by so many, where do you look? You look to the leader of that administration. Yes, I will accept Billy Snedden or whatever other statements or precedents you wish to bring forward if it is the action of an administrator or even a small group of administrators, but this is systemic failure and this is failure that goes right to the Chief Minister's office.

We, the people who populate this place, know how that office operates and has operated. We know that there were instructions passed down the line that go to the core of this problem and that emanate from people very, very close to that office. So whom do we count? Whom do we hold responsible? Since the time that I have been in this place, there has hardly been a moment when the administration in this Territory has not been open to serious question. There is a litany of events that I will not list today, but in each case the problem has centred on the Chief Minister and her involvement.

It is logical, I guess, that they did centre on the Chief Minister, because until the very recent cynical, bum-covering manoeuvres that have gone on, all power has rested in the office of the Chief Minister. However, this Chief Minister takes no responsibility for this total failure. She has uttered the hollow words that she is responsible for everything, but they are very hollow words indeed, particularly when you observe the action, the shameful buck-passing. And I have no doubt that Mr Kaine will refer to some of that shameful buck-passing before the day passes.

I have a mental picture of a lifeboat surrounded by floating, struggling bodies that have been cast out, only a couple left in it; yet it has not risen in the water; it is still weighed down. We have all witnessed the unedifying sight of public servants who have given this Chief Minister their loyalty or at least their slavish obedience, public servants who have stoutly defended the Chief Minister's line in estimates committees and who sometimes even took flak in the media when things got hot, jettisoned. We have seen their careers cut short, possibly irrecoverably.

Here I find difficulty following Mr Osborne's appalling logic and I think that at least five minutes of his speech was an argument for the Chief Minister to resign, that somehow this problem occurred because public servants said yes, when they should have said no. To whom did they say yes? Anyway, this particular Chief Minister will not take responsibility, despite her hollow claims. This Chief Minister has lived by propaganda, has jumped into every limelight available and has set up many more. She is, in fact, to be congratulated on the personal sell job that she has done. And many have been taken in by the stunts and the gush and it must have been a wonderful trip.

But it is all not based on fact. I will even go to recent times when the Chief Minister stood here and claimed to have managed well financially, and stood up in this place and said, "We took over a $344m deficit from Labor". There was a $344m deficit in this Chief Minister's first full year of stewardship and it included a very, very, very substantial proportion of abnormal items. It does not matter, it makes the case. It does not matter if it misleading. The Canberra Hospital implosion was a function of the stunt mentality.

The loyal public servants ensured that obstacles were brushed aside. One or two of them, as we know, are now paying the price for that loyalty. And they are paying the price when the account should be delivered to a higher soul.

It is instructive, I think, to ponder the legal expenses reported in the Chief Minister's annual report. The Chief Minister, not responsible? For a little over a day's evidence cut short because she had to go and do another stunt, her legal bill was $122,000 in a year. For the head of Chief Minister's Department, the man by her side, who gave very limited evidence, it was $56,000. The executive director of Development and Tourism gave considerable evidence, received adverse comment. Her legal bill, what we spent on her, was $23,000. So that is how we do things around here. The captain refuses to go down with the ship. And in today's *Canberra Times*, I think, the Chief Minister stated:

> I can't think of a situation where a no-confidence motion has been successfully run on a minister because of administrative failures when there has been no impropriety.

But what we are talking about here is not an administrator failing - an administrator within her department failing - we are talking about the whole system, the system in which she was involved.

Today is a good day to give you an analogy. A long way east of here in the Land of the Long White Cloud, there is a gentleman called John Hart. John Hart is the former coach of the New Zealand All Blacks. He is the former coach because he resigned. During the World Cup he did not drop a pass, he did not miss a kick for goal or a kick for touch or miss a tackle or drop off his intensity. But he was in charge. He was responsible. He resigned because he, Mr Speaker, had honour. Thank you.

MR WOOD (12.08): Mr Speaker, there is no-one in this Assembly in any doubt about who runs things in this town. The Chief Minister has no doubts. We here all know who runs the place. The four Ministers across there know that. They learnt a long time ago. The ex-Liberal minister, Trevor Kaine, knows and he will correct me, I expect, if I am wrong, that Mrs Carnell's approach is: "Do it my way or not at all". There is no-one in the bureaucracy in this city in any doubt about the dominance of the Chief Minister. Anyone who did has long gone. In 4½ years she has reshaped, restructured, remodelled the administration. New ways, her ways. New people, her people. She dismantled the Public Service and reshaped it her way, and at the top of the tree she runs it her way.

More than that, many in the wider community have experienced it. If you are in any way reliant on government funding you might well get a blast if you dare criticise the hand

that feeds you. The Chief Minister works hard at getting the community working to her will. This is all well established, widely recognised. Except, of course, when something goes wrong, as it too often does. Then the response is immediate, loud, clear and persistent: "It's not my fault. It's not my fault". The lips sometimes say that she has responsibility, but it is never her fault. Documents that Mr Stanhope quoted today put her words into print, but she repudiates them on occasions like this.

We did hear her say that it is Mr Kaine's fault, at least in respect of WorkCover. Remarkable! But let us think about that for a moment. In that statement she has acknowledged that someone, someone in government, has to be responsible. Now, that is an admission. But she should then take the next step and acknowledge that the responsibility lies with her.

By now I expect that most of us have at least read the coroner's report, even if some started too slowly. And we have read other documents - the submission of the counsel assisting the coroner; the submission of the counsel for the Bender family; various records of interviews and correspondence including emails. And there is a bomb on every other page - faulty processes, breakdown of processes, threats, pressures, shortcuts, contracting that is a sham, incompetence. You have read about it, members, and you are hearing about it today.

I have covered something like 1,200 pages of damning indictment of the ACT Government, all recorded by the coroner. He was concerned with the legalities as to the death of Katie Bender. He did not feel the need to draw the political connections, the connections we know only too well, and which it is our task to deal with today. I believe it would have been appropriate for him to do so, but I am prepared to leave the lines of legal responsibility to him while we deal with the lines of administrative and political responsibility.

This then is clear. The administration, Mrs Carnell's administration, was a complete failure - mistake built upon mistake, neglect, incompetence and pressures leading to an inevitable tragedy. But, members, we must support this motion of no-confidence even had Katie Bender not been struck by that missile. A hundred thousand Canberrans urged, incited by the Chief Minister, attended a place where they should never have been – a dangerous place. I will quote again what you have heard today, the evidence of defence scientist Krstic:

> I'd like to say that it is purely by the grace of God that that shoreline didn't look like a battlefield ...

That alone is an indictment of the Chief Minister. It is not then just the Katie Bender tragedy that we must judge. The political leadership that gave us the implosion is still there. The administration which responded to the flawed leadership, which acted in the knowledge, directly and indirectly, that what the Chief Minister wanted she got, is still there, with a few key names missing. We need the vote of this Assembly to change that. If nothing changes today, what will be the next Bruce Stadium, the next implosion? We must change the structure which brought this about. The monster still exists. It has to go. We must vote it out today.

But what of those names which have gone? What of the story that tells us? For example, why did not the coroner recall John Walker, at the time the head of administration? The coroner wanted to, he wrote, but he did not. I wonder why the bureaucrat closest to the Chief Minister was not questioned much more closely?

Another example cited today was: the Government is paying the enormous salary of an ex-officer much involved but now working for SOCOG. Why on earth is the Government doing that? How can it be? What is the logic? Well, it is pretty obvious, is it not? It is really quite understandable. You look after me and I will look after you - well, as best we can.

They are just two examples. Those closest to the Chief Minister in this affair have moved on. They have been looked after as best as could be done. The Chief Minister has been looked after. But in this place, we know the lines of responsibility and must act.

I have some more about those lines of responsibility. In this Westminster system, the buck stops with the Chief Minister. This is particularly the case when the Chief Minister is so identified with the administration, when she has been so dominant in restructuring and in directing that administration. The way she has managed this, she is more responsible, not less. There is not an impartial bureaucracy giving frank and fearless advice. The bureaucracy is an arm of the Chief Minister.

We recognise that the notion of ministerial responsibility inevitably changes over the years and varies according to the style of administration. A leader is not responsible for every action of every public servant, or for all their failings. But the Chief Minister is responsible for the general competence of the bureaucracy; for the ability of the administration to operate ethically, cohesively and efficiently in carrying out government policy.

Where that breaks down, the Chief Minister is accountable. Where it breaks down frequently, and in this case with tragic results, that accountability says the Chief Minister must go. It is she who is absolutely responsible for the gross maladministration that resulted in this totally botched implosion. It was the administration, in style and in the people who were appointed, which brought this about, and she was not distant from it. It was delivering what she wanted and it failed because of her style and the defects then built in. That is the responsibility the Chief Minister must accept; and, as she will not, the Assembly must impose it upon her.

Mr Speaker, it seems that the Independents in this place will decide the issue. I believe their independence is at stake here and I am surprised at their indication that they will not support this motion; that they want to wait for the Auditor's report on Bruce Stadium. Have they so downgraded this issue that they will not deal with it today? Is it of so little account? But further, surely the issues have deepened since that last no-confidence motion. On that occasion, Mr Rugendyke said that he was within a hair's breadth of supporting the motion. It was touch and go, marginal. He had two speeches in his hand and only at the last moment did he decide. It was a near thing for the Chief Minister.

Well, clearly, matters have worsened. That is obvious. We know more damaging information about Bruce, and now we have this implosion before us. I would have thought this would have pushed Mr Rugendyke over the edge. I wonder if it can have been so marginal last time. The Independents earlier criticised the Labor Party for, they say, acting too hastily. That was not raised today. They asked how could we consider the report in the time before we announced our intentions.

The answer is obvious: Because we worked at it. We focused our minds. And there are quite a number of others in this place who did the same, have no doubt. Maybe some did not. Mr Stanhope's office had the report immediately upon release. Our members had the executive summary very rapidly. That was readily absorbed and where necessary references followed to the full report, as it became clear that action was necessary.

Do not forget that we all had followed the proceedings most closely and were well versed on all issues. We had carefully digested the report before, it seems, the Independents got a copy. So I'd say to the Independents, "Do not criticise us for acting too rapidly. You responded too slowly". If members have been following court cases, recent court cases and significant cases of claims after personal injury, including a High Court decision, you would be aware that those courts are taking the need for governments to exercise duty of care very seriously indeed. In the case of the implosion, the ACT Government failed absolutely to have respect for that principle. The promotion of the demolition as a public event was just the most dramatic evidence of their failure to exercise duty of care.

Today, members in this Assembly have to accept the duty to see that accountability, that ministerial responsibility, is maintained; that the Chief Minister is removed, so that proper standards are returned to the administration, so that we see no such tragic event occur again.

MR HARGREAVES (12.21): I regret that it is on one side of the chamber that comments seem to be made about this. Mr Speaker, the threads through the issues, which have prompted this motion, find their root in the systemic failures of government administration. We have heard the coroner state quite categorically that there was systemic failure and he referred to it as, and I quote:

> ... starts at the Government as the client and then permeates to the Project Director, the Project Manager and ultimately to those directly responsible for the detonation being the contractor and subcontractor.

It is acknowledged that the coroner did say:

> No one can seriously attribute to Mrs Kate Carnell, the Chief Minister for the ACT, personally or directly, any responsibility for or contribution to the death of Katie Bender.

But this statement must be taken in the context of his consideration of apportioning responsibility for the actual event and in a context of criminal responsibility. However,

the Chief Minister must accept some significant responsibility. The question is now: To what extent should she accept responsibility and what should she do in a concrete way to accept that responsibility? The coroner went on to say, and again I quote:

> Yet there is no doubt, based on all the evidence adduced during the inquest, that the whole project could have been undertaken from its commencement to its conclusion at all levels in a more professional manner. There were systemic failures.

The coroner said categorically:

> Mrs Kate Carnell was the minister accepting responsibility at Territory level for the project as Chief Minister.

Mr Speaker, I want to concentrate on basically two issues. The first is the question of why was it that the Chief Minister did not instigate a proper risk assessment when alerted to shortcomings by the representation from the Health Services Union of Australia. And the second is the extent to which the Chief Minister's office and department had responsibility for the debacle. Thus, as head of those organisations, what responsibility should the Chief Minister carry? The HSUA wrote to the Chief Minister on 30 June 1997 indicating:

> It appears no risk assessment has been carried out on the possible dangers to those who would be inside the Hospice.

The Chief Minister replied the next day, on 1 July 1997, and I quote directly here:

> The ACT Government, through its agent, Totalcare Industries Ltd, has undertaken a number of detailed studies ... The major report [was] prepared by Richard Glenn and Associates ... in February 1996 ... Throughout both the planning and implementation phase of the demolition, risks to the Hospice staff and patients have been constantly assessed.

In the reply she also talked about the Government's technical consultants, and said:

> In short, the Government has had an ongoing process of risk assessment by the Government's expert advisers.

But, Mr Speaker, there had been no risk assessments. The Glenn reports were merely feasibility studies, well over a year old and there had been no ongoing process. In short, this information was, as the coroner said, "either inaccurate or misleading or false". No risk assessment, had been completed by 30 June 1997. The coroner was very critical about this lack of process. He said:

> A golden opportunity was presented not only to the Chief Minister but the Chief Minister's Department, through their agent TCL –

that is Totalcare Ltd –

> the Project Director, upon receipt of the letter from HSUA, to engage in a full consultative process with the relevant experienced personnel ... The critical difficulty again was the absence of advice from a structural engineer and a demolition explosives expert as required by the *ACT Demolition Code of Practice*. If these two independent experts had been available to Mr Lavers, the CMD –

that is, the Chief Minister's Department –

> or the Government to provide such substantive advice, then the tragedy may well have been averted.

The Chief Minister said that she knew that there was no expertise in implosion either within her own office, the department, WorkCover, Totalcare Ltd, or Project Coordination of Australia Pty Ltd. So if the Chief Minister knew, as she said in evidence, that there was no such expertise locally to hand, why did she not commission independent experts? Why did she sign the letter, knowing, as she did, that no such expertise was available within the various levels of contract administration; and knowing, as she did, that the Glenn report was not a risk assessment, but two feasibility studies?

Why did the Chief Minister sign a letter saying that there had been an ongoing process of risk assessment by the Government's expert advisers, when she knew that there had been no risk assessments and no government expert advisers? Was she, as head of government, as the managing director of the client group and as Minister accepting responsibility at territory level for the project as Chief Minister, knowingly breaching the ACT demolition code of practice?

The coroner also said:

> The description of RGA reports by the Chief Minister as studies relating to safety concerns or risk assessment and the adoption by her and her then department head, Mr Walker, of those descriptions, showed, at best, a misunderstanding by those individuals of the contents and purpose of the RGA reports and, at worst, an attempt to use by then outdated materials for a purpose for which they were neither designed nor intended.

This is either incompetence or something more sinister.

Mr Speaker, it will be said again, as it was in the coroner's report, that the Chief Minister and her senior officers were entitled to rely upon the information provided to them by Mr Lavers of TCL. However, I cannot accept this entirely, because, firstly, it merely shifts the blame from the Government to the Public Service and, secondly, does not accord with the fact admitted by the Chief Minister that she knew such expertise did not exist. How any sane manager would accept technical advice from anyone when it is

known that such persons do not possess the technical expertise, and not suggest that expertise is obtained and such letters resubmitted, is beyond belief.

But, Mr Speaker, this is exactly what happened. Mrs Carnell trusted Mr Walker, who, incidentally, as an apolitical public servant has been found to have inserted the political content of the reply to the HSUA. He trusted Mr Hopkins and Mr Dawson; it appears he trusted everyone. It has been found that none of these people had any technical expertise and all trusted Mr Lavers, who also had none.

But at least one of the Chief Minister's advisers knew there was no technical expertise, because the fact that she knew that it was non-existent indicated that someone had told her so. Who was that adviser? Heaven only knows. So if she knew about the lack of expertise beforehand, why did she neither ask for the expertise to be obtained nor discipline her advisers for presenting a letter which was so patently misleading and false? Indeed, the coroner put his finger on the reasons for this glaring omission. He said:

> All those involved in the drafting of the Chief Minister's reply, including the Chief Minister herself, sacrificed accuracy for expediency in their descriptions of the RGA report as part of an ongoing assessment.

Counsel assisting the coroner said:

> There is no evidence that anybody, be they contractors, project manager, project director or the occupier -

and he defined the occupier as the ACT Government, the head of which is the Chief Minister -

> ever seriously considered the safety of those coming to watch the implosion.

The coroner said that the decision to promote the implosions as a public event was made by the media adviser to the Chief Minister with her full authority and approval. And, oddly, Mrs Carnell said herself in evidence that she would not have expected Mr Dawson, the media ringmaster, to satisfy himself about safety issues before authorising the public event. You just have to ask yourself: Why not? What is more important - the magnitude of a public event or the safety of those participating in it? It really inspires confidence in the new year celebrations, does it not? Where there were 100,000 around the lake for the implosion, there will be in excess of 200,000 around the lake on New Year's Eve.

Now, Mr Speaker, who was responsible for the decision to hold the implosion as a public event? Clearly it is the Chief Minister herself. As the coroner said, Mr Dawson reported directly to his employer, the Chief Minister, rather than to anybody else in the Chief Minister's office or the Chief Minister's Department. Paraphrasing the coroner, he said Mr Dawson's decision imposed on the Territory a duty to ensure the implosions

were carried out without risk to those persons invited to watch. Mrs Carnell acknowledged that she could have overridden such a decision if she wished. The coroner informs us that she did not do so.

The coroner also said that this decision, involving potentially far-reaching consequences for the Territory, was made in a publicly unaccountable fashion by a political staffer. I contend that what makes the matter worse was that this decision was made with the Chief Minister's full authority and approval; with her knowledge that no risk assessments had been made and there was no local technical knowledge to conduct such assessments.

Now, Mr Speaker, if the Chief Minister accepts that she has been let down by poor advice, and that this is her defence, what has she done with those officers who gave her such advice? Where are they now? Mr Walker took off to Sydney. Ms Ford was sent out of the town to work for SOCOG. Mr Dawson is working for the Prime Minister. And Mr Hopkins is now a political staffer to an ACT Liberal Minister. How clearer can the coroner be in suggesting that the Chief Minister had some responsibility for misleading the HSUA? I repeat his quote regarding the drafting of the HSUA reply:

> All those involved in the drafting of the Chief Minister's reply, including the Chief Minister herself, sacrificed accuracy for expediency in their descriptions of the RGA report as part of an ongoing assessment ...

I repeat an earlier comment from the coroner, which is directly related to this sacrifice for expediency:

> If these two independent experts had been available ... then the tragedy may well have been averted.

If the Chief Minister, knowing that the expertise was not there, had insisted that it be obtained before she signed such a letter to the HSUA, the tragedy may well have been averted. In short, nobody in the chain of command did his or her job properly. But, Mr Speaker, who has paid any penalty for this lack of due care? Nobody, Mr Speaker. Not Mr Hopkins, not Mr Dawson, not Ms Ford, not Mr Walker and, of course, not the Chief Minister. All failed the test of discharging a duty of care.

Mr Speaker, the Occupational Health and Safety Act 1989 (OH&S Act) imposes duties of care on employers and employees to ensure that workplaces and work methods are safe and without risk of injury to any person at or near that workplace. I have already demonstrated that the duty of care was not discharged. My position is supported by the comment from the report that:

All of PCPL, as project manager and Superintendent of contracts; Totalcare, as agent for the occupier and the Project Director; and the ACT Government as the occupier causing the demolition work to occur, also have a duty to ensure that the activities they were permitting, supervising or conducting on Acton Peninsula were

> carried out safely and without risk to others. When a general invitation was issued inviting the public to view the implosions, the standard of care owed by these people ... rose.

In short, Mr Speaker, I suggest that there was no risk assessment carried out; that there was a chain of knowledge, which included the Chief Minister specifically, that they had not been conducted. It was known by the same chain of knowledge that there was no locally available technical expertise. It was contended that such risk assessments were an ongoing process, with the knowledge that this was false and that the sum of this is a dereliction of the duty of care, which had the most serious of consequences.

Mr Speaker, this brings me to the question of the acceptance of responsibility. I suggest that the Chief Minister, as managing director of the corporation known as the ACT Government, should accept responsibility on behalf of that Government. As I have demonstrated, in only one instance the Chief Minister had knowledge, which had a direct bearing on the outcome, and did not use it. If she had, the tragedy may well have been averted. *(Extension of time granted)*

Someone must be held responsible for these systemic failures. Someone must be accountable for the obvious misleading information given to the HSUA. Someone must be held accountable for the disastrous consequences of the sin of omission. The Chief Minister knew the risk assessment should have been done and suggested falsely that it had. She committed the sin of omission in not ensuring that it was. It was her decision not to pursue this action, which had dire consequences. But, Mr Speaker, all of us here and the wider ACT community can hold the Chief Minister, as head of the bureaucracy in the ACT, the politician responsible for political staff decisions, as the Minister responsible for the project, accountable for the clear sin of omission, the dereliction of duty of care, in not ensuring the safety of all of those who watched on that dreadful day.

Further, Mr Speaker, if a Minister signs a letter which is inaccurate, misleading or false, that Minister should be held accountable for it. It is serious enough that the falsehood occurred, but the cavalier way in which the Chief Minister has not accepted responsibility for the systemic failure should not be allowed to continue. This Assembly should reject this contempt for honest process.

Sitting suspended from 12.38 to 2.30 pm

MR SMYTH (Minister for Urban Services) (2.32): Mr Speaker, it is important to understand what the Government's purpose is. We want to focus on the report and not play the politics that have been played so clearly today by those opposite. What we need to do is put on the record what we have done to address the issues.

Mr Stanhope opened his remarks by saying that the Chief Minister had failed to respond adequately to the report. That is curious, Mr Speaker, because he made that assessment within an hour of receiving his copy of the report. Within an hour he said that we had not responded and he would move a no-confidence motion. Yet, when he started this morning he said that the reason for the no-confidence motion was our failure to respond.

That is curious, Mr Speaker, because the coroner actually commended the Government and the civil servants for the work that they had done and acknowledged that the Government, even before the implosion, had started the reform process of WorkCover.

It was disappointing that Mr Stanhope quoted selectively and tried to portray that there is only one side to the coroner's report. It is a shame that he does not acknowledge both sides. Where the coroner does point out failings, he also then determines whether or not those failings contributed in some way to Katie Bender's death. It is quite clear that he says in respect of WorkCover that, yes, there were failings, but he goes on to say that he did not believe that they actually contributed to Katie Bender's death, and he said the Government and the civil servants are to be commended for taking such a positive and immediate response to her death.

It should be stated that the need for such reforms was seen shortly before the tragedy and steps were being taken to implement change when the death occurred. So what we have in the introduction to Mr Stanhope's speech is that the Government has failed to respond. Really, Mr Speaker, again Mr Stanhope quoted selectively, or he failed to read the report adequately, because the coroner clearly says that the Government and the civil service are to be commended for the steps that they have taken.

This is interesting because it is very important that we get from Mr Stanhope his definition of ministerial responsibility. Mr Stefaniak made our position quite clear, but we do not get from any of those opposite who have spoken already any indication of what they see as ministerial responsibility. Mr Stanhope said several times that there was this interference from the Chief Minister's office, yet, curiously, last week, if I recall, Mr Stanhope was also saying that Mr Moore should have interfered in the tender process for the hospice because he was not happy with the way it was being handled. You just cannot have it both ways, but Mr Stanhope wants to have it both ways.

Mr Stanhope then went on to address WorkCover. He said that one of the clear failings, one of the clear systemic failures, was that of WorkCover. He mentioned it a bit, but he failed to finish off with the coroner's final summation of WorkCover's place in this, which was:

> I am not persuaded that WorkCover inspectors contributed to or had any direct connection with the death of Katie Bender in the terms of … the Coroners Act …

So the systemic failures that Mr Stanhope seeks to put before this place today are in fact rebutted by the coroner. The coroner has said, "I am not persuaded that WorkCover inspectors contributed to or had any direct connection with the death of Katie Bender". So what do we have here, Mr Speaker? We just have politics. The Opposition have played it for two years. It is the only game they know. It is the only game they have because we do not know what they stand for. We certainly do not know what their definition of ministerial responsibility is. We do not know what their policies are and we do not know what they would do were they in government. Why? Because they do

not know. They do not think that far ahead. They stand for nothing. We see this time and time again in this place.

Mr Stanhope then asked why we had not done what Labor had done and brought forward a statutory authority to make WorkCover independent. Now, isn't this curious, because when I brought forward the regulations that changed the use of explosives in the ACT I was criticised soundly by Mr Berry for doing it a couple of weeks before the coroner was meant to bring down his report. Now I am being criticised for not having brought forward something that they had the foresight to see. Now, isn't it curious that if the Liberal Party does it, if the Government does it, it must be bad; but if the ALP does it before the coroner brings down his report it is okay. It is not as easy as that.

What they do time and time again is ignore the truth. In fact, what Mr Berry has proposed in his Bill is to establish an independent commissioner. What we have done in our Bill is establish the WorkCover Authority, the independent statutory authority that the coroner has suggested. The reality is that our reform process has got it right, theirs has not.

Mr Speaker, the major issues that I should cover today are improvements to WorkCover and the contracting and tendering assessment processes. These were both subject to criticism by the coroner. Mr Speaker, the review of WorkCover commenced on 2 July 1997, more than a week before the implosion of 13 July 1997, and was conducted by Ian Ramsay, a former Chief Executive Officer of New South Wales WorkCover. That review was completed on 12 September 1997.

The terms of reference of the review were to undertake a review of the management and operations of ACT WorkCover in order to determine the most effective and efficient means of delivering high quality services to the ACT community. The review examined the objectives of the legislation administered by ACT WorkCover, the needs of ACT WorkCover clients, the appropriate standard and means of delivering ACT WorkCover services, and the organisation, management and staffing arrangements for ACT WorkCover. The review was undertaken to enable ACT WorkCover to provide services efficiently and effectively and to deliver a significant leadership role in the area of workplace injury, prevention and management.

In summary, the review found that all areas of WorkCover's activities needed improvement. The key issues were a low level of community awareness of the legislative requirements of OH&S and workers compensation, a low level of inspectorial enforcement, a paucity of data about OH&S and workers compensation performance, and a poor organisational structure and processes.

The recommendations related to these findings were aimed at improving every aspect of WorkCover's performance, a process that had started before the implosion. From August 1997 through to now, a comprehensive reform agenda has been put in place and the Government has implemented a significant amount of change. Considerable improvements have been made and continue to be made in ACT WorkCover, and research conducted for the Bender inquest has also contributed to these improvements.

Although Labor is not happy with the way that we have performed, Mr Speaker, it is important to reiterate that the coroner commended the Government and the civil servants for the work that they had done. He was pleased with it. I am not surprised that those opposite were not.

Mr Speaker, these improvements are wide-ranging but, importantly, the job is not finished. Substantial detail about these improvements was provided in two written submissions to the coroner, and these are both on the public record. The submissions were provided during 1998 and the reform has continued since that date. A new senior management structure has been appointed. This includes a full-time general manager to drive the changes required, ensure the clarity of roles and responsibility for all staff, including the dangerous goods and OH&S inspectors, as well as to advocate for improvements in all areas administered through WorkCover.

An experienced manager of OH&S and dangerous goods has been appointed to an upgraded position which also includes the role of chief inspector. A manager of prevention strategies has been appointed to implement targeted and strategic education campaigns and support programs, as well as a manager of development projects to oversight the management of funding and to deliver internal improvement programs.

Mr Speaker, when the review commenced WorkCover had 18 positions delivering occupational health and safety as well as workers compensation regulation services. WorkCover now has 43 staff and draws on a range of contracted services as well. This increase has been through a combination of increased overall funding, together with the transfer to WorkCover of functions including dangerous goods, gas safety regulation and public sector workers compensation functions.

The key improvements include the integration of the dangerous goods unit with ACT WorkCover. This ensured that inspectors were able to discuss and facilitate safety outcomes, using the Occupational Health and Safety Act and the Dangerous Goods Act and any other related legislation, in a way that cannot be achieved when staff are in separate agencies and locations. This was, of course, a recommendation of the coroner.

Other improvements include the establishment of the regulators forum, with the specific goal of being able to do pre-planning for major events or projects with all regulating agencies, and in relation, particularly, to construction contracts; establishment of the panel of experts to provide advice on matters, including the use of explosives, boilers and pressure vessels; and the establishment of much closer ties with other jurisdictions to draw on and share in their expertise and research, as well as the integration of the public sector and private sector occupational health and safety prevention services. Previously these were in two separate departments and in different locations. Now the activities can be better targeted at key areas for both sectors.

Mr Quinlan entered the fray and asked the question, “Where were you on the day?”. I, like many Canberrans, was there with my children. I was on the back verandah with Friends of the National Library. What we got after Mr Quinlan’s introduction was yet more selective quoting from Labor. That is all they are good for, Mr Speaker, just more selective quoting. What we did not get was the full picture. We are willing to discuss the

full picture because we have looked at the document and we are willing to work ahead with the coroner.

What does the coroner actually say? Mr Quinlan talked about lousy administration, and that is actually in conflict with what the coroner says on the issue of WorkCover. The position was put forward that they were under-resourced. The coroner said, "No, they weren't". But what does he say, Mr Speaker? First and foremost, Mr Quinlan tried to portray that everything had the Chief Minister's fingers in it; that it was all her fault; that she had engineered it right from the top. But what the coroner said was this:

> There is no doubt that the Chief Minister was considerably moved by the tragedy of this occasion. She had received advice about the matter. Mrs Carnell was sincere and genuine in her evidence that the tragedy was extremely regrettable … There is no doubt that the statement set out in this document is one of genuine sorrow. There is also no doubt in my mind that the Chief Minister, personally, regrets that a young girl has lost her life in horrific circumstances.

But what is it that the coroner said Mrs Carnell was entitled to? How did he see her actions? The coroner said at page 482 of his report:

> Mrs Carnell, the Chief Minister, was entitled to proceed and accept that the implosion was being competently performed in accordance with what she understood to be the implosion methods mentioned in the August 1995 Cabinet decision and the various RGA reports.

The coroner went on to say specifically in his report:

> Mrs Carnell said … "If it had dawned on us, if we had even thought there was … one per cent chance of something that was dangerous, that this was dangerous well of course we would not have done it ...".

What did the coroner say about that? He said:

> In my view this was a reasonable position to adopt having regard to the processes put in place by the ACT in the selection of the Project Director ... the Project Manager … the contractor … and the specialist implosion subcontractor ... There was no event that had ever occurred which could reasonably have put the Chief Minister on notice of any safety concerns on the part of those involved on the demolition side of the project with respect to the planned implosion.

Mr Speaker, it is curious that the Opposition chooses to ignore these things. They will selectively quote from the whole document whereas we will say, "Yes, he has pointed to things that we need to improve. We are working on them and we will continue to work on them".

Now, Mr Speaker, it was stated earlier - I do not recall who said it but I think it might have been Mr Stanhope - that the implosion process was fraught with risk. The coroner actually says that that is not true. He said:

> It was not the use of implosion as the method of demolition that caused Katie Bender's death but rather the use of that method by incompetent and inexperienced persons. Implosion is a cost effective demolition method in the terms of time saved as opposed to using the traditional demolition process. The evidence justifies a finding by this Inquest that implosion, if carried out competently, is at least as safe, if not safer than the traditional methods of demolition.

Mr Quinlan, again, in all his criticisms, in all the words he said, clearly used the parts of the report that support his case. We can all selectively quote, but we are willing to say that the report taken in its entirety says that there is work to be done. The coroner has clearly laid the blame where he felt that blame should be. Mr Speaker, this is a mentality we see a lot in the Labor Party. It is a mentality that says you have to attack on personality when you have no substance for what you yourself do.

Mr Speaker, what have we done? Before the implosion we got on with reforming WorkCover. Now that we have the coroner's report we will continue. We will continue that, Mr Speaker, by ensuring that staff training is a priority. In the past two years WorkCover has ensured that all staff undergo induction training and that all staff have individual development plans related to work requirements and to their career progress. *(Extension of time granted)* In particular, training has included explosives training. We now have five staff qualified as shotfirers and another five staff are studying. All OH&S inspectors are now trained in asbestos safety.

Staff have received training in Safety Map, a methodology of risk analysis and audit within organisations. Six inspectors are now trained in mediation. All inspectors have training providing an overview of dangerous goods, while all the OH&S and dangerous goods inspectors have been trained in hazardous chemicals management. Some staff now have tertiary training in law, OH&S and safety science, while all staff have been trained in occupational protection behaviour. Yet again, the Government is getting on with the job, which includes addressing the concerns of the coroner, and we will make sure that that happens.

Equally as important, Mr Speaker, there has been significant legislative reform. The review has addressed some serious deficiencies in the legislation, and what we have done and will continue to do is modernise antiquated legislation. This legislation did not become antiquated overnight. It did not happen in our term. It did not even happen in the terms of the previous Government. Much of the legislation dates from the turn of the century. The point is, Mr Speaker, that we are now addressing that problem.

This has included the introduction of the new regulations for the use of explosives under the Occupational Health and Safety Act 1989 as a consequential amendment arising from the repeal of the Scaffolding and Lifts Act 1912 to 1948. Although these were gazetted on 1 October 1999, clearly some members were not aware of the process that

we have been going through over a period of two years until they read about it in the *Canberra Times*.

The Government has introduced new regulations under the Dangerous Goods Act 1984 for the sale and use of fireworks, and we will also address the implementation of on-the-spot fines under the Occupational Health and Safety Act 1989. Mr Speaker, this strategy provides a mechanism to focus attention on the need to adhere to safety in the workplace. It has proven to be successful in New South Wales and is part of our broader suite of reforms.

When Mr Wood came to the stand he attempted to justify their going too early. They had come out fighting and some of the crossbenchers were concerned that they had gone too quickly. He accused them of moving with undue haste. He said that nothing changes as of today and the monster still exists. Mr Speaker, they need to define the monster. They need to define where we are falling down in our reform process because the reform process is comprehensive. They had no intention, whatever the coroner said, of doing anything but moving this no-confidence motion. It is a no-confidence motion that we should not be discussing because, if you look seriously, not politically, at what the coroner has said, we are addressing many of these concerns.

Mr Speaker, we still have some work to do on the Dangerous Goods Act. There needs to be new regulations now for the certification of operators of industrial plant and equipment. Some of the current regulations that we have date from the early 1900s and they need to be modernised. That work is being conducted in conjunction with New South Wales WorkCover because they are doing similar work at the same time. We are making sure that we work together so that we both come up with a consistent set of regulations in order that we have cross-border consistencies rather than inconsistencies.

We are also completing a review of the demolition code of practice and that will, of course, take into account all of the findings of the Bender inquest. We have also put in place a strategic approach to planning with the development of the prevention strategies framework. That framework identifies the five key strategies of leadership, advice, encouragement, education and enforcement, with all the related activities and targets that would go into that. Under that framework, workload and work allocation processes have been improved and are being made more equitable.

The other thing that we are doing is, of course, education. WorkCover communication with its clients is now improving. We reach at least 30,000 people with our quarterly newsletter so that we make them aware of any changes in their responsibilities. To highlight the importance of that, Mr Speaker, we have also improved the annual prevention awards to make sure people clearly understand the value that we place on occupational health and safety by rewarding those who do the right thing.

Mr Speaker, this is a lot of change since 2 July 1997 and it will now take into account the very sad events of 13 July 1997. The focus is now on continuous improvement and response to the coroner's report. That is what we are doing. The Labor Party may seek to do that, but it is what we are doing, which makes a mockery of what it is that they

move here today, Mr Speaker, because it is just not true. The Government is responding to what the coroner has said in his findings.

Mr Hargreaves then came to the stage and he had a few words to say about how he saw things. He said, "You have to take things into account; you have to be responsible", and "There is no doubt". Mr Speaker, I want to quote from page 482 of the report. Page 482 is quite interesting. The other attack today is that it was some sort of stunt. We have heard many times here today about the stunt that was done by Mrs Carnell, yet what the coroner says is quite clear. I will quote it. He said:

> I do not agree with nor do I consider there is evidence to support the submission made by Counsel Assisting the Inquest to the effect "that the public event was organised with at least one purpose being to enhance the political prospects of the government".

Mr Speaker, those opposite should listen to what the coroner has said. Mr Hargreaves went on and said things like, "There was no risk assessment", and that we didn't know what we were doing when contracts were signed for the implosion. I will read again from page 482:

> Mrs Carnell, the Chief Minister, was entitled to proceed and accept that the implosion was being competently performed in accordance with what she understood to be the implosion methods mentioned in the August 1995 Cabinet decision ...

Mr Speaker, the coroner can see it. Those opposite simply choose not to see it.

Mr Hargreaves went on to talk about things like duty and care, being responsible for your words, and sins of omission. I remind Mr Hargreaves of the thousands of phone calls that he invented, supposedly, on Active Australia Day back in 1998 when he said lots of people were booked and there was nobody booked that weekend. Then he said that, at the previous Tuggeranong Festival in 1997, hundreds of people must have been booked, and there were six in a 10-day period. If we are talking about credibility here, Mr Hargreaves ought to take on board the things that he says. He ought to answer to those first before he goes confusing what other people have done.

MR SPEAKER: The member's time has expired.

MR SMYTH: I seek just a short extension, Mr Speaker.

MR SPEAKER: Is leave granted for another extension?

Mr Hargreaves: Give him as much rope as he wants.

MR SPEAKER: Thank you.

(Further extension of time granted)

MR SMYTH: Mr Speaker, I do not want the rope. There is no case here. Mr Speaker, there is much more to be said about what WorkCover has done. There is much more to be said about the reforms that the Government has put in place. What we are clearly doing is acting in good faith. This began before the implosion. The coroner himself has commented that the Government and the civil servants are to be commended for what they were doing. Labor was attacking me for my explosives regs, and he now comes back in his report and says that these were appropriate. He says that in the final document, and he even lists the reforms that we have made.

Mr Speaker, we have taken a reasonable approach to this. We have taken responsibility for this. We are rectifying faults that the coroner has found in our performance. If you actually read the report properly you will find that those opposite ignore what the coroner said in many cases. For instance, he exonerates the WorkCover inspectors, he says no-one can seriously attribute blame to Mrs Carnell, and he says the Government is to be commended. You must take a balanced view of it. Those opposite simply put on a political sham. Why do they do that? Because they have nothing else to offer.

MS TUCKER (2.56): Mr Speaker, on Sunday, 13 July 1997, a young girl died on the shores of Lake Burley Griffin. It was a death that should never have occurred. After a long and detailed inquest the coroner has found that two persons should be charged with criminal offences, the explosives contractor, Mr McCracken, and the demolition contractor, Mr Fenwick. Their fate is now in the hands of the courts. However, the coroner also found that these two persons were just the final actors in a tragic chain of events in the mismanagement of the implosion that led up to that fatal moment.

Today we are debating the Chief Minister's role in this mismanagement. I can accept that the Chief Minister was not directly involved in the day-to-day management of the demolition contractors, but what we are debating today goes far beyond the findings of the coroner. His role was to determine the cause of Katie Bender's death and the identities of persons who contributed to her death. The coroner makes the point that his investigation was about determining which person's conduct directly caused the death. I accept that Mrs Carnell's actions did not directly cause Katie Bender's death, but I believe that the actions of her Government significantly contributed to the circumstances in which Katie Bender's death occurred. The contributory circumstances were also highlighted by the coroner.

This motion of no confidence is about the issue of ministerial responsibility. It is about this Government's approach to the role of government. It is about the consequences of this approach. It is about how this approach has led to a diminishing of expertise in the Public Service, to a fragmentation of government service delivery, to a distancing of government from responsibility for community services through corporatisation and privatisation, and to a loss of accountability within the system. It is not to determine who is criminally responsible for this death. It is about whether the Chief Minister should be held politically accountable for this totally unacceptable process.

This Government is obviously not alone in the approach that it has taken. Other governments have been equally enthusiastic. However, other governments are also coming unstuck as the community uses its electoral power to make the point that the

community does want to see government taking primary responsibility for ensuring the safety and wellbeing of the community. People do not want government managed as a business because they realise that business is driven by the profit motive and this requires an approach of risk management which is unsuitable for the management of essential services and the wellbeing of a community.

I was interested to hear Mr Osborne's comments this morning. I am glad to see that he also is now concerned about this Government's approach. Unfortunately, he seems to think he will be able to effect a total change by introducing some sort of legislative package which will improve the integrity and strength of the Public Service. In my view this will not be possible unless there is political will from the government of the day to support such change, and it is clear that that will is not there presently. Improving and changing the culture of the Public Service will take more than just changing employment arrangements for senior officials.

It has become obvious in previous no-confidence debates in this Assembly that different MLAs have different views of what ministerial responsibility means. To try to get some definition, I had a look at *House of Representatives Practice*, which quotes some earlier reports which dealt with this concept. Let me quote a section that caught my attention:

> … while ministers continue to be held accountable to Parliament in the sense of being obliged to answer to it when Parliament so demands, and to indicate corrective action if that is called for, they themselves are not held culpable - and in consequence bound to resign or suffer dismissal - unless the action which stands condemned was theirs, or taken on their direction, or was action with which they ought obviously to have been concerned.

That is relevant. Another section that is also relevant says:

> Resignation is still a valid sanction where ministers have been indiscreet or arbitrary in exercising power. In cases where the minister has misled parliament, condoned or authorised a blatantly unreasonable use of executive power …

There is also an interesting section that is very relevant to this no-confidence motion. It says:

> Parliament is the correct forum, the only forum, to test or expose ministerial administrative competence or fitness to hold office. However, allegations of a different kind, that is, offences against the law, should not be tried by parliament. The proper forum for those allegations is the courts.

On the basis of this view, I believe it is very appropriate for this Assembly to be debating the political role of the Chief Minister in the implosion and to express our lack of confidence in her actions even though we know there are criminal offences that will come before the courts in the future.

Having applied this test of ministerial responsibility to the coroner's report, I believe that the Chief Minister directly failed in her ministerial responsibility in four main areas. The first was the promotion of the implosion as a public spectacle without adequate concerns for public safety. This promotion was orchestrated by the Chief Minister's own media adviser, Gary Dawson, with her approval. This was despite the fact that Mr Dawson and other people involved in the promotion had no idea of the technical risks involved, and despite the fact that the demolition contractor had no real say or even early knowledge that the implosion would be promoted in this way.

Secondly, there was the undue influence that staff of the Chief Minister's office and senior executives of the Chief Minister's Department had over the management of the project. This went right back to the letting of the tenders and continued right up to the implosion, with the attempt to hinder the work of the WorkCover inspectors. The coroner noted that Mrs Carnell knew that Gary Dawson had knowledge of the tender prices which he was not supposed to have yet took no action about it. Moiya Ford's attempt to stop the WorkCover inspectors from holding up the implosion was also clearly exposed, and the role of Mrs Carnell's then chief executive, John Walker, in directing this intervention remains unclear.

Thirdly, there was Mrs Carnell's denial during the inquest that the Chief Minister's Department was the client for the hospital implosion project and her attempt to shift ministerial responsibility for the project to Mr Kaine. In the inquest it was only Mrs Carnell, Mr Walker and Mr Wearing who disputed the overwhelming evidence that the Chief Minister's Department was the client for the demolition project. Surely people in such senior positions would have known the correct situation. The only conclusion that can be reached was that they were either incredibly incompetent or it was a desperate and unwise attempt to shift blame and responsibility.

Fourthly, there was the Chief Minister's disregard for the legitimate safety concerns raised by the Health Services Union of Australia and the misleading response given to the union. Mrs Carnell signed a letter that she knew was written by persons who had no experience in implosion and had no ability to assess the risks involved. The letter also suggested that a risk assessment had been done regarding the implosion, which was false. The arrogance of the Chief Minister and her advisers to belittle the legitimate safety concerns from people who were going to be directly affected by the implosion was astounding.

The coroner also raised a whole string of problems with the implosion right from when the project managers were appointed for the job. A significant number of these problems stemmed from the lack of supervision of the demolition contractors by Project Coordination and the fact that the demolition code of practice was not adhered to. As a consequence, Project Coordination's supervisor, Mr Dwyer, may be subject to charges for breaches of the OH&S Act. I accept that Mrs Carnell cannot be held responsible for negligent actions of employees of Project Coordination. However, the coroner points out:

> The whole project could have been undertaken from its commencement to its conclusion, at all levels, in a more professional manner. There were systemic failures.

The Chief Minister, as the ultimate head of the Government and of the Public Service, must take responsibility for these failures. This is particularly so given that the coroner believed that it was totally appropriate for the Chief Minister to have a significant role in the Acton Peninsula project because of its genesis in the land swap agreement between the Commonwealth and territory governments. The Chief Minister failed in her duty to the people of the ACT to ensure that her Public Service was up to the task of administering a project of this nature.

The specific administrative failures that I believe are relevant to this debate are, firstly, the failure to follow up the recommendations of the 1995 Richard Glenn and Associates report into the feasibility of demolishing the Acton buildings, which raised a number of concerns with the implosion method that needed further investigation. These were never picked up in the management of the project. Secondly, the selection of the Project Coordination company as the project manager without going to tender, despite them having no experience in implosion demolition. As is common with this Government, it seemed like expedience prevailed over proper process.

Thirdly, there was the appalling and sham handling of the tender selection process for the demolition contractors. The coroner makes the point that, if proper efforts had been made to check that Mr McCracken and Mr Fenwick were qualified, they never would have been given the job. These poor work practices in the appointment process permitted two persons to be assigned to the demolition project who were entirely unqualified for the task. Fourthly, there was the fact that no approval was ever given for the demolition by the ACT Building Controller or the National Capital Authority because of confusion over which government controlled the site.

Fifthly, there was the failure of WorkCover officers to exercise their statutory functions in relation to the site. The coroner notes that there were at least two and probably three if not more occasions when the WorkCover inspectors, having entertained doubts about the project continuing, should have issued prohibition notices requiring the work to cease until certain aspects of that work were rectified. The reason for this, whether it was because of officer incompetence, the poor management of WorkCover or because of implicit or explicit pressure to keep the implosion on schedule, needs to be further examined.

I noticed that Mr Smyth, in his speech, selectively quoted from the coroner's report on WorkCover. I will add a little bit to what he quoted. Basically, the coroner says:

> This segment of the Report is critical of particularly ACT WorkCover and to a lesser extent the Dangerous Goods Unit. Yet there is no escape from the fact that the primary responsibility for the safety of the Acton demolition rested with the demolition contractors, those supervising them and those who employed them. Whatever the

> criticism I make of Mr Purse, the Chief Inspector, I agree with him that WorkCover was not TCL or PCAPL's safety officers.

I think the coroner summed up the situation very well when he said:

> … not only was there a lack of experience and competence demonstrated by so many of the relevant parties engaged on the project but an unrealistic expectation or perception held by so many of those participants that issues had been properly examined or had been complied with or were being undertaken by others and so there was no need to be concerned or intrude. The evidence, considered globally, is to the contrary and demonstrates ineptitude to a significant degree …

However, it is bad enough that mistakes were made in the management of the demolition project which caused the implosion to emit more flying debris than was expected. If there had been not many people watching the implosion from close by it would not have been so much of a problem, hopefully. The debris would have just hit the ground or the water. However, there were over 100,000 people watching the implosion, with hundreds of people gathered around the prime viewing spot near Commonwealth Avenue Bridge and people on boats even closer. That Katie Bender was hit was a tragedy. That no-one else was hit was a miracle.

The coroner was utterly scathing in his comments about the promotion by the Government of the implosion as a public spectacle and their encouragement to Canberra people to attend. He summed it up by saying:

> On any global view of all the evidence it was a total abrogation of responsibility to the safety and well being of the general Canberra community to have adopted such a position.

Mr Smyth just asked us to look seriously at what the coroner said. Which bit of "total abrogation of responsibility to the safety and well - being of the general Canberra community" do you not understand, Mr Smyth? It is bad enough for the Canberra community to have their money spent irresponsibly by the Government through such dubious ventures as the Bruce Stadium; it is quite another thing, however, to have your life put at risk by the reckless actions of the Government as part of its own self-promotion. As the coroner says:

> The public are entitled to expect that if they are attending or encouraged to attend such public spectacles or features especially with their families then they do so in the quiet confidence that their lives, their families, friends and others are not exposed to the risk of death or grave physical injury and their safety is secured.

This confidence was totally shattered on 13 July 1997. The full dimensions of this tragedy have been revealed through the process of the coroner's inquest. It is now time for the Chief Minister to admit that, with her approval, the Government so failed to protect public safety through its bungling and interference.

While we welcome the Government's announcement of an inquiry to improve the procedures, it is hardly reassuring when we know the approach of this Chief Minister stays the same. The public's confidence that the Government is competently looking after the ACT people's best interest must be restored. *(Extension of time granted)* I believe that the only way for this to occur is for Mrs Carnell to be no longer Chief Minister.

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (3.12): Mr Speaker, let me start by making some comments about what I think is the inappropriateness of this motion today. I have heard a number of comments made which I think it would be fair to characterise as exercises in the apportionment of blame with respect to responsibility for the death of Katie Bender.

Mr Speaker, I hardly have to remind any members of the house that there are two trials pending of two individuals who were expressly named in the inquest as bearing a certain significant degree of blame. The coroner's view was that there was a prima facie case that they bore a significant degree of blame for the death of Katie Bender, and the finding on that subject is translating into trials in the Supreme Court of those people on those matters; yet today we have heard very strong statements of blame lying elsewhere.

I ask members to consider what use might be made of such statements by a defendant in one of those trials who might seek to find anybody else to attribute blame to. I simply make this point, Mr Speaker: The decision of the coroner was to decide where blame lay. That was his job. Read the beginning of the inquest. It was his job to apportion that blame and he did so, and he put in train processes to determine whether that blame is as he determined it should be. He very expressly indicated areas where he considered blame should not lie, and the Chief Minister in particular was referred to in that context. Mr Speaker, I particularly bring to members' attention the danger that we are debating today some of the same issues that will be before the court when those trials commence, and that may be unfortunate.

It is also inappropriate, I would submit, for this motion to be debated for purely political reasons. Mr Stanhope quoted the *Canberra Times* in his remarks. I would also adopt the views of the *Canberra Times* with respect to the bad timing of this matter and the way in which it has produced the sense of deja vu with respect to the use of motions of no confidence. I quote from the editorial on 17 November:

> … by choosing the mechanism of a motion of no confidence in Chief Minister Kate Carnell - - -

Mr Berry: Rubbish.

MR HUMPHRIES: Mr Speaker, we have heard members of the Opposition in silence in this debate.

MR SPEAKER: Mr Berry, I would ask you to stop interjecting. We have heard this debate to date in silence. I expect the rest of the debate to be held in silence, otherwise somebody might not be participating.

MR HUMPHRIES: Thank you, Mr Speaker. I quote the *Canberra Times*:

> … by choosing the mechanism of a motion of no confidence in Chief Minister Kate Carnell he -

that is, Jon Stanhope -

> runs the danger of crying wolf and of causing delays of consideration of other important matters for the ACT community.

They then go on to make reference to the idea that presumably matters of no confidence are matters dealt with as a matter of gravity and importance. I quote again:

> That principle would be fine if no-confidence motions were put only when there was a serious prospect of their getting up. However, no-confidence motions have now become almost a dime a dozen. Indeed, as Independent Dave Rugendyke points out, this is the third such motion by Mr Stanhope within six months.

I note that Mr Stanhope, in his defence, argues that no-confidence motions are an acceptable part of parliamentary procedure. I would point out that it is only the Labor Party which in this place, with one exception, has moved unsuccessful no-confidence motions in Chief Ministers. They, between them, hold all of the records for those motions except, I think, for one that was moved by Dennis Stevenson in the First Assembly, which Mr Wood the other day described as a motion of little substance. Mr Speaker, as I have said many times before, and I have to say again in this place, we greatly deplete the armoury of no-confidence motions by this continual resort to them.

The other thing that has to be said about this is the clear lack of careful thought the Opposition put into this decision before deciding to go down this path. Apparently Mr Stanhope and his five colleagues all managed to read the coroner's report, consult each other, draft their press releases and make their decision to move a motion of no confidence within the space of about 30 minutes on the day that the coroner's report was handed down. I do not believe that. I believe, Mr Speaker, that the decision was made by the Labor Party some time before this coroner's report was even written that this would be a vehicle for a motion of no confidence.

Mr Speaker, I think there is very little basis in this report for the motion that has been moved here today. In fact, I think there is considerable malice behind much of what has been moved here today. I read that report and the impression I came away with was that, in fact, Mr Kaine suffered more criticism in this report than Mrs Carnell did.

Mr Hargreaves: Oh, you don't honestly believe that.

MR HUMPHRIES: Okay, I will quote a few bits. You can quote from elsewhere if you wish, but I will quote the parts of the report that are quite explicit on that subject. We have already had a number of people quote the direct findings of the coroner on Mrs Carnell's responsibility and I will quote it again:

> No-one can seriously attribute to Mrs Kate Carnell MLA, the Chief Minister for the ACT, personally or directly, any responsibility for or contribution to the death of Katie Bender. The evidence simply does not support such a conclusion being drawn or reached.

Mr Moore: Mr Stanhope conceded that himself.

MR HUMPHRIES: Mr Stanhope himself conceded that that was the case. The coroner goes on to talk about that on a number of other occasions and to specifically refute allegations that were made in the course of the inquest about how the Chief Minister had played some role in terms of manipulation of the timing of the event or manipulation - - -

Mr Berry: She did.

MR HUMPHRIES: The coroner finds otherwise, Mr Berry. You might think you know better. Perhaps you had evidence you should have put to the inquest, but the coroner finds otherwise.

Mr Speaker, there is the timing of the thing, for example. Mr Berry says, "Yes, she did move the thing; she did agitate for it to be moved to suit her own timing". Mr Speaker, the coroner was again quite explicit on that subject. I again quote the coroner:

> It was suggested that the final date and the time of implosion needed to be adjusted to meet the personal convenience of the Chief Minister. It was argued this reflected some form of control. The truth of the matter is that the changing of the date was wholly inconvenient to the Chief Minister as she had planned to be absent from Canberra on a holiday on Sunday 13 July 1997 and which she had been planning for quite some time. Mrs Carnell was going to the Southern Highlands for a few days. Mrs Carnell was not consulted about the change of date until after the decision had been made to move the date. She was expected to fit into the revised program. Any suggestion that this was a Kate Carnell stunt or staged event for her convenience as some form of political grandstanding is not supported on the evidence.

That finding is terribly tragic, I am afraid, isn't it? It does not fit in with the rhetoric we have heard about this whole thing from the Opposition, but that is what the coroner has found. What did he say about Mr Kaine, however? They are indirect comments because Mr Kaine, of course, did not appear before the inquest. I again quote the coroner:

The Minister assuming responsibility for the project was the Chief Minister. It is my assessment on the evidence that this was a sensible

> and practical reality for the reasons previously stated. I do not accept the proposition that Mr Kaine was shut out of the project. The evidence seems to me that he was always at liberty to communicate and place his views to the Chief Minister.

Again, elsewhere, on page 442, he says:

> It is an inescapable fact that as the weeks and months progressed towards the demolition dates Mr Kaine received no briefings on the Acton demolition, not even on the technical aspects of the project. There is no evidence to suggest otherwise. It was certainly curious.

And again:

> I am unable to agree with the views reached by Counsel Assisting the Inquest in what he argues is the position in respect of client control and the exclusion of Mr Trevor Kaine MLA.

There are also very strong comments made by the coroner with respect to evidence given by Mr Woolley, who was then Mr Kaine's senior adviser. I quote:

> There is no other evidence to suggest that Mr Kaine endeavoured to engage himself in the project.

That is the finding on page 445. The coroner talks about Mr Woolley's supposed concerns about the way the thing was progressing and he says:

> Yet if Mr Woolley's concern was as alarming as he would have one believe his inaction and failure to advise his Minister to take appropriate steps to intervene or at least obtain a briefing is inexplicable.

Again, on page 451 the coroner says:

> … why did Mr Kaine remain inactive if there were issues which were exciting the concerns of either himself or his political adviser, Mr Woolley.

Mr Kaine might have views to give us on those matters when he gets up to speak and that is fine, but, with great respect, it seems to me, contrasting those two sets of direct quotes about particular members of this place, that there is more criticism in this report of Mr Kaine directly and personally than there is of Mrs Carnell. This statement of exoneration which the coroner applies expressly to Mrs Carnell, of no direct or personal involvement in the death of Katie Bender, contrasts with the statements about Mr Kaine where he says he cannot understand why he was not more involved in the project. The quote expressly says that, Mr Speaker, and yet the irony is that we are debating today a motion of no confidence in the Chief Minister. I think that is proof of two things: First of all, that the Opposition had a predetermined view about this matter, and, secondly,

that it is part of a long-term personalised campaign against the Chief Minister, Kate Carnell.

Mr Stanhope started by saying that he accepted that there was no personal involvement by the Chief Minister in causing the death of Katie Bender. I am not sure that everything else he has said or that his colleagues have said has supported that view, but that is what he said at the very outset of his remarks today. What we then come back to is a sense of how the doctrine of ministerial responsibility cuts in to apportion blame to the Chief Minister in a way which the coronial inquest findings do not do directly.

We have two tests to apply. The first is: Does the report itself attach blame to the Chief Minister sufficient to warrant her removal from office? Let me say, Mr Speaker, as the Attorney-General and the deputy to Mrs Carnell, that I would have had no hesitation in turning to Mrs Carnell in the event of a finding that there had been direct or personal responsibility for Katie Bender's death and saying, "Kate, I think that you have to go", but the report did not find that. It most expressly found the reverse to be the case - that there was no direct or personal responsibility.

In those circumstances the only way that the Opposition can get up a motion of no confidence is to rely on the doctrine of ministerial responsibility. Now, that is fair enough, except that what the Opposition have done here today in bringing forward this concept of ministerial responsibility is to manufacture a standard of ministerial responsibility which is completely unsupported by any evidence that would sustain it as a basis on which this place can operate. It is completely unsubstantiated. The standard which they have articulated, ill - defined though it might be, is unprecedented anywhere else in Australia.

One precedent we heard from Mr Quinlan was the resignation of John Hart, the manager of the New Zealand rugby union team. That was the only precedent he could cite. So it is unprecedented. It is not supported by any academic writings on the subject which have been brought forward in today's debate at least, and it is also, moreover, unsustainable as a formula for government to operate on.

If you adopt the standard which they are arguing for today, Ministers will be dropping like flies, every bloody week that the Assembly sits. Excuse the French. Mr Speaker, they would be dropping like flies. There would be no basis for Ministers to avoid the actions that take place in their names within the public services of this country.

I want to quote a very good articulation of the present state of the doctrine of ministerial responsibility from a paper that was delivered in 1996 by the now editor of the *Canberra Times*, Jack Waterford, in which he addressed this popular notion that the doctrine of ministerial responsibility means basically that if you are the Minister in charge of a department and something goes wrong in the department you wear the blame for it and you have to resign. He said this:

> In a golden age, some think, a minister of the Crown took absolute responsibility for everything which occurred under his administration and, if some mistake or malfeasance occurred, then the minister

> bravely took responsibility for the error, no matter how remote his own personal responsibility was, and submitted his resignation to the Prime Minister.

(Extension of time granted) I thank members. Mr Waterford continued:

> But in that golden age, it is said, the reach of the state into the lives of the community, and the size and the level of complexity of executive government, was much smaller than now. One hundred years ago, say, a United Kingdom could maintain the largest Navy afloat with a War Office of perhaps 40 people, probably gathered in a single building …
>
> Since this golden age, if ever it existed, much has changed. Government has moved into the social welfare field, intervenes far more actively in the economy, has acquired a much more centralised role in law and order, and regulates in almost every area of human life. Vast armies of bureaucrats are now necessary.
>
> It would be beyond the wit of any mortal to be across the details of each individual piece of administration, in which, probably, several million decisions a day are made touching the rights or property of its citizens. Any such decision might be made routinely in an office several thousand kilometres from where the minister works, by a clerk that the minister would never, in the course of ordinary business, be expected to see.

Those obviously are remarks framed for the Commonwealth Public Service, Mr Speaker, but they apply, with great respect, equally in the ACT. The doctrine of ministerial responsibility has never been that a Minister must resign when a mistake is made by his department, no matter that that mistake might have very serious consequences. It is disgraceful that members of parliament, members of an alternative government, no less, will come into this place and pretend that that popular misconception of ministerial responsibility is actually the case. It is disgraceful, Mr Speaker. I do not know whether they actually believe the claptrap that they have spoken in this place or whether they have simply misunderstood.

Mr Speaker, what I think the Assembly deserves today, if we are going to have this motion seriously considered, is a succinct statement from Labor of the standard of ministerial responsibility which they believe should be applied in this place. What I do not want is some self-serving case specific test like: "If a Minister demolishes a hospital and kills a little girl, then she has to resign". That is not going to be a very enduring test, Mr Speaker. As I said, that is a case specific test. That is the old star chamber. "If we think you should be guilty, we will make you guilty".

I want the test to be indicated. Tell us what the test is. Tell us how the standard should apply from this day forward. When you have articulated the test explain to us, if you can, why the previous occasions where serious consequences have flown from the mistakes of Minister's departments have not led to the resignation or sacking of the

Minister, or even a call for that to take place from the Opposition or the Independents, or anybody else for that matter.

Mr Stefaniak cited two examples in this chamber today of serious failings on the part of the Public Service, servants of the Government, servants of the community, which led to the deaths of people who were in the charge, if you like, of those public servants. There were two cases of deaths in custody at the Belconnen Remand Centre and a death at Quamby, and other cases have been referred to of people, for example, dying as a result of negligence in hospitals and so forth. There are a number of such cases. How do you distinguish those cases? How does Labor distinguish those cases?

No-one on the Labor side has attempted to do that today, except possibly for Mr Quinlan, and I will come to Mr Quinlan's test in a moment. The fact is, Mr Speaker, that on the broad test that you would state, the test that Ms Tucker stated a moment ago, it is impossible to distinguish between this case and those other cases, and I will quote that test. I am quoting from *House of Representatives Practice*:

> The evidence tends to suggest rather that while ministers continue to be held accountable to Parliament in the sense of being obliged to answer to it when Parliament so demands, and to indicate corrective action if that is called for, they themselves are not held culpable - and in consequence bound to resign or suffer dismissal - unless the action which stands condemned was theirs, or taken on their direction, or was action with which they ought obviously to have been concerned.

Only two members have addressed that issue directly in this debate so far, Mr Speaker, and they were Mr Quinlan and Ms Tucker. This is the Quinlan doctrine: Ministers are responsible when a large number of public servants are involved in the omission or commission which led to the particularly unfortunate outcome. When a large number of public servants are involved the Minister is responsible. When a small number is involved the Minister is not responsible. It is a little bit imprecise. We do not actually know where the line is drawn, but at least there is some attempt at defining the test.

There is a problem though with this test, Mr Speaker, and that is that if you look at the other precedents in recent years you find, if you draw a line somewhere, it does not very much help the people who are trying to convict the Chief Minister on this occasion. For example, in the inquest into the death of Mr Camden in the Belconnen Remand Centre a total of 22 officers - that is, people who were public servants in one way or another, custodial officers, supervising staff in Corrective Services, medical practitioners, staff at Mental Health, and hospital staff and senior officials - in one way or another were targeted for some criticism in that report. The number of people in respect of this report today is closer to 14. So where is the Quinlan test? It does not go anywhere.

If we are going to pursue this test - that it depends on how many people were actually involved in committing the errors - then we would like to know where the line gets drawn. Suspiciously, I imagine it gets drawn just over the number of people involved in this particular matter, Mr Speaker.

Mr Quinlan: I think we have got room to move in this one, Gary. I think we have got plenty of room to move.

MR HUMPHRIES: I am sure there is plenty of room to move on this test, Mr Quinlan, and I am sure you will make sure it moves as the case arises, but we are entitled to expect some kind of definition of ministerial accountability which will endure beyond today's debate. So what is the test? Tell us what the test is. If you cannot articulate that test in this debate today then the motion must fail, because all you are doing otherwise is using this as a vehicle to produce a result that suits you in this particular circumstance. *(Further extension of time granted)*

Mr Speaker, I want to correct a couple of misstatements made by a couple of people. Ms Tucker applied the test very well. She articulated the test quite perfectly, I would have thought, quoting from the same section of *House of Representatives Practice* that I have just quoted from, with reference to things like action taken by Ministers or things done at their direction and so on, but then went on, with great respect, to completely misapply the facts of this particular case. Ms Tucker tried to read into the document where we might assume the Chief Minister must have given some direction for certain things to happen.

The problem is that the coroner actually examined this issue. You do not have to read things into it. The coroner addressed this issue in his report and said that at the end of the day there was no evidence that the Chief Minister was involved in personally directing that these things happened in this way. There is no evidence that these are things that she ought directly to have been concerned with, such as to give rise to personal criticism of her. So Ms Tucker used the right test, but applied the facts, with respect, completely at odds with the way in which the coroner has applied it.

Mr Quinlan said in his remarks that all the people who were at risk on 13 July 1997 were placed at risk because of poor administration. Mr Speaker, again, that is not what the coroner has found. On page 621 of his findings he summarises the conclusion, and I quote:

> The Acton Peninsula project failed systemically in that …

Then he refers to five different bases for that systemic failure. Only one or perhaps two of those items could be described as poor administration. The first thing that the coroner mentions is:

> The contractor and subcontractor were insufficiently skilled for a complex project to be completed in the time schedule available, …

He criticised those people and, moreover, he has committed them for trial for their mistakes, for the errors, as he sees them. Next:

> The Project Managers representative was inadequately skilled for the task which was not a simple routine construction site to which his prior experience applied ...

Another ground is:

> The project did not have the benefit of a structural engineer and an explosives demolition expert in accordance with the *Demolition Code of Practice.*

Of the five points he makes, the closest that come to poor administration are:

> The Government Regulatory bodies failed to exercise their roles in a visible fashion ...

And here is the closest to what Mr Quinlan has argued:

> Senior officials of the CMD and the Chief Minister's Media adviser, with no knowledge of the demolition process, played a prominent intrusive role that was wholly unwarranted in what was a commercial industrial project …

Mr Quinlan: Plural. He said officials. Plural.

MR HUMPHRIES: Yes, that is right. That is true. But there are five grounds there. Only two at most relate to poor administration. It is a gross distortion to argue that the coroner has found that poor administration killed Katie Bender. That is not what he has said. Read what he actually had to say. I suspect that anyone who has read this report and who comes and listens to this debate today would find two very different sets of information lying in front of them.

Mr Berry, back in 1994, made great play of the findings of the Pearce inquiry and the fact that he had been exonerated by that report. Mr Berry has said frequently in this house since then, "I was exonerated by that report".

Mr Berry: No, no. No adverse findings.

MR HUMPHRIES: Well, all right; no adverse findings. You are actually on the record as saying you were exonerated, Mr Berry. I think you will find you are actually on the record as saying you were exonerated.

Mr Berry: I was.

MR HUMPHRIES*: Okay, now he repeats it, Mr Speaker. He says he was exonerated. He claims he was exonerated by the Pearce inquiry. The headline in the* Canberra Times *recorded accurately, I would submit, the day after this inquest "Chief Minister exonerated".*

Mr Berry: It was sycophantic. I will put it on the record.

MR HUMPHRIES: Okay, Mr Speaker. Mr Berry disagrees with the coroner's finding. That is fine.

Mr Berry: No, no. That is wrong.

MR HUMPHRIES: Mr Speaker, the fact is that the language used by the coroner was clear and direct.

MR SPEAKER: Just a moment. I want no interjections, thank you. If you people regard this as serious then I suggest you start treating it as such, not a slanging match across the chamber.

MR HUMPHRIES: I submit to the Assembly that this chamber would look like a veritable kangaroo court if, having received a report of the coroner which expressly seeks to address the many public claims made about the Chief Minister and of those claims says that there was no evidence to support a contention that she was personally or directly responsible for that death, it took those recommendations and yet said of them that they are a basis to remove her from the office of Chief Minister. That would constitute a kangaroo court.

Mr Speaker, I come back to my formula here. If Labor believes that there has been some inviolable principle of the doctrine of ministerial responsibility which has been violated in this place they need to state what that principle is. They need to articulate it, not to rely on the broad, bland self-serving generalisations that they have used to date. Imagine a provision of a mythical statute which creates offences and the penalty provision reads, "The Minister shall resign or be removed from office". What does the rest say? How does the rest of the provision look that describes what the Chief Minister has done wrong? If they can articulate that, we are some way down the path towards resolving this matter, Mr Speaker, but until they do this motion deserves to fail.

MR KAINE (3.41): Mr Speaker, it was just five months ago in this place that I said the debate in which we were then participating, which was a motion of want of confidence in the Chief Minister, marked a defining moment in the history of this legislature. I said that because I believed that we elected representatives of the people of Canberra were asking ourselves a question that was fundamental to the future of this place - that is, was it appropriate for a Chief Minister who acted unlawfully, who had committed a series of unlawful acts, to continue to serve in that high office. I said further that it was not just the Chief Minister who would be held to account for her actions; the credibility of every one of us here collectively and separately was on the line.

On behalf of 300,000 Canberrans, we were dealing with this question: Were we, as elected members of this parliament, prepared to support as head of the Executive a person who had acted contrary to the law? Shed of all the sophistry of dissembling, it came down to this basic principle: Was the head of government, the chief executive of all people, a person beyond reproach and thus fit to continue holding office? We know now that in the end sophistry and dissembling won that day. Despite all the evidence to the contrary, a simple majority of members in this place, for whatever reasons, preferred to continue propping up this Chief Minister. For those members who supported the

Chief Minister at that time, it is a matter for their conscience. But I suspect it may well be a matter of electoral consequences for those individuals as well some time in the future.

This onus of propping up the Chief Minister must be sorely testing the continuing loyalty of those individuals. Five months on here we are again in similar circumstances. What has changed? For some here present today, this debate seems to be entirely about the tragic hospital implosion and the consequences, if any, for the Government. For some, it is all so very simple. The coroner has said that the Chief Minister had no responsibility directly or indirectly for the tragic death of Katie Bender, end of story. I wish it were so, but the coroner said a great deal more than that. For those people, there are therefore no other considerations. Consequently, for them there can be no consequence for the Government or anybody else. I do not agree with them. It is not that simple.

The Government has attempted to simplify what the coroner said and to assert that he exonerated Mrs Carnell. The coroner has made a number of significant criticisms of the system which led to the tragedy and criticisms of many of the people involved in it. I will quote just a few. "There were systemic failures", the coroner said. "The contract process was a sham", the coroner said. The coroner further said:

> There was an intermeddling by certain officers of the Chief Minister's Department that was not warranted ... There was intermeddling of people who had no knowledge of the subject matter ... Senior officials of the CMD and the Chief Minister's media adviser, with no knowledge of the demolition process, played a prominent, intrusive role that was wholly unwarranted ... Nobody knew who was in control –

and even the Chief Minister was "mistaken" about this –

> The responsible organisations lacked expertise ... The handling of the tender process was nothing less than appalling ... The whole process of assessment and review of the tender bids contained flaws and deficiencies ... The process amounted, in effect, to a rubber-stamping of what had already been agreed.

So far as turning the event into a public spectacle was concerned, it:

> was a total abrogation of responsibility to the safety and wellbeing of the public ... There is no doubt that the events of Sunday the 13th July 1997 failed such a primary requirement of public safety ... what occurred when Katie Bender was killed was inexcusable.

This is not a total exoneration of Mrs Carnell. It is a litany of criticisms of the organisation and the processes which the Chief Minister set up in the interest of effecting government. These coruscating criticisms sear our conscience as guardians of the public welfare, or they should. These criticisms, while relating solely to the

coroner's perception after considering all of the evidence about the hospital implosion, have ramifications that go far beyond the single incident of the hospital implosion.

If only it could stop there, but it does not. Consider for a moment the wisdom of supporting a government responsible for the following series of politically inept events: The Kinlyside land deal, the Feel the Power of Canberra campaign, the circus surrounding the Futsal slab, the Bruce Stadium scandal and, finally, the hospital demolition tragedy - not a single event but a whole series of disasters from the point of view of the taxpayer and the community of the Territory. When you consider all of these failed projects, one conclusion is inescapable; that is, the totality of the arrangements put in place by the Chief Minister is grossly defective.

The machinery of government, the decision-making processes, the organisational arrangements of the Public Service, the senior staff appointments in that organisation are all the product of the Chief Minister herself. One has to wonder where she could have gained the personal experience and knowledge needed to create such arrangements. Research on the deplorable outcomes of her actions indicates that she possesses no such experience or knowledge. Mr Osborne this morning referred to some desirable characteristics of an effective public service. It is a pity Mrs Carnell has not cared to read some of those appropriate texts, because she would have had to conclude that government is not a business and delivering effective government is vastly different to running a suburban pharmacy.

The results of five years of Carnell meddling in public administration for which she has no qualification whatsoever are manifest. There has been a loss of expertise - it has all been contracted out. There has been a loss of initiative, from a public service that works in an atmosphere of fear and retribution. There has been a loss of objectivity. Senior public servants are now on contract and their tenure depends on keeping their Minister happy. There has been a loss of competence. The prerogative for competence now rests with the temporary consultants and contractors who more often than not come up with the outcome that the Government desires.

I make the point that most public servants sincerely do their best in their jobs, but they are severely constrained by the environment in which they have to work. The Chief Minister herself was the architect of these arrangements. At the same time, during the Carnell ascendancy there has been an obfuscation of the lines of authority and responsibility. Individuals get involved in matters when they should not - that intermeddling that the coroner identified. Political staffers in Ministers' offices act as though they are line managers rather than advisers. There is uncertainty as to who is responsible.

There is the Carnell propensity for shifting responsibility and authority across agency boundaries, contrary to the gazetted machinery of government arrangements, such as happened with the Bruce Stadium, the very fast train, the airport project, land management and the hospital implosion. Forget the gazetted machinery of government, the Chief Minister is going to run it. If you do not believe me, ask the Minister for sport, who has not had a single word to say about Bruce Stadium.

We have a number of Ministers who do not seem to know the difference between being politicians and being bureaucrats. They seem to think they are both. It is for this destruction of public administration and the totality of its disastrous consequences that I believe the Chief Minister should be held accountable - not just Katie Bender's death, not just the hospital implosion. I have mentioned the Kinlyside scandal, the Feel the Power scandal, the Futsal slab fiasco and the Bruce Stadium scandal. In any other State or Territory, any one of these failures of a public administration would have been enough to finish off the political career of the responsible Minister, but not in this place. I do not think we need to look too far to understand why that is the case.

I turn specifically to the tragedy of the hospital implosion. I will probably end up seeking an extension of time because, based on comments made by Mr Humphries today and by him and the Chief Minister in other places over a long period of time, I must use today as the opportunity to mount my defence for allegations and accusations that those people have made against me in this matter. I have not been given the opportunity to present that defence in another place.

Some time in 1995 or 1996 - even the coroner said he could not be precise about the date - the Carnell Executive decided to demolish the old Royal Canberra Hospital by implosion. It was always going to be a cathartic event, understandably, because since they or their children or their children's children had been born there, a very large number of Canberrans had an emotional attachment to the old building on Acton Peninsula. If there was one thing that the Carnell Government was expert at, it was devising ways and means to put a positive spin on anything, like demolishing the old hospital, which might have negative public relations consequences.

The demolition was to become a public relations event. Who was to preside over it? I will not give you any prize for guessing - the Chief Minister, Mrs Carnell. We know this from the evidence; this is not speculative. Over the period until that fateful day on 13 July 1997, literally dozens of pieces of publicity material, press releases, radio and television grabs and the like emanated from the Chief Minister's office. This was to be a high profile issue. If there was anything to be said about the project on Acton Peninsula, it was the Chief Minister, the Chief Minister's office or the Chief Minister's Department that was going to say it.

There is no dispute about this. It is all on the public record. It has been sifted over in fine detail by the coronial process and in countless media reports. According to the evidence that emerged, the demolition and clearing of the site were to be carried out by the responsible government agency, Totalcare, under the supervision of the Chief Minister's Department. It transpired that there was also a degree of supervision directly from the Chief Minister's office. More of that and associated matters later.

Those of you with any experience at all of public administration might reasonably inquire: If Totalcare was the government agency doing the job, what involvement did the Minister with portfolio responsibility for Totalcare, that is, the Minister for Urban Services, have? The Chief Minister, as is her right, assumed overall charge. That is clear. But what part does the Minister for Urban Services play, the Minister with responsibility, according to the gazetted machinery of government? For the period prior

to 31 January 1997, I am not in a position to say. The Minister for Urban Services at that time was Mr De Domenico. But I can speak with certainty about the period from 31 January 1997 on which date, according to the Government *Gazette* of 3 February 1997, I entered the Executive as Minister for Urban Services, among other portfolios, and as the Minister to whom Totalcare nominally reported.

On that date, 31 January 1997, I was also appointed Minister for Industrial Relations with consequential responsibility for occupational health and safety matters and, therefore, for WorkCover, the relevant regulatory agency. That agency was located in the former Department of Business, the Arts, Sport and Tourism, a department run by the Chief Minister. As Minister for Urban Services and Industrial Relations, what practical functions did I perform in the events leading up to the demolition of the former Royal Canberra Hospital? This is a question I can answer with absolute certainty. I advise certain members of this Assembly to note very carefully what I have to say. My practical role in all this was none, zero, not at all, despite Mr Humphries and Mrs Carnell.

As is her right, the Chief Minister had decided some time before I entered the Ministry that she was taking the lead role on this project. It was her project. There was no role for me in this when I later became the Minister. In relation to the practical day-to-day responsibility for the hospital demolition, what briefings did I receive? None. What orders did I give? None. What emails or other messages emanated from my ministerial office? None. What media statements did I issue? None. I say again, my practical role was zero.

On the evidence placed before the coroner, all ministerial briefings went to the Chief Minister, all ministerial directions emanated from the Chief Minister's office, all ministerial emails were sent from the Chief Minister's office, and every ministerial media release in relation to the hospital demolition without exception went out under the Chief Minister's name. Can I be any clearer? I believe not.

But the implosion went wrong, did it not? So the Chief Minister, in seeking to transfer responsibility for the tragedy to me, has contrived to assert otherwise than what the coroner concluded. The Chief Minister has attempted to set up a contrived alibi. "It wasn't me really, it was Trevor Kaine".

Mr Speaker, I wish to read into the record, for the benefit of members and others, the relevant excerpts from a number of documents, any or all of which I am happy to table if that is the wish of the Assembly. Most of them are from the coroner's report. They give the lie to the Chief Minister's assertion, supported by Mr Humphries, that I was the responsible Minister. The first statement comes from the record of interview between Detective Sergeant Ranse of the Australian Federal Police and Mrs Carnell in her office at the Legislative Assembly on 10 October 1997. *(Extension of time granted)* This was some three months after the fatal implosion. In response to a question from Detective Sergeant Ranse - it was a fairly long-winded answer - were the words:

> Remember, it's very important, I am actually not the Minister responsible. I don't run Totalcare, Trevor Kaine is the responsible Minister.

She went on further:

> But the Minister responsible is the day to day person who would get that sort of information. It doesn't actually run through my office at all.

Remember that in the context of all of the evidence presented to the coroner and the coroner's findings. He totally rejected that. Later, in answer to another question from Detective Sergeant Ranse, the Chief Minister said:

> So these sorts of day to day things don't actually flow through my office at all simply because I'm not the responsible Minister.

That is not what the coroner said. So there we have it: nearly three months after the fatal implosion, after she had had ample opportunity to consider the consequences of the tragedy that has occurred, the Chief Minister tells the detective sergeant of police investigating the matter on behalf of the coroner that it is that nice Mr Kaine who is responsible.

I will not test the patience of members by trawling through the hundreds of pages of evidence given to the coronial inquest by the Chief Minister and a number of other people close to her, although it would be most enlightening for some to read it or hear it if they were here. In particular, the people who were close to the Chief Minister were identified by the coroner specifically. They were Mr John Walker, the former chief executive of the Chief Minister's Department; Mr Ian Wearing, the chief of staff in the Chief Minister's office; and Mr Gary Dawson, variously described as media adviser and senior adviser in Mrs Carnell's office. Mr Walker and Mr Dawson have moved on to better things. In terms of the coroner's inquiry, it is a fair and accurate summary of the evidence to the inquest to state that the Chief Minister herself and these other individuals also maintained that it was me rather than Mrs Carnell who had practical, as opposed to technical, responsibility for the hospital demolition project.

What did the coroner have to say about these assertions by the Chief Minister and those close to her? I quote from the executive summary of the coroner's findings at page 37:

> It was beyond question that Mr Kaine played no part in the direction of this project. There simply was no documentary evidence or briefing note or other Government document produced to the inquest that would suggest that Mr Kaine ever played any practical role in the project. The Minister assuming responsibility for the project was the Chief Minister.

I repeat the coroner's unequivocal finding:

> It was beyond question that Mr Kaine played no part in the direction of this project.

Elsewhere in the main body of his report, at page 452, the coroner expands on his findings about my supposed involvement in the hospital demolition. At paragraph 118, he says:

> There is no doubt that the absence of Mr Kaine from the project was an extraordinary occurrence.

That is true. He continues:

> The truth of the matter is that he took no particular role in the management of the project. Mrs Carnell, Mr Wearing and Mr Walker asserted that the project in fact was a responsibility of Mr Kaine, but for the reasons previously stated these persons are mistaken on this issue. At all material times it was a CMD project. Mrs Kate Carnell was the Minister accepting responsibility at a Territory level for the project as the Chief Minister.

That gives the lie to the latest accusations by the Chief Minister and the continuing accusations by her and her deputy that I was responsible. Curiously, in his executive summary, the coroner adds as a footnote:

> I do not accept the proposition that Mr Kaine was shut out of the project. The evidence seems to me that he was always at liberty to communicate and place his views to the Chief Minister. Mr Kaine did not give evidence to the inquest.

On that point, in the absence of hearing from me, the coroner is not prepared to conclude that I was actively excluded from carrying out my portfolio duties. He says:

> There is no direct evidence to conclude that Mr Kaine was actively excluded from any involvement in the project. Why he did not become involved remains unanswered. I am not prepared to make a finding in either positive or negative terms ...

Mr Speaker, I did not attend, despite two letters from me to the coroner, after having heard that the Chief Minister and one of her staffers – then a senior public servant – had each tramped through that court and said that I was responsible, seeking to appear. For reasons that I am not clear on, he did not seek to have me give evidence. To say after the event, "I cannot come to any conclusions because Mr Kaine did not appear", is a very strange conclusion. That is the reason why I am choosing to say it now, Mr Speaker. I was denied the opportunity to defend myself against untrue and malicious allegations made against me during the coronial inquest into the Katie Bender death, and I am taking this opportunity today to get the facts on the record.

Despite all of the evidence about the Chief Minister being responsible and not me, the Chief Minister and her deputy have continued to assert that I was the responsible Minister. The bottom line is that Mrs Carnell had ample opportunity to present her case to the coroner, and on that point her view was totally rejected by the coroner. I had no such similar opportunity.

In the final analysis, the coroner unequivocally rejected the proposition that I was the responsible Minister. While the coroner is clinically dismissive of these allegations, the counsel assisting the coroner in his final submissions at the inquest is utterly scathing. He goes further in saying:

> Given this lack of involvement from Mr Kaine in any aspect of the project, together with the extensive control exercised by members of the client group, the assertions by Mrs Carnell, Mr Wearing and Mr Walker, contrary to the objective evidence that the project in fact was the responsibility of Mr Kaine, are consistent with attempts by those persons to distance the Chief Minister, her office and her department from the actions taken by them in directing the project, particularly the public event aspects.

The distancing of themselves from this project was commented upon adversely by the counsel assisting the coroner. I beg members' forbearance to repeat these words:

> … the assertions by Mrs Carnell, Mr Wearing and Mr Walker, contrary to the objective evidence that the project in fact was the responsibility of Mr Kaine, are consistent with attempts by those persons to distance the Chief Minister, her office and her department from the actions taken by them in directing the project, particularly the public events aspect.

They have the nerve to come out publicly and say, "It wasn't me, it was Trevor Kaine". It is now on the record that that is not the case.

As to these continuing assertions by Mrs Carnell and Mr Humphries that I was responsible, more specifically for WorkCover, the comment by the counsel assisting the coroner that I was in no way responsible in any aspect gives the lie to that. The coroner did not qualify his conclusion in any way. *(Further extension of time granted)* He did not say, "Trevor Kaine was not responsible, except for WorkCover". He did not say that. He said that I was not responsible in any respect.

WorkCover, like Totalcare, took its direction in this project not from me but from the Chief Minister's Department. If you read the report and you read the bit about a senior officer in the Chief Minister's Department directing the officer in charge of WorkCover to remove inspectors from the site, can you doubt where the directions were coming from? That direction did not come from me. I did not even know such a direction had been issued. Yet the Chief Minister and her deputy assert that I was running the project so far as WorkCover was concerned. That is an outright lie.

In any case, Mr Smyth got it right. If you read the report carefully, the coroner virtually says, "WorkCover did not contribute in any way to the tragic outcome". In fact, he says that they were not contracted to anybody, they had no contractual obligation and they were not the project safety officer. Indeed, he makes the criticism that they were not qualified. Yet the Chief Minister and her deputy continue to assert that somehow I was responsible.

Having been exposed on this point alone, if the Chief Minister possessed even a shred of honour and decency, she would have gone long ago and we would not be going through this unseemly process today. But do not take it from me alone. Consider also the following thoughts of an ordinary citizen who wrote to the editor of the *Canberra Times* only yesterday:

> Nothing can be more nauseating, morally bereft and spiritually bankrupt as a chief minister on a craven quest for popularity promoting a public spectacle, which results in the worst possible consequences, and then tries to absolve herself of all responsibilities.
>
> Is there anyone left in the territory who has a modicum of confidence in this person, other than those who are paid to do so?

I think that states it nicely. In all my years of involvement in the political process, I do not think I have ever read a more caustic and contemptuous indictment of a local politician. This is from an ordinary citizen - one so disgusted by the actions of this Chief Minister that he was prepared to write in such terms to the media.

Subsequent to the coroner's inquiry, the Chief Minister and her deputy did not stop their attacks on me. They were not prepared to drop their fabrication even after the coroner brought down his findings. One would have thought that, having been subject to such a definitively damning finding by the coroner and the counsel assisting the coroner, the Chief Minister and those close to her would have been carefully guarding their tongues, especially when talking to the media.

But the very next day after the coroner tabled his report, both the Chief Minister and her deputy were on commercial radio attempting to revitalise their myth that I was in some way responsible. The Chief Minister went so far as to assert that I was the Minister with the ultimate responsibility. To quote from the transcript of her radio interview, I was the one with "the ultimate responsibility for the hospital demolition project". Insinuating that I had ultimate responsibility for the project is also an insinuation that I was ultimately responsible for Katie Bender's death. It leads to that.

Mr Speaker, they have continued to try to establish this alibi, even up to today when the deputy leader of the Government read from the coroner's report trying to imply that I was somehow more strongly responsible than the Chief Minister was. Like the writer of that letter to the *Canberra Times* yesterday, I believe the only people in the ACT and beyond who believe that lie are the people who are paid to do so, and those people have to live with their shame, if indeed they are capable of feeling shame.

Of necessity, having not been able to do so elsewhere, I have had to spend the past several minutes defending myself against untrue and malicious allegations made against me during and since the inquest into the death of Katie Bender. I am offended. Of course I am offended. A concerted, coordinated attempt has been made by insinuation and snide reference to drag down my good name and reputation. If public opinion is anything to go by, this attempt to drag down my good name and reputation has miserably failed.

I will not be Mrs Carnell's scapegoat. I will not be her patsy, and nor should anyone else have to become a scapegoat. The wider community appears to have come to its own conclusions already about who was responsible for the tragedy at the Royal Canberra Hospital demolition. The legal consequences of that tragedy, that shame on Canberra, will be played out elsewhere. I am quietly confident that in the end justice will prevail.

Mr Speaker, in conclusion, as you well know, before I came to politics I had a long career in public administration. I served for almost five decades in the military, in the Commonwealth Public Service and latterly as an elected representative of the people. I guess I am now nearing the end of my very long tour of duty, but from the vantage point of my many years of service I say this to you and my colleagues in this Legislative Assembly for the Australian Capital Territory: Colleagues, this Chief Minister has no place amongst us. By her actions, she has brought disgrace upon herself and, by association, upon this Assembly and upon us. She has no place amongst us. I would say to Kate, if she were here, "Go now. Go with some grace because your time among us is at an end".

Finally, Mr Speaker, as the oldest member and one of the longest standing members of this place, may I extend, through you, our deepest sympathy to Mr and Mrs Bender and to the Bender family. We should beg their forgiveness because the Chief Minister is a creation of this place. It was within our power to do something to stop her long before this and to curtail the actions that have led to a tragedy. But we did not stop the Chief Minister. Some will not even do so now. At this defining moment in the history of this Assembly, it will be to our lasting, collective shame that we did not do so.

MR BERRY (4.11): At the outset I should deal with a few comments that were made by Mr Humphries and Mr Smyth. Mr Smyth's speech was essentially a litany of all of the mistakes that have been uncovered and the efforts by the Government to correct them. They were an admission of the frailties of his own administration, an admission of much of what had gone wrong.

Mr Humphries drew together an interesting speech, though not a very convincing one. The first thing he said is that moving a motion of no confidence against the Chief Minister on these issues is unprecedented. I am not surprised, because nowhere else in Australia has there been such an event where the public has been invited to an event where one of their number has been struck down as a result of a flawed process which led us to that form of demolition. I am sure that, if that had been the case, the political party responsible for that politician would have dealt the final blow, rather than relying on the legislature because they would be so embarrassed.

The word that rings in my ears mostly is "inexcusable". It constantly rings in my ears. This is inexcusable. It is inexcusable if the Chief Minister were to get away with this. Mr Humphries said in his speech words to the effect that the coroner did not ask for the removal of the Chief Minister. It is not the coroner's job to interfere in this process; neither is it our job to interfere in his investigation which is conducted under the relevant legislation. It is not the job of the coroner to recommend to us what we should do. That is a decision we have to make.

Mr Kaine aptly put how these things ought to be dealt with. It was us, not all of us, as a collective which installed the Chief Minister; it was not the electorate. It is us who made these determinations and who must wear the responsibility for doing it or not doing it.

Motions of no confidence are a requirement where governments refuse to be held accountable for their actions. The Labor Party on this issue has decided upon this course because we want this issue debated and we want to allow others to debate it as well. Those who vote against the motion of no confidence and speak against it will have to justify themselves to their electorate. Our conscience will be clear.

I would like to quote from the executive summary of the inquest into the death of Katie Bender on 13 July 1997. In the words of the coroner:

> Katie Bender died at about 1.30 pm on Sunday, 13th July 1997 when she was struck on the head by a fragment of steel expelled from one or the other of the corner columns (C30 or C74) on the face of the East Wing of the Main Tower Block of Royal Canberra Hospital situated on Acton Peninsula. Katie Bender was with her parents in a crowd estimated to be in excess of 100,000 spectators gathered on the foreshore of Lake Burley Griffin to watch the demolition by implosion of the Main Tower Block and Sylvia Curley House. Katie Bender was standing on the grass nature strip just down from Lennox Gardens near the roundabout leading from Flynn Drive to the northbound lanes of Commonwealth Avenue Bridge. The crowd in this area alone was estimated by Constable S.G. Howes of the Australian Federal Police Traffic Operations as between 30 - 40,000 people.
>
> Katie Bender's death was instantaneous.

So went the coroner's report into the death of Katie Bender. But it was not an ordinary death. It occurred at a major public affair encouraged by the Government, in particular the Chief Minister. The public was invited by the Chief Minister in her media release of 11 July, where she says:

> The best views will be from the south side of Lake Burley Griffin in Lennox Gardens, the Yacht Club and around Attunga Point, or on the north side of the lake from Black Mountain Peninsula or Acton Park.

It was headed "Ecumenical service to mark the passing of a former hospital". It was a media release from Kate Carnell MLA, Australian Capital Territory Chief Minister, Treasurer and so on.

There are other public aspects that we all remember for ACT public servants- the email sent out to 48 ACT government agencies and officers which encouraged all Canberrans to come and say goodbye to these buildings which have played such a significant role in Canberra's health care. These same words were also contained in a government advertisement on page 5 of the *Canberra Times*, an invitation to all Canberrans.

The first response of the Chief Minister following the tragedy was: "It's not my fault; it's Totalcare's". Even during the last week she has still been saying, "It's Trevor Kaine's fault". This constant squirming is sickening. The first time I heard the Chief Minister say, "It's not my fault", I was sickened. I thought to myself, "Here it comes again, the same old line". I was not the only one who felt that way. We were reminded again this week of the Chief Minister's first appearance on television only hours after the tragedy seeking sympathy from the people of Canberra - sympathy not for the Bender family but for herself.

Mrs Carnell was seeking sympathy from the hundreds of thousands of people she had urged to attend the implosion for herself; sympathy from people deeply touched by the tragedy, sitting numbly watching the television coverage, thinking how close they were to death or serious injury, all in response to the personal beckoning of Kate Carnell, the Chief Minister. How betrayed they must have felt.

None of this would have happened if the implosion method was not the idea of government. It is plain that from the beginning this Government wanted to blow that building up. Every public servant in town with any authority knew that the Government was going to blow this building up from the word go. Good sense and good management had been corrupted with the political expediency requirements of the Chief Minister which have permeated the Public Service, especially at senior levels.

At the end of the day, there could have been no doubt in anyone's mind that this building was going to be demolished by explosives. That would have been fine if everything had gone according to plan, if the building had blown up, if it fell at its own footprint as people had promised, if it was as safe as the Chief Minister had repeatedly said over and over again it would be. Most importantly, had the demolition occurred when nobody was around, without the explosion of publicity that went with it, orchestrated by the Chief Minister's own office, 100,000 people would not have been drawn to the disaster where the subsequent death occurred and thousands were put in mortal danger.

It is part of the history of democracies that people gather together for their own protection and trust governments to provide for their welfare and safety. There has been a fundamental breach of faith by this Government towards its citizens in this regard because the Government has not lived up to its responsibility. This is why we have police forces, fire and ambulance services and agencies to protect the interests of the community. It is why we hold individuals responsible for their actions and why we

prosecute those who fail. The only people who can hold politicians responsible for the actions are the electors at election time.

With a new Assembly in the ACT, the electors do not directly elect the head of government, the Assembly does. The head of government is responsible to this house. You were put there by politicians, and it is the politicians who will pay for failing to hold you accountable for this assault on the community, Chief Minister. In the case of the failed hospital implosion, it was the Chief Minister who was very clearly responsible. She has admitted herself that she is responsible. Mrs Carnell has said, "The buck stops with me". This is not some meaningless media statement. This means that the Chief Minister is responsible. She has not accepted that the Government screamed blue murder when it was suggested that the Chief Minister stand down at the beginning of the inquiry, but that was the time when the Chief Minister should have accepted responsibility.

The Chief Minister should have stood aside until the coroner reported. The report which indicts the Chief Minister confirms that this approach would have been the most honourable outcome. This has never been about honour; it has always been about escaping the consequences. The coroner has quite a bit to say on this issue, including the section entitled "The public event - an issue of public safety". The decision to hold a public event was made without any regard to safety. The decision to promote the implosion as a public spectacle and to actively invite the public to attend was not necessarily an inappropriate decision.

However, with the potential risk of flying debris associated with the use of explosives in the proximity of the public, then it would have been a prudent course not to actively promote an implosion. If a public event is to be held, then appropriate steps must be taken to ensure that the safety of the public is not compromised. Police, ambulance and other emergency services should be fully consulted, as such a public spectacle will invariably create traffic congestions in addition to the safety considerations.

Whilst safety considerations should be a major concern in any implosion, the fact that this implosion was to occur in the heart of the city should have served to highlight further the need for the implosion to be carried out without exposing persons in the surrounding area to risk. If the issue had been addressed properly at the very outset, then members of the public in the vicinity should not have been exposed to the risk. This failure is a matter of grave concern and would be so whether or not any public event was arranged. But the event was arranged, and it was the personal property of the Chief Minister. The report further states:

> A demolition in the form of an implosion as a public spectacle was fraught with risk. An implosion by its very nature would attract a large crowd. The public event was staged as if it was a festive occasion to mark the destruction of a public building which was held in high regard by the Canberra community for the memories that it created. The radio station, MIX 106.3, promoting the event, described the occasion in its proposal to Mr Dawson as a "celebration of change". It was not appropriate, on a global view of the evidence, for

> a celebration to occur in any form in respect of the demolition of a building in what was in reality an industrial site.
>
> Mr Gary Dawson of the Chief Minister's Office, as her media adviser, did have a major coordinating role in the demolition becoming a public spectacle. The Chief Minister did give her full approval to promote the implosion as a public event.
>
> .....
>
> It must be said that Mrs Carnell did agree, when giving her evidence, that the demolition of the Royal Canberra Hospital had the potential to cause some political backlash. She further agreed that the Government stood to gain publicity surrounding the demolition if the positive aspects were to be accentuated. Mr Hopkins of the Chief Minister's Department agreed with the proposition that Mr Dawson was seeking to use the media coverage to the best advantage he could as far as the Government was concerned.

These are serious indictments of the Chief Minister. No, the Chief Minister never pressed the button. Nobody ever said that. Some other poor unfortunate soul did that, but the Chief Minister was clearly responsible for the public gathering which was arranged to view this tragic event.

At this stage I want to take up an issue rejected by the coroner in his report. The coroner states:

> I do not agree with, nor do I consider there is evidence to support the submission made by Counsel Assisting the Inquest to the effect that "the public event was organised with at least one purpose being to enhance the political prospects of the government". The closest the evidence reaches on this point is the Liberal party -

I want to emphasise that -

> brainstorming session at the Rydges Eaglehawk Resort in December 1995 where the reference appears on a piece of butchers paper of bombing the hospital.

On this issue, there is a significant error which members of this house need to know about. The "love-in" at Eaglehawk was not a Liberal Party brainstorming session; it was a government brainstorming session paid for by ACT taxpayers, involving all the most senior members of the Government and the ACT Public Service. Its aim was to enhance the political prospects of the Government and reinforce the Government's position on a range of issues, including the demolition of the hospital in this manner. The minutes demonstrate that most clearly. It was a pity the coroner did not accept the submission made by counsel assisting the inquest. There was never any doubt in my mind, nor was there any doubt in the minds of those in government, that the public event was organised with at least one purpose being to enhance the political prospects of the Government.

WorkCover and the impact of political interference was another area where the coroner rejected the advice of his assisting counsel. He said in relation to WorkCover:

> The WorkCover inspectors have been the subject, quite properly in my view, of substantial criticism in this Inquest.

In relation to the presence of WorkCover inspectors at the site, he says:

> On 2nd July 1997 a meeting was conducted with WorkCover on the site concerning the issues raised by the HSUA. It would appear that the Chief Minister's Department was being kept closely informed of these developments by Mr Lavers which was quite proper in my view. Mr Purse was at a point of issuing the prohibition notice that would have stopped any further demolition and thereby delayed the implosion. Mr Purse was asked to hold off intervening with the prohibition notice until the Appendix K response was prepared. The response was due on Friday, 4th July 1997.

(Extension of time granted) I thank members. I continue:

> There was a real possibility that the prohibition notice could have been issued if Mr Purse was unhappy with the Appendix K response but more importantly Ms Ford was in a position to exercise some influence over WorkCover, thereby interfering with their statutory responsibility.

Secondly, he says:

> There certainly was a conversation between Ms Ford and Ms Plovits concerning the activities of the WorkCover inspectors on the site. Both women considered the conversation may have occurred on 7th July 1997. The question of whether a direction was ever issued by Ms Ford remains unresolved, but the evidence of Ms Plovits is to be preferred on this issue. Any such direction would have been improper as it had the potential to impact on the safety of the Acton Peninsula operations. Ms Ford's action in seeking the removal of the inspectors failed but should it have succeeded there would have then been a direct causal link to the death of Katie Bender in so far as safety checks would not have been undertaken.
>
> Nonetheless this conduct reflects an intrusion, interference and involvement by CMD individuals that was unwarranted. I do not accept the concept of control as it is suggested by Counsel Assisting but it was an intermeddling to a significant degree that was wholly unnecessary as it impacted on public safety issues.

Mr Walker was questioned on these issues, as members who read the report will recall, and Mr Walker did not clearly deny that he had spoken to Ms Ford in relation to this matter, and that matter remains unresolved. We in the Assembly know what is going on here only too well. As early as 1995, the first year of the Carnell Government, there was evidence of political interference in WorkCover. The agency has been working in an environment of spasmodic political interference since Kate Carnell became Chief Minister. Regrettably, it appears that the coroner was not aware of that political interference in WorkCover. Otherwise he may have thought differently about some of the things he said in relation to the matter.

There was public evidence of the then Minister sending his staff to interfere with WorkCover inspectors, and on at least two separate occasions interference was demonstrated in this Assembly, with the then Minister launching into attacks on WorkCover inspectors and making political accusations against them - not this Minister, not Trevor Kaine but the then Minister - his own workers, mind you. These people were working in an atmosphere of political interference, and it is regrettable that that evidence did not find its way to the coroner.

It was political interference which led the Select Committee on Workers' Compensation to recommend that WorkCover be established as an independent statutory authority. Today that seems a very reasonable recommendation, but in 1995 the Carnell Government rejected the recommendation outright. The Government said in response to that recommendation:

> The Government does not agree and did not agree with the recommendation of the select committee that a statutory authority should be set up to take over the employer responsibilities for occupational health and safety and rehabilitation. To set up an authority would be a move in exactly the opposite direction to where we need to go.

Isn't it amazing? It refused to ensure the independence of WorkCover then, but I am gratified that the Government has now accepted the recommendation of the coroner – but it was not until it was forced to do so in the wake of a tragedy of the Government's making. It leads me to the conclusion that the Chief Minister should accept responsibility for the failure of the Government which she fully endorsed. Firstly, if the coroner had known about the history of political interference and about the attitude of the Government to WorkCover, he might have accepted the advice of counsel assisting. Would his criticism of WorkCover have been softened by the knowledge of the difficulties under which inspectors operated? Maybe he might have placed more weight on the threat to inspectors by the Chief Minister's Department. He may have interpreted the evidence differently.

What if the Government had accepted the recommendations of the workers compensation committee, which I chaired? It may be that WorkCover inspectors would have had a better role at an earlier stage in the demolition project. What we know, though, that the coroner did not know is that WorkCover inspectors have not been able to do their job free of political interference in years. Political interference in the Public

Service is a feature of this Government and this Chief Minister - a Chief Minister who boasts of her hands-on approach. It permeates every aspect of her Government. Combine that with the obsession with media performance and you end up with a recipe for disaster.

A dangerous industrial event turned into a publicity stunt, with the regulatory authorities either not involved or tethered. Mrs Carnell says that the buck stops with her. But then there is nothing more. The true meaning of "the buck stops here" is acceptance of responsibility. That means accepting the responsibilities for the failures of government, particularly when those failure arose because of the policies put in place by the Government. That is what happened here. The systemic failure identified by the coroner arose because of the policies and actions of the Chief Minister. She should go. Someone asked, "What sort of a precedent would this create?". The precedent we have to worry about is the precedent which is created by not ousting this Chief Minister.

MR CORBELL (4.33): I join with the Leader of the Opposition, Mr Berry and my other Labor colleagues today in supporting this motion of want of confidence in the Chief Minister. The reasons for this want of confidence are clear and unambiguous. The coroner himself has stated emphatically in his report that the Minister assuming responsibility for the project was the Chief Minister. Indeed, counsel for the ACT acknowledge that the Chief Minister's Department was the part of the ACT which constituted the client for the purposes of the Acton Peninsula project. However, the Chief Minister, Mr Walker, the then chief executive of the Chief Minister's Department, and Mr Wearing, the Chief Minister's chief of staff, had different interpretations. This strange interpretation provided by those three individuals was commented upon by the coroner. He said:

> ... one would have expected that such senior personnel, both in Government and the Executive would have at least known the correct position.

The position was that the Chief Minister's Department was the client. What we have here is a first principles ignorance of who is the client in relation to the Acton Peninsula project - not only by the Minister responsible but by her most senior public servant, Mr Walker, and her chief of staff, Mr Wearing. These are evidenced by the coroner's own comments. This Assembly has to ask itself how could public safety be assured when administrative issues, such as who the client was, were debated by the person with direct responsibility for the implosion; namely, the Chief Minister. The coroner went on to comment in his report:

> It is, however, an inescapable conclusion of fundamental importance, no matter what form the event may be, that all administrators and organising authorities ensure that the safety of the public is not compromised and is absolutely protected.

We now know that the Government completely and absolutely abrogated its responsibility for the safety and protection of the public. The coroner identified that public safety should have been the fundamental concern of the Chief Minister in relation

to the implosion, but reality indicates another more important requirement for the Chief Minister and her Government. That reality was that of a photo opportunity to be pursued.

The coroner indicates that only in June 1997 was the question of safety seriously addressed. What was her and the Chief Minister's office main concern prior to June 1997? A series of emails between officers of the Chief Minister's Department and Mr Gary Dawson, the Chief Minister's media adviser at the time, illustrate this point. I would like to refer to some of them now. In an email sent by Mr Hopkins, an officer from the Chief Minister's Department, to his then supervisor in the Chief Minister's Department, Ms Moiya Ford, on 14 April 1997, it says:

> Gary is now preparing a series of press releases ... The first press release will deal with the process, - when who Savings etc. The Second round of media outgoings will be for a Celebration of Change - history in the making ... I suggested selling VIP seats with a view and a glass of champagne for charity.

Mr Hopkins, in an email to Mr Dawson on 2 June 1997, said:

> Arrangements for event aspects of the demolition are going well ... MIX will promote the event three weeks out from the implosion ... They will sell bricks from their 4wd's which they will cross to during the day.

The Chief Minister's Department, represented as the client by Mr Hopkins, may have been better utilised and their attentions better spent in dealing with public safety rather than with the extensive efforts they made for this media stunt in the making. These emails only confirm the emphasis and priority of the Chief Minister's Department in regard to this project. The coroner said:

> There is no doubt that after the tenders had been let and a decision made on the 18th April 1997 for a public event to be held that the appointed contractors, Messrs McCracken and Fenwick, should then have been informed at this early stage.

They should have been informed that it was a public project; that it was going to be a public event. The use of email has often been described as a great tool for preparatory work, but it is no substitute for a meeting. Instead of wasting time organising the next photo opportunity for the Chief Minister, the inappropriately titled "Celebration of Change" via email, the officers in her department and her office should have been organising a meeting with the contractors as early as April 1997 advising that it was to become a public event and that they would have to take the appropriate steps.

They did not do so. This is the abrogation of responsibility which this Opposition levels against the Government today. The coroner cited the example of an email sent on 4 July 1997 by section publications to no fewer than 48 organisations in the ACT Public Service, part of the Gary Dawson/CMD/Chief Minister's office promotional push. The extent of the media frenzy that the Chief Minister's office wanted to generate is

graphically illustrated by an email sent to Mr Hopkins on 11 June 1997 and also quoted and tendered in evidence in the inquiry. I read this email:

> Regarding the date for the demolition of the Acton buildings, I discussed the timing with Kate, who is keen to be there for the big event ... Alternatively, would the contractor and 106.3 have any objection to actually doing it on the Saturday 12 July. I suggested Sunday rather than Saturday to maximise TV coverage ...

Again, there was the priority that underlies and emphasises the importance given to this event by the Chief Minister. The decision was made to conduct the public event by Mr Gary Dawson, who had, according to the coroner, the Chief Minister's complete authority to make this decision on behalf of the Government. Mr Dawson was therefore acting as an agent for the Chief Minister and the Government and with her absolute approval. The Minister must be held accountable for the actions of her officer.

The no-confidence motion against the Chief Minister today brought by Mr Stanhope is the only avenue available to us to hold the Chief Minister accountable. The coroner stated:

> I do not accept that this procedure was necessarily correct or even appropriate for a project of an industrial site such as being carried out on the Acton Peninsula.

The coroner himself did not accept that the move to a public event was in any way appropriate for a project such as the implosion of the old Royal Canberra Hospital. Indeed, the coroner highlighted the example of the implosion at St Vincents Hospital in Sydney in 1992 that was conducted in the early hours of the morning, with a minimum of fuss. As a result, the potential for any accidents was dramatically reduced. It is a pity that the Chief Minister, as the Minister responsible, did not seek a similar outcome for the Acton site. We would then not be forced to debate this motion we are debating today. In conclusion, the words of the coroner must echo in this place:

> The overall responsibility for the project fell to the Chief Minister Mrs Kate Carnell.

Members of this place are left with no option but to pass a motion of no confidence in the Minister, as her agents and officers within her office and her department and acting with her full endorsement failed to pay due attention to the paramount issue of public safety. Rather, they concentrated on the need for media exposure, an emphasis which had tragic consequences. The Chief Minister has stated that she accepts responsibility for the failings in relation to the implosion, but those words are hollow and meaningless without this place passing the strongest possible sanction - a motion of no confidence.

MR MOORE (Minister for Health and Community Care) (4.43): I suppose the most disappointing thing about this motion is that what is clear - and it is clear that there was a predetermined position before the coroner's report came down that there would be

a no-confidence motion - is that within 30 minutes or an hour or so of the coroner's report coming down the announcement was made that there would be a no-confidence motion. After that members of the Opposition had no choice but to squeeze out the coroner's report as much as they could to support the notion of having a no-confidence motion. That, indeed, is what they have done and that is what we have seen today, Mr Speaker. There has not been any evidence at all as to the standard of ministerial accountability which could be applied in such a way as to find the Chief Minister wanting in terms of a no-confidence motion.

Mr Speaker, I have to say that one of the most interesting parts of this debate has been the quotations from *House of Representatives Practice* as to what is the standard for ministerial accountability, in that *House of Representative Practice* actually quotes the Royal Commission on Australian Government Administration as a reference for that. I think the critical part, which Ms Tucker and Mr Humphries quoted, is the part which states that a Minister is:

> ... in consequence bound to resign or suffer dismissal - unless the action which stands condemned was theirs, or taken on their direction, or was action with which they ought obviously to have been concerned.

If there were to be a no-confidence motion, I would argue that there is more evidence here today and in the coroner's report for the no-confidence motion to be in Mr Kaine. I am not arguing for that; do not mistake me. I do not think that there should be a no-confidence motion in Mr Kaine.

Mr Kaine: It would not help.

MR MOORE: But it is even sillier to have a no-confidence motion in the Chief Minister. Mr Kaine interjects that it would not help, and I accept that. I would argue that on a couple of comments in the coroner's report. Mr Kaine said, "My role was none, zero, none at all". I think I have quoted him correctly. I think that that is what he said. The coroner in his comment about Mr Kaine said that he was not shut out. A further thing we had from the coroner, on page 442, was:

> It is an inescapable fact that as the weeks and months progressed towards the demolition dates Mr Kaine received no briefings on the Acton demolition not even on the technical aspects of the project. There is no evidence to suggest otherwise. It was certainly curious.

There are lots of reasons behind why that may have been the case. If you were going to put a no-confidence motion, that is the one that would, perhaps, carry more weight, but I still think not enough weight for a no-confidence motion, because the test that we would apply would be whether it was an action "with which they ought obviously to have been concerned". If we were going to apply a test, that is the one that we would apply. Even there it would not be enough. If Mr Kaine were still in this, it would not be enough for us to carry a no-confidence motion.

There is even less evidence of the involvement of Mrs Carnell because there was no action with which she ought obviously to have been concerned and with which she showed no concern. That does not apply. "Unless the action which stands condemned was theirs". Is it her action that stands condemned? No, it is not. Was the action taken specifically on her direction? No, it was not. That is what the coroner puts. The Labor Party has been challenged again and again today to put their standard of ministerial accountability, but there has not been any standard of ministerial accountability given other than the one in *House of Representatives Practice* which has been put by both Ms Tucker and Mr Humphries.

Let me give another quote. A few other texts have been quoted, but let me quote from a recent publication, *Ethics and Political Practice - Perspective on Legislative Ethics,* edited by Noel Preston and Charles Sanford. I refer to a chapter about accountability written by Howard Wilson, the Canadian Ethics Counsellor. He wrote:

> Accountability is basically a simple concept that has on occasion been made rather confusing. It is a long-established convention of the Westminster system that cabinet ministers are responsible to parliament for the actions of their department. Attempts have been made to make senior public servants responsible for departmental actions, citing the complexity of government and the impossibility of having the minister involved in every decision. These arguments do not change the basic accountabilities of ministers for the actions of their department.

At this stage, it is sounding pretty bad, but Mr Wilson goes on:

> Of course, not every mistake made by staff is reason for the minister to resign. The minister must make every effort to keep informed of departmental activities and establish appropriate controls on them. When mistakes come to light, ministers must act to correct them. It is the dereliction of these ministerial duties or unethical behaviour by ministers that raises (or should raise) the issue of resignation.

That is the fundamental question. It is not inconsistent with what is put in *House of Representatives Practice.* Mr Stanhope constantly refers to Westminster tradition. If we are going to be consistent with Westminster tradition, we have to look at what somebody appointed by the Canadian Prime Minister to be the Ethics Counsellor actually sets out for us, in a very similar way to *House of Representatives Practice,* as to what is ministerial responsibility. It is silly to have anything else.

I think that Mr Humphries put it well, but how do I manage? I recommend to people constantly that they go and have operations, and I will continue to do so because that is the most sensible thing for somebody with, for example, cancer to go and do, provided it is recommended by their doctor. But there is a risk in it and some of these people die. Sometimes there is negligence within hospitals. What do we do about it? As Minister, I have done a number of things already about that sort of thing. I have certainly allowed for protection or quality control at private hospitals as well as the public hospital, for

example. Members of this Assembly have also participated in that approach by supporting that legislation.

It seems to me, Mr Speaker, that we have a situation where ministerial responsibility can be taken out of context very easily. When the Leader of the Opposition says publicly that it is just a simple matter of ministerial responsibility he is misrepresenting the Westminster system and is misrepresenting what is meant by ministerial responsibility.

I will make just one small comment on the speech by Wayne Berry. He said that Mrs Carnell was simply seeking sympathy for herself and that was what it was about. I think Mr Berry would do well to read the coroner's report, because that is not the view of the coroner. "There is no doubt", said the coroner, "that the statement set out in this document is one of genuine sorrow". I must say that I am sick of hearing people in the community and hearing the Opposition say that Mrs Carnell has never said sorry, that she is not sorry, because she has and it is there. The coroner recognised it. The coroner, with no axe to grind, recognised that genuine sorrow when he said:

> There is ... no doubt in my mind that the Chief Minister, personally, regrets that a young girl has lost her life in horrific circumstances.

Quite soon after that horrible accident, I spoke on the telephone to Mrs Carnell. When I returned from being away, I spoke to her. I will say in this place, and I do not mislead this place, that I know that the Chief Minister was extraordinarily upset, not the least of which was that she could personally associate with it because she has a daughter of about the same age. She was a woman who was genuinely sorry and genuinely upset. The coroner has put the lie to the sort of rubbish that is being bandied around in the community by those who have an axe to grind and who simply have something to win out of putting the Chief Minister in a bad light. It is something that she cannot say for herself, really; there is no way to say that and have it believed. That is why it is that I am comfortable in standing here and saying that I know that to be the case.

The other argument that was put by Mr Berry was that if the coroner knew about what he called political interference in WorkCover at a time before Mr Kaine was the Minister with that responsibility there would have been different outcomes and different information. What a silly way to argue. It is a silly way to argue to say that if the coroner knew about that he would have drawn the same conclusions as Wayne Berry. I have to say that I imagine that there were already many things that the coroner did know and he did draw conclusions different from those Wayne Berry would have drawn, and I am absolutely sure of that.

It seems to me, Mr Speaker, that there are many things on which all of us could say the coroner would have drawn some other conclusions if he had known about them. We cannot allow this sort of debate to degenerate to that sort of level. The reality is that this debate is really about ministerial responsibility. That is the parameter that the Leader of the Opposition put on this debate when he launched the no-confidence motion, but he still has not given any valid description of ministerial responsibility that would in any way require support of this no-confidence motion. That is simply unacceptable.

The no-confidence motion is ill founded. It is there purely for political purposes and is being supported by a few people with an axe to grind. As for Ms Tucker, she should just admit, as she ought to have admitted at the time of the last no-confidence motion, "I never voted for this Government. I do not want the Government, so I will support a no-confidence motion".

Ms Carnell: Every time.

MR MOORE: "And I will do it every time". That would be an honest approach. I do not have a problem with that because that is where you are going. If the Labor Party stood up and said, "We want to have a try at government, so we are going to put up a no-confidence motion", at least that would be a much more honest approach than this constant run of no-confidence motions that are based, not on fact, but on misrepresentation, on squeezing the report to see what you can get out of it and not balancing both sides of what the coroner says.

MS CARNELL (Chief Minister) (4.53): Mr Speaker. I would like to begin my response to this motion by expressing, once again, my deepest sympathy to the family of Katie Bender. The loss of a child is always one of the most difficult things for any family to handle. Every time we have yet another public debate about the events leading up to the death of Katie, it must be just that little bit harder for the Bender family to grieve in private and be able to get on with their lives. But those opposite simply are not willing to allow the Bender family to get on with their lives. They want to continue to play politics with this extremely sad issue.

I have lived with this issue - I suspect all of us have, but I probably more than anyone - for the last 2½ years. A day does not go past when I do not wish that the whole issue had never unfolded in the way that it did and that somehow somebody had, I suppose, identified the risks that were involved in the way the implosion was done and something had been done about them. Mr Speaker, over that period, I am sure you would agree, I have been subject to some of the worst kinds of political attacks and slander that possibly any public figure has ever had to endure in this country, certainly in this Assembly.

Having people in this place, staff of some of the members of this place, actually making comments that somehow I contributed directly to the death of a child is, I suspect, something that any human being would find extremely difficult to handle. I have found it extremely difficult. It has been very tempting to comment during that two-year period. I have to say that the level of provocation has been fairly high at times, not the least of which being national television programs with, as I say, a staff member of Mr Kaine being part of them. But I believe that it would have been very inappropriate for me to make any comment until after the coroner had actually reported.

Mr Speaker, the coroner is the only person who has had access to the full range of facts and information. Nobody in this chamber has seen all the information. Nobody in this chamber has had access to all of the information, including, I have to say, members of the Government. The coroner has no axe to grind. The coroner is a professional person who is trained to look at the evidence presented and come up with a report, and that is

exactly what he has done. It is a 670-page report, one that I do not think anybody would doubt has taken a huge amount of time and effort. I would suspect that not one person in this Assembly would agree with every part of the report. But the fact is that an independent arbiter has looked at all of the information and come up with a report – a report that the Government accepts, both the bits of it that we would have written differently if it had been us and all of the recommendations.

But what did those opposite and Mr Kaine and Ms Tucker do after having this report for half an hour or an hour? They were out there saying that they were going to run a no-confidence motion or support a no-confidence motion. That tends to indicate exactly what we have always believed, that is, that Labor has had this motion on their books for two years. It really did not matter what the coroner's report was going to say. The trigger for the no-confidence motion was the release of the report. "When the report is released, we are going to run a no-confidence motion; it really does not matter what it says".

Mr Stanhope's motion today has had nothing to do with ensuring that an event like this will not occur again in the ACT. In his speech and, I would have to say, the speeches of all of the others opposite, none of them have looked at what we can do to address the issues. It has just been about securing a political scalp at any cost, at any amount of personal hurt that those opposite can inflict on people such as the Bender family. I think that is absolutely unacceptable.

The motion has also been about inflicting maximum personal and political damage upon me. Politics is a difficult game - there is no doubt about that - but to use the death of a child in this way is absolutely beyond belief. Much as I am not surprised at one or two of those opposite using it, I have to say that I am absolutely amazed that others, such as Mr Wood, would take this approach.

Mr Wood: We sit here and say nothing!

Mr Stanhope: That is disgusting.

MS CARNELL: When I view the demolition, I see it as a tragedy that we must do everything in our power to learn from and improve our management of projects and tasks in the future.

Mr Wood: Look at yourself.

MS CARNELL: Mr Speaker, nobody else interjected.

MR SPEAKER: No. I have said before that I want this debate to be heard in silence, please. Mr Stanhope, you will have the opportunity to respond in due course and I trust that you will be given the same courtesy of silence as we are asking for Mrs Carnell.

MS CARNELL: Thank you. Mr Speaker, today I will focus on the facts and on what actually happened. These events show that while mistakes were made - nobody doubts that - and that we can put in place much better safeguards, and we are, there was nothing that I or any member of my Government was aware of at the time that could have

prevented the tragedy. In other words, Mr Speaker, if any of us on this side of the house was presented with the same facts again, exactly the same decisions would have been taken. It is interesting that that is what the coroner says as well.

Whilst acknowledging that mistakes were made, I will be urging members not to support this no-confidence motion because the mistakes that contributed to Katie Bender's death, as the coroner has clearly shown, were not made by me or my department or, for that matter, any other department. It is interesting that Mr Stanhope actually acknowledged that up front in his speech. He made it clear that he did not believe that I had contributed to or was directly involved in the death of Katie Bender.

Mr Moore: He deserves credit for that.

MS CARNELL: I agree with Mr Moore. I give Mr Stanhope credit for that. He did go on to suggest that the issue here was ministerial responsibility. I would have to say that a number of his colleagues chose to take a very different line.

The coroner has brought down a report that does contain some disturbing elements and some issues of great concern. What is the proper way to respond to such a report, Mr Speaker? We have had others since self-government. We have talked today about Quamby and the remand centre, other issues of great concern. What is the appropriate way to address such reports? Is it simply to score political points, to seize upon every single negative phrase and quote it out of context so that you convey a picture that is misleading in the extreme? No, Mr Speaker, that is bad government. This side of the chamber chooses to reflect carefully upon what is contained in the report and take decisive action to fix the problems identified. That is ministerial responsibility. That is what it is. When you know you have a problem, act immediately to fix that problem.

The coroner makes it quite clear that neither I nor any of the other Ministers involved had any knowledge whatsoever or any information that could have led us to believe that there was any danger at all.

Mr Hargreaves: What about the HSUA letter?

MR SPEAKER: Just a moment, please.

MS CARNELL: If Mr Hargreaves does not agree with the coroner, that is his problem. The coroner has made it clear - he said it categorically - that he has found that there was no information or knowledge that was in front of me or any other Minister to alert us to any risk of danger to any of the people that were attending the implosion.

Mr Hargreaves: That is blatantly untrue.

MR SPEAKER: Order, please! I do not want any further interjections.

Mr Moore: It is time they were warned.

Mr Hargreaves: Do be quiet, Michael.

MR SPEAKER: I warn you, Mr Hargreaves.

MS CARNELL: Mr Speaker, as we have said before today, the approach of acting when we find out what is wrong is exactly the approach that we took when coronial reports came down in this place into other deaths, other sad, tragic incidents, that have occurred since self-government. What I would like to do today, though, is to focus on what we are doing about the problems, most of which flowed from arrangements put in place by those opposite when they were last in office.

Mr Speaker, the basis of Mr Stanhope's claims is that there were within the ACT Government failures identified by the coroner for which I should be entirely responsible and therefore should resign or be sacked. He did not say that I should be responsible for fixing them. He said that I should be sacked for them.

Most members will be familiar with the background to the whole issue. The genesis of the project was an agreement in April 1995, very soon after we came to government, with the Commonwealth to make the hospital site available for the construction of the National Museum of Australia. The choice of a site for the museum was a decision of the Federal Labor Government of Paul Keating. The basis of the agreement was the removal of the hospital by the ACT prior to the handover. The Territory then moved to discharge its obligation to demolish the hospital. It set in motion the normal Public Service processes by appointing a project manager and other experts to run the project.

Following agreement with the Commonwealth, the Department of Urban Services engaged a consultant, Richard Glenn and Associates, to undertake a feasibility study on the clearing of the site. Members who have been in this Assembly for a while will remember that Richard Glenn and Associates did most of the work on Royal Canberra Hospital and the refurbishment of Woden Valley Hospital, so that they came to us with - and, I have to say, still have - a very good reputation in these sorts of areas.

Mr Speaker, implosion was first mentioned in that consultant's report in July 1995. As the coroner stated on page 100 of his report, "nobody has suggested the use of implosion to him" - meaning to Richard Glenn – "let alone at this stage insisted upon its use". What he is saying there is that nobody said to Richard Glenn and Associates, "We want an implosion". The coroner said that that is not what happened. It was recommended or it was put forward by Richard Glenn and Associates as an option at that stage. In other words, Mr Speaker, the first suggestion about implosion came from an engineer accepted by the coroner as an expert - also, I would have to say, an engineer that this Assembly has accepted as an expert with regard to the Woden Valley Hospital refurbishment and other things that Richard Glenn has been part of.

Cabinet adopted demolition by implosion in August 1995. The coroner does note, however, that Cabinet was not provided with important information, such as the need for an overseas expert to be involved. The coroner said that Cabinet was not provided with some of the information that we should have had to make that decision. Mr Speaker, the reason that this is important is the date. We are talking about August 1995. The changes to the Public Service did not happen until after the Bill was passed in

December 1995. We are talking about advice that was given by, shall we say, the old Public Service with tenure, without contracts and, I would have to say, with all of the things that members of this Assembly, particularly Mr Osborne, have said would have solved the problem. Contracts were not even in place when the initial Cabinet decision was taken to go down the path of implosion.

There was then a bit of a gap in the project due to a change in the Federal Government, but by December 1996, using the single select tender method, Project Coordination was engaged to be the project manager. Mr Speaker, may I have an extension of time?

Mr Humphries: Mr Speaker, I ask that leave be given for the Chief Minister to speak without limitation of time.

Leave granted.

MS CARNELL: Mr Speaker, contrary to the comments made by Mr Stanhope and, I think, others with regard to the single select tender method, I think it is appropriate to quote the coroner on that. The coroner said:

> The single selection and appointment of PCAPL as the project manager on Friday 13th December 1996 was reasonable, practical and appropriate having regard to the special factors being considered such as the protesters, the squatters, the necessity to erect a fence urgently and the general pressure being conveyed to ACT Officials from the Commonwealth Government. It is the continuation of this appointment as the project manager without any form of review which is unsatisfactory particularly as PCAPL did not have any relevant experience in implosion demolition.

That is the whole quote, Mr Speaker. We have heard half of that quote a few times today but, unfortunately, not the whole quote. In other words, the coroner did not say that there was a problem with single selection. He said that single selection was actually very appropriate and very practical under certain circumstances.

At 5.00 pm the debate was interrupted in accordance with standing order 34. The motion for the adjournment of the Assembly having been put and negatived, the debate was resumed.

MS CARNELL: Mr Speaker, from the Government's perspective, the choice of project manager was left to Totalcare to make and to manage. Significant criticism was directed at Totalcare and Project Coordination over their lack of experience. But from the Government's point of view, it placed the project in the hands of the experts and was entitled to rely on their apparent competence. Mr Stanhope has, I think, defamed Project Coordination both publicly and in this place quite dramatically, taking into account that Project Coordination was used by the previous Labor Government regularly. What sort of work have they done for the ACT Government? They have done things like the maternity unit at Woden Valley Hospital, the Hotel Kurrajong extension, the new wing

at Canberra Hospital South, as it was when it was finished - the diagnostic and treatment wing. Who did it? Project Coordination.

It is not a company without a background or a company that had not done very competent work in the health arena, work at the Hotel Kurrajong, work for the previous Labor Government, and work for Mr Humphries as Minister. In recent days they have done the private psychiatric wing at Calvary Hospital and they have done the new medical specialist area at Calvary Hospital. They have done an enormous amount at John James Hospital. It is not a company that just flitted in all of a sudden without a background. It is a company that has done some very competent work for the ACT Government over a prolonged period. I think it is unfortunate that Mr Stanhope has not mentioned any of that when he has been, I think, extraordinarily defamatory of the company in many circumstances. But others will determine whether that is the case.

Let me quote from the coroner's report:

> The Territory was entitled to proceed on the basis that Totalcare would take all the requisite steps including the obtaining of such expert advice as was necessary to allow the project to proceed efficiently, safely and effectively.

In other words, the Territory was entitled to proceed - the coroner's comments, not mine. Let me quote again:

> It was genuinely assumed by the ACT and fairly in my assessment that both organisations would competently perform the task of selecting an appropriate and experienced contractor and ultimately an appropriate method of demolition.

Those are not my words, Mr Speaker; they are the words of the coroner. The coroner has said that it was appropriate for us, for the Government, to accept that Totalcare and Project Coordination would do the job appropriately.

I have yet to hear anybody opposite, at least publicly, repeat those statements from the coroner's report. Why, Mr Speaker? It is because it just does not suit them. The fact that the coroner has said categorically that it was appropriate to accept that there was expertise in Totalcare to do this job simply does not suit those opposite. On this basis it can be asserted that, in relation to such a complex technical task, the Government was entitled and, I have to say, is entitled to rely on the competence of the process it set in motion and the people involved.

I think it is important to talk about the people involved because they have been talked about a lot today. Apart from Mr Walker, the people involved were all appointed by the previous Government. They were not people who were put on contract - shock, horror - by this Government and brought in from other governments or the private sector. They were people who had been permanent public servants in the Territory over a long period of time and were, I have to say, appointed by those opposite. Mr Speaker, does that not

totally undermine any view that these people were somehow, I think Mr Kaine said, an invention of mine?

Mr Stefaniak: One of them even worked with a former Labor Deputy Chief Minister.

MS CARNELL: Thank you. In fact, one of them even worked in a Labor Minister's office. Mr Speaker, what is the next question? Mr Stanhope raised a number of questions. I think he said that the people of Canberra have a right to ask these questions. The fact is that he had never asked these questions until today. Mr Speaker, the debate here is not about questions Mr Stanhope is asking; it is about attempting to sack me. Obviously, they decided that they wanted to sack me before the questions were answered, which I think says it all.

Those opposite have also made comments about using implosion as a form of demolition. Mr Speaker, what did the coroner find? The coroner said:

> It was not the use of implosion as the method of demolition that caused Katie Bender's death but rather the use of that method by incompetent and inexperienced persons. Implosion is a cost effective demolition method in the terms of time saved as opposed to using the traditional demolition processes. The evidence justifies a finding by this inquest that implosion, if carried out competently, is at least as safe -

this is the important bit -

> if not safer than the traditional methods of demolition.

The decision to go down the path of implosion, contrary to public comments made by members of this place, was not the problem. The decision Cabinet made to go down the path of implosion was not a problem, according to the coroner. In fact, he suggested that it may have been safer than traditional methods of demolition. So much for that claim.

The Labor Party has alleged that I was blatantly reckless about public safety when it came to the so-called public event. Let me quote the coroner again:

> Mrs Carnell, the Chief Minister, was entitled to proceed and accept that the implosion was being competently performed in accordance with what she understood to be the implosion methods mentioned in the August 1995 Cabinet decision and the various RGA reports.

Mr Speaker, not my words; the coroner's. "Mrs Carnell, the Chief Minister, was entitled to proceed and accept that the implosion was being competently performed", contrary to the points all of those opposite have made. Here we had the coroner stating quite clearly that I was entitled to proceed and accept that the implosion was being competently performed. So, how can you run a no-confidence motion on the basis of the coroner's report? Remember, this motion is being run on the basis of a report that says in black

and white that I was entitled to proceed and accept that the implosion was being competently performed.

Mr Speaker, the coroner goes on at that stage to say:

> Mrs Carnell said in her record of interview:-"If it had dawned on us, if we had even thought that there was a minute one per cent chance of something that was dangerous, that this was dangerous ...

You have to look at my really interesting use of words here; but, basically, I said that if we had thought that there was even a minute chance, even a one per cent chance, of anything dangerous happening, then we simply would not have gone ahead. The coroner goes on to say:

> In my view this was a reasonable position to adopt having regard to the processes put in place by the ACT in the selection of the Project Director (Totalcare), the Project Manager (Project Coordination), the contractor (Mr Tony Fenwick) and the specialist implosion subcontractor (Mr Rod McCracken of Controlled Blasting Services). There was no event -

Mr Speaker, this is important -

> that had ever occurred which could reasonably have put the Chief Minister on notice of any safety concerns on the part of those involved on the demolition side of the project with respect to the planned implosion.

Mr Speaker, that is perhaps the most critical statement of this entire debate, so let me repeat the coroner's words. Mr Stanhope said that he wanted to run this debate on what the coroner had said. That is what Mr Stanhope said in his speech.

Mr Stanhope: Did I? Did I say that?

MS CARNELL: Yes, you did. The coroner said:

> There was no event that had ever occurred which could reasonably have put the Chief Minister on notice of any safety concerns on the part of those involved on the demolition side of the project with respect to the planned implosion.

Here we have the coroner directly contradicting the whole basis of Labor's argument, a direct contradiction. Whom are we to believe on this point? Is it Mr Stanhope, Labor, Mr Kaine or the coroner, the person who spent two years, has looked at all of the information, has no axe to grind, and is actually trained to look at evidence?

Did the Government know that anything was wrong? If we had known that there was any danger at all, obviously we would have done something about it. If we had known

something was wrong and we had done nothing about it, I have to say that there would not be a need for this no-confidence motion today because, as Mr Humphries said, I would not be here right now. If somebody from the department or anywhere else had said, "Look, Kate, there is a problem here", and I had said, "Pay no attention to it, sweep it under the carpet, let us just get on with it", then my colleagues here would have had me out the door very quickly, but they would not have had to do so because I would have been out all by myself.

But that is not what happened, and the coroner found that not to be the case. My colleagues and I did not know that there was any chance at all of a problem. If we had, would Mr Humphries have been on the lake in a boat with his kids? Of course not. That was categorically backed up by the coroner in his final report when he said:

> The ACT had an expectancy that it was able to rely upon processes which had been set in place on and after December 1996. Totalcare had been appointed as the Project Director. Totalcare possessed a degree of technical and engineering expertise in the Capital Works area. It had inherited that function from its former connection with the Department of Urban Services. The Territory was entitled to proceed upon the basis that Totalcare would take all the requisite steps including the obtaining of such expert advice as was necessary to allow the project to proceed efficiently, safely and effectively.

Again, Mr Speaker, the coroner's words: It was appropriate for the ACT to have the expectancy that Totalcare would proceed efficiently with the project and would get any expertise they needed, just as they do on every other project. We do lots of dangerous projects in the ACT. We do roads, we do bridges, we do all sorts of things that could cause death if inefficient contractors do the work. But we assume, and rightly so under normal circumstances, that Totalcare will get the appropriate expertise. So much for the comments and suggestions of those opposite that somehow I was responsible for the fact that Totalcare, or whomever, did not have the expertise.

If I did get involved in contracting approaches, in the actual letting of contracts, members of this Assembly would have a motion on the notice paper in two minutes – "Shock, horror, Minister involved, hands all over contracting procedures, at odds with the whole approach that the Government has taken to arms-length contracting, naughty government must get hands off the contracting process" - because the whole basis of our contracting is that the Government is required to do it at arms length.

Mr Corbell: Like the hospice.

MS CARNELL: Just like the hospice. But those opposite are not being logical here. It is inappropriate for governments to be involved in contracting.

Mr Stanhope has made some absolutely remarkable comments with regard to what he called a corrupt contracting approach. That is not what the coroner says, not even a little bit, Mr Speaker. This is a really good example of what Mr Stanhope has done. If the coroner had said that the contracting approach was corrupt, Mr Stanhope would be right

in the comments he made; but the coroner did not. The coroner said that an aspect of the tendering process had been corrupted. Does that mean that the process was corrupt? Nobody could perceive it that way.

To which bit did the coroner alert the Assembly? The bit to which he alerted the Assembly was when Gary Dawson asked me whether accepting a bid that was $50,000 more expensive was appropriate or okay and whether it was okay, I think, for an out of town contractor. What did I say? I said, "Gary, we should not be involved in tender processes. It has to be done by the committee. Give it straight back". What did I say when I was giving evidence and I was asked whether it was appropriate for Mr Dawson to ask me that question. I said, "No, it was not appropriate".

What did the coroner say? He said that I had reacted to that in a totally appropriate manner. Remember, this is a no-confidence motion in me in my role as Chief Minister. The coroner said with regard to the contracting procedure that on the only bit that I had any involvement with I had acted in a totally proper manner. Heavens, what more could I have done? Nothing, according the coroner.

Another, shall we say, personal favourite of mine is Mr Berry's suggestion that the whole public event was somehow a political fanfare or some sort of stunt by me. Mr Speaker, again I quote the coroner:

> It was suggested that the final date and the time of implosion needed to be adjusted to meet the personal convenience of the Chief Minister. It was argued this reflected some form of control. The truth of the matter is that the changing of the date was wholly inconvenient to the Chief Minister as she had planned to be absent from Canberra on a holiday on Sunday 13th July 1997 and which she had been planning for quite some time. Mrs Carnell was going to the Southern Highlands for a few days. Mrs Carnell was not consulted about the change of date until after the decision had been made to move the date. She was expected to fit into the revised programme. Any suggestion that this was a Kate Carnell stunt or staged event for her convenience as some form of political grandstanding is not supported on the evidence.

He is absolutely categorical on that, Mr Speaker. The coroner says that what Mr Berry said just a few minutes ago is incorrect, simply wrong. Mr Speaker, as I have demonstrated beyond any shadow of doubt, all the claims made by the Labor Party since July 1997, including today, have been totally refuted, not by me but by the person who presided over one of the most comprehensive coronial inquiries in Australian history. I cannot understand how anybody can support this no-confidence motion.

There were also issues about the exclusion zone. Again, the coroner makes it very clear that it was reasonable for the Government to set the exclusion zone at the level that it did; that, on all of the information that was provided, the approach we had taken was appropriate. So you have to rule that one out as well.

Mr Speaker, what we have to do here, as I said right at the beginning, is look at what we have actually done to address the problems that do exist. I have shown categorically that the coroner has said that we acted appropriately or I acted appropriately, that we had no knowledge that there could be a problem, that it was not a political stunt, and that we had every right to believe that the contract manager and project officers did have or would get the appropriate expertise to continue. What more could we have done? I think that is the question you have to ask yourself. What more could we have done on the information that we had? The fact is, nothing.

Mr Stanhope has repeatedly stated that I should resign because of the problems identified by the coroner with regard to the tender process. I mentioned that earlier. The coroner has said that I should not have been involved, that I was not involved and that I had operated appropriately. Again, that one has to be ruled out.

What have we done? Since the implosion occurred we have done an enormous amount. A number of reviews have been commenced and I think three are worth mentioning. An independent arms-length review has been ordered by Totalcare into project management procedures. It is to be conducted by Mr John Harmer, a director of Connell Wagner Australia and an individual with vast experience in this area.

I should point out here a fact that Mr Stanhope will not be too keen to hear. The project management and tender processes used by the ACT Government were virtually the same as those used by the previous Labor Government. Yes, Mr Speaker, we had not changed the process. And guess what, Mr Speaker? We did not corporatise Totalcare; the Labor Party did. We did not appoint the chief executive of Totalcare. Even the board was appointed predominantly by the previous Government. I am not having a go at any
of those people. I am just saying, "Hey, where is this process that we changed to cause the problem?". It was the process that we inherited.

Mr Speaker, the second review is being conducted by Mr Tom Sherman, a former head of the National Crime Authority, who has been engaged to analyse and publicly report on this Government's actions in relation to its Public Service procedures and guidelines. Mr Sherman, I am sure, would be of the calibre that nobody in this place would suggest would be a yes man or would do what the Government asked him to do. That is simply not what he is like and not his background. Mr Sherman will report to the Government early next year and we will certainly be happy to table his report in this place. He is looking at how the Government is responding to this whole issue, to ensure that we have done it to best practice level. I know that this process has been described by Mr Quinlan as a waste of time, but does that not prove again that the Labor Party simply is not interested in fixing the problem? It is not interested in the least; it is just interested in getting a political scalp.

Briefly - and I cannot be too brief on this because there is a lot happening -other steps that we have in train include the creation of WorkCover as a statutory authority, incorporating the dangerous goods unit; new explosives regulations under the Occupational Health and Safety Act covering issues such as exclusion zones; improved training of WorkCover staff; the development of guidelines on occupational health and safety issues in the purchasing process; improved documentation and audit trail

processes for all contracts and the use of consultants; stringent application of the single select tender method in accordance with ACT government purchasing policies; improved checklists and procedures for advertising tenders; the requirement for proper risk assessment on construction projects; better internal procedures to strengthen the processes of tender evaluation and preferred tender requirements; procedures to inform prospective tenderers of any special conditions prior to the actual tender process; and revised procedures governing so-called letters of acceptance.

Mr Speaker, the coroner has used the term "systemic failure". Boy, have those opposite used it a lot! It is a phrase that has been heavily quoted in the media and by the Labor Party during this debate. It has been argued, for example, that the relationship between the Chief Minister's Department, Urban Services, WorkCover and Totalcare may be part of this failure. It has been found, too, that some officials from the Chief Minister's Department and the old Department of Business, the Arts, Sport and Tourism unnecessarily involved themselves in the project.

Let us be clear, Mr Speaker: On the question of this involvement, the coroner found quite clearly that, to the extent that this happened, it did not contribute in any way to the death of Katie Bender. I will say that again, Mr Speaker. On the question of this involvement - what those opposite have suggested is the reason that I should be sacked and all the rest of it - the coroner found quite clearly, using his words, that, to the extent to which this actually happened, it did not contribute in any way to the death of Katie Bender. Indeed, the coroner explicitly rejected the suggestion that there had been a so-called secret loop that had controlled the implosion.

This is an important point: This system or interrelationship between departments within the structure of the Public Service is not new. In fact, it was originally put in place by the Labor Party in 1989. I say again: We did not corporatise Totalcare; those opposite did. It was corporatised years before the implosion took place. The procedures used by the contract section of Urban Services were not put in place by us; they were put in place by Labor. In fact, the key Totalcare, WorkCover and Urban Services officers discussed by the coroner were appointed by the previous Labor Government.

All but one of the officials within the Chief Minister's Department and the Department of Business, the Arts, Sport and Tourism held senior positions, as I have already said, under Labor. As I said before, too, one of them actually worked in a ministerial office. You have to get rid of all of those arguments because they are simply not true. Mr Speaker, any suggestion that somehow there was a massive purge of the ranks of the Public Service with hand-picked political stooges being installed in every agency, which seemed to be what people were saying this morning, is simply rubbish. The people involved were appointed by Labor. The processes in place were processes that were put in place by Labor. If anything, if there is criticism of this Government, it should be that we did not change enough of the systems, not that we changed too many.

The issue of who was actually responsible is one that has been spoken about a lot. This really shows that you are damned if you do and you are damned if you do not in this place. I have made it clear right from the beginning that the buck does stop with me. I am Chief Minister. I do not doubt that. But ministerial responsibility does not mean

that, every time there is a problem anywhere in government, the Chief Minister has to resign because the buck stops with the Chief Minister. That is simply ridiculous because, I have to say, whoever took over from me would not last long if the basis of this whole debate was that the Chief Minister had to resign if there was a systemic problem anywhere in the Public Service that the Chief Minister did not know about. Remember, the coroner has made it clear that there was no information that came to me to alert me to any problems.

If it was something that a Minister did not know about, but there was a problem down there in the middle range of the Public Service, should the Minister and the Chief Minister go? I would love Mr Stanhope to get up and say in his summing-up speech that those are the new rules because, I have to say, if that were to be the case this Assembly would never work again as it would be simply impossible. The bases of ministerial responsibility are quite clear. If a Minister defrauds the system in any way, gets involved with travel rorts, Paddington bears, televisions or things like that, the Minister goes; no doubt. If a Minister ignores advice - if I had ignored advice that there may be a problem with the implosion - the Minister should be out. But if problems occur at the administrative levels of the Public Service that the Minister knows nothing about, any view that the Minister should then resign or be sacked is patently ridiculous. If anything positive can come out of this debate today, Mr Speaker, it will be if Mr Stanhope gets up and tells us what ministerial responsibility is in his view, what the rules are for this Government in the future or for any government in the future.

Mr Humphries: What the rules would be for his government.

MS CARNELL: That is the point. If he wants to be Chief Minister, and he obviously does as that is what no-confidence motions are about, he has to tell this Assembly that he would be willing to resign if there were a problem with the police department in the ACT, if there were a problem at Quamby, if there were a problem at the remand centre, if there were a problem in a hospital - if there were a problem anywhere in the Public Service and that problem was systemic.

What does "systemic" mean? The coroner said that it meant that the departments did not have clear sets of communication guidelines, that some people did not know what other people were doing. We are not talking about fraud or corruption; we are simply talking about administrative failures. If Mr Stanhope is clear that that is what he is talking about, heaven help this Assembly in the future, because no Minister would last more than one sitting. That is all it would take because of those rules. The rules would be that administrative failures in the Public Service that the Minister knew nothing about equal resignation or sacking. That is patently ridiculous. The responsibility of the Minister is to fix the problems, and that is what we are doing.

MR STANHOPE (Leader of the Opposition) (5.43), in reply: Mr Speaker, as has been said during the debate, on Sunday, 13 July 1997, just over two years ago, 100,000 Canberrans gathered on the edge of Lake Burley Griffin to put to rest the old Canberra Hospital. They were there, it has been alleged, to celebrate the event. They were there at the invitation of the ACT Government. Between 30,000 and 40,000 of them were near Lennox Gardens, a vantage point identified in the Chief Minister's media release as one

having the best views. Mrs Carnell urged Canberrans in her media release to buy commemorative bricks from the old hospital. Proceeds would go to charity. "This is a great way to keep a little piece of Royal Canberra Hospital and contribute to a great cause", she said. It was a festival. But it was a festival that went horribly wrong when spectators were sprayed with shrapnel from the detonation of the mountains of explosives needed to bring the old building down, and one of them died - Katie Bender. One spectator died, although expert evidence to the inquest that followed suggested it was only by the grace of God that the lakeshore did not resemble a battlefield.

The fact that so many Canberrans were put at risk represented, in the coroner's words, a total abrogation by the Government of its responsibility to ensure the safety of its citizens. Through the whole demolition project, scant regard - and as it transpired, incompetent regard - was given to public safety. No-one in the Government - not its Ministers, not its advisers, officials, not the contractors - undertook a risk assessment to ensure the demolition method it had chosen and the manner in which it was undertaken were as safe as they had to be. On the contrary, driven by a sense of urgency out of the Chief Minister's office and a sense of the grand event, the Government boosted the spectacle, changed the day to a weekend, encouraged its citizens to come along, and ignored its obligation to ensure their safety. As the coroner said:

> It is inevitable and regretful that accidents do sometimes occur despite the best precautions, but what occurred when Katie Bender was killed was inexcusable.

It was inexcusable. What happened occurred because of the culture that allowed the systemic failures and incompetence to fester and grow and go unrecognised, and which led to the inevitable tragedy. And presiding over the ACT government service, the systemic failure, was one person - the Chief Minister. There is no defence adequate to avoid her responsibility for the events of 13 July 1997, or deflect the trenchant criticisms of the coroner, although we have had some very weak attempts at that in this debate. Mr Stefaniak had an interesting defence of the Chief Minister. He admitted that he and other Ministers also preside over departments that have systemic failings and asked why there was no motion against them.

There are clear and important differences in what Mr Stefaniak raises and in the case before the coroner. Mrs Carnell's personal staff, the chief executive and senior officers of her department were acting with, the coroner says - the coroner's words - her full imprimatur. In the case of the Chief Minister and the hospital implosion, she presided over systemic failings that leached well beyond her office and her department, just as her characteristic and arrogant style of government has leached through all the levels of public administration in the ACT.

I will have a little more to say about ministerial responsibility later. Suffice it to say for now that Mrs Carnell is the Minister who presided over the unwarranted interference of officials that turned a dangerous industrial project into a public spectacle that ended in perfectly foreseeable tragedy. She is the Chief Minister who relied on advice - and still does - from advisers and public servants who, as Mr Osborne pointed out, no longer

have security of tenure in their employment, but instead rely on her. The once fearless and frank advice that Ministers could rely on was not given to her.

She knew that those people knew nothing about explosives but nevertheless acted on their advice. Mr Smyth, as is his want, and perhaps in an admiring imitation of the Deputy Chief Minister, relied on selective quotation from the coroner's report to rebut my arguments. He tried to Gary us. Mr Speaker, he accused us of selective use of the report and I should suggest to you, Mr Speaker, I am happy, given the opportunity, to read into the *Hansard*, the full 657 pages of Mr Madden's report, because they prove my case unequivocally. The coroner condemns the Chief Minister in his criticism of her and her administration.

Mr Smyth maintained that I said WorkCover was responsible for the death. I did not. I never said or suggested any such thing at any stage. From the outset, I acknowledged that the coroner had dealt with the criminal legal aspects arising from the inquest. But quite simply, WorkCover's performance was so deficient that, as the coroner said, the end result was that there was practically no regulatory supervision of the use of explosives on Acton Peninsula.

Mr Humphries' contribution to this debate was one of deliberate, and quite usual these days, obfuscation. His attack on Mr Kaine was a disgrace. He attempted to run a sub judice defence with a warning that we should be careful in what we said, in case we prejudiced potential court proceedings. Mr Humphries issued his warning at 3.30, well into the debate this afternoon. Surely, if he were serious, he would have leapt to his feet as I was speaking at 10.30 this morning. It was a derisory attempt. In his rebuttal, Mr Humphries deliberately blurred the two themes of the coroner's report, the criminal/legal and the administrative.

I stated at the outset this morning that we accepted the coroner's findings in relation to the criminal/legal issues and were concentrating on the administrative issues. I was explicit about that. I made the distinction, and others in the debate have reinforced it. The coroner found Mrs Carnell had no direct or personal responsibility on the first ground. I said that explicitly. On the second, that of the systemic failings of government administration, he was silent as to responsibility. That is what we are debating, the second aspect.

Mr Humphries asked what was our test of the standard of ministerial responsibility. And the clearest answer is, of course, proximity. In the cases Mr Stefaniak raised, deaths at Quamby and the remand centre, the Ministers involved were well removed from the incidents. The public servants involved were well down the chain. We all know this. We know the difference. But in the case of the Chief Minister in relation to the implosion, the proximity is stark. We are talking about the head of the Chief Minister's Department. We are talking about senior executives in her department, with direct access to the Chief Minister. We are talking about the Chief Minister's media adviser; her personal staff; the staff in her office.

Mr Moore ran the lie, again, that Labor had made up its mind about this motion within half an hour of the coroner releasing his report. This is simply wrong, once again. I did

not speak to the media until after the Chief Minister on that day. I did, at that stage, call on her to resign, but only after she had announced that there was absolutely nothing in the report that warranted her resignation. Of course, are we suggesting that Mrs Carnell actually read the report more quickly than I? That is the logical conclusion of this outrageous and ridiculous point that is being put by Mr Moore and others. I did not foreshadow this motion until it was clear she had made up her mind that she would tough it out; that she would not accept her responsibilities.

Mr Speaker, the Chief Minister has relied heavily for her defence on an interpretation of the notion of ministerial responsibility that neither she nor her Ministers could be held to account for the administrative failings of departments or agencies under their control. Yet, as I said this morning, the Chief Minister's own code of conduct for Ministers sets the standard she is bound to respect. According to the code, ministerial responsibility requires the individual responsibility of Ministers to the Assembly for the administration of their departments and agencies. That is the standard. That is where the bar is set. And by any measure the coroner clearly demonstrates that she falls well short. She has no defence on this count.

There is a responsibility that can be applied here. In that matrix the Public Service is responsible to the Minister; the Minister is responsible to the parliament; and the parliament is responsible to the people. The test that arises from the matrix is, as I have mentioned, proximity. And in this case, the proximity is such that Mrs Carnell's fingerprints are all over it. They are Mrs Carnell's fingerprints and they are all over this case. It is a test Mrs Carnell fails.

None of the defences mounted by the Government stands. There is no defence adequate to avoid her responsibility. Instead, members should reflect on some words of the coroner in his report into the death of Katie Bender. He said at one stage in his report in relation to the evidence that he was receiving:

> One sensed the defensive barrier was created to protect what was not done, or should have been done, or was done badly, so as to paint a picture which would deflect or minimise the gravity of their failures, deficiencies and omissions.

It is the gravity of the Chief Minister's failures, deficiencies and omissions that demands that she goes.

MR SPEAKER: In accordance with standing order 81 this motion must be carried by an absolute majority. I therefore propose to call a vote on the matter.

Question put:

> That the motion (**Mr Stanhope's**) be agreed to.

The Assembly voted -

AYES, 8	*NOES, 8*
Mr Berry	Ms Carnell
Mr Corbell	Mr Cornwell
Mr Hargreaves	Mr Hird
Mr Kaine	Mr Humphries
Mr Quinlan	Mr Moore
Mr Stanhope	Mr Osborne
Ms Tucker	Mr Smyth
Mr Wood	Mr Stefaniak

Question so resolved in the negative, in accordance with standing order 162.

PETITION

The Clerk: The following petition has been lodged for presentation:

By **Mr Hird,** from 129 residents, requesting that the Assembly provide sufficient resources to support public education to reduce class sizes; allow successful integration of disabled students; improve community-based support to young children and families in crisis; support students "at risk" in high schools; improve the standards of school facilities, improve curriculum and teaching practices; and provide adequate teaching salaries.

The terms of this petition will be recorded in *Hansard* and a copy referred to the appropriate Minister.

The petition read as follows:

Public Education System

To the Speaker and Members of the Legislative Assembly for the Australian Capital Territory

The petition of certain residents of the Australian Capital Territory draws to the attention of the Assembly that:

The ACT public education system delivers a vital service to over 70 per cent of the total student population in our community.

The ACT public education system has been inadequately resourced for many years.

The ACT public education system, together with all other States and the Northern Territory, has in recent years come under unprecedented attack by the Federal Government.

> Your petitioners therefore request the Assembly to support public education in the ACT by providing sufficient resources to:
>
> Reduce class sizes to a maximum of 25 with priority being given in the early years of education.
>
> Allow disabled students to be successfully integrated into mainstream settings.
>
> Improve community-based support to young children and families in crisis.
>
> Support students "at risk" in high schools.
>
> Improve the standards of school facilities.
>
> Improve curriculum and teaching practices to increase the number of students successfully completing their education.
>
> Provide adequate teaching salaries to attract and keep high quality, professional staff.

Petition received.

HEALTH AND COMMUNITY CARE - STANDING COMMITTEE
Report

MR WOOD (5.59): Mr Speaker, pursuant to order, I present report No. 3 of the Standing Committee on Health and Community Care, entitled "Public Hospital Waiting Lists", together with the extract of the minutes of proceedings. I move:

> That the report be noted.

Mr Speaker, the members of the committee noted at the time we took on this proposal that it was a very optimistic task. We were setting out to see if we could find some solution to long waiting times for entering into surgery in our public hospitals. I emphasise we note the word "times" rather than lists, and surely that is an optimistic task. Systems everywhere are trying to cope with long waiting times. You have only to follow the Sydney media in the last few weeks to see the troubles besetting our neighbours, and perhaps also the campaign being mounted in the New South Wales health system.

The entry to hospital for surgery, the pressure for entry, is increasing everywhere. Firstly, populations are more aware of what might be done. Our medical treatment might help them. There are also many more in the aged category, certainly in Canberra and elsewhere, who require treatment and for whom there are new treatments. There are also considerable advances in medical treatment to help people and in medical technology to help people.

All this is increasing the range of services being demanded by the community and also, of course, at the same time, increasing costs. These are severe demands for systems to meet. When we started out, I do not think we had any expectation that we could provide a wonderful range of solutions for this Government to act upon. We have certainly, in this time, learnt of the difficulties - learnt in more detail, perhaps, than we had understood before, although the debate on the health system and waiting lists has been a continuing part of the ACT over the 10 years of self-government.

There are many measures that can be taken. The situation is not altogether insoluble, but attention to it does require assistance and diligence. We recognise the Government, as with former governments, is attending to the problems that exist. The data we report on is relevant as at last August. This is a couple of months on, so I must make that point. I note, tonight, that we are receiving some more patient activity data. The Minister will be tabling that. The information changes perhaps by the month, so I make that proviso.

The committee examined a lot of data and in one respect we were concerned about the accuracy of the Medilink data. The Minister in a letter to us did acknowledge that it had its failings. It had its problems and accuracy could have been a problem with it. He pointed out that there are new systems coming into place and we should hope that those new systems provide more accurate data. In its submission to the committee, the Government acknowledged the difficulty with waiting lists and waiting times. The Government said, and I quote:

> The current level of waiting times for elective surgery is unacceptable.

We would all, I hope, want to work towards very, very short waiting times. The committee acknowledges the Government's efforts to expedite the attention due to patients. But we note that there have been no major improvements in the number of long-wait patients in categories 2 and 3. A particular concern is a continuing increase in the number of long-wait patients in category 3. We will look with interest at the figures that the Minister produces tonight and the figures that he sends out. An innovation of this Minister is the figures that he sends out on the specialists' waiting lists and time, and we look with interest as they continue to come.

The committee welcomes the continuing refinement in the recording of waiting times, and sees this as a valuable step in identifying the areas of difficulty. We commend those areas where the Government has improved and reduced the number of long-wait patients. Nevertheless, the committee came to the view that a significant number of public patients are being failed by the public health care system, in that many patients are waiting longer than the clinically appropriate timeframes for attention. As I said before, we note the steps that have been taken in this respect.

We have made a number of recommendations. We note the direction the Government is moving in relation to pooling and we would encourage that. Noting the difficulties, I think that the specialists raised quite a number of significant points there that do need to be taken into account. But we believe that the concept of pooling is one that ought to be further explored.

We ask the Government to watch bed numbers. We note the reduction over a period in bed numbers and we urge that not jeopardise patient throughput. There would, inevitably at some stage, be a relationship between reducing bed numbers and patient throughput. We also ask the Government to look at theatres. This is a key area and we need to be sure that theatres in our hospitals are fully utilised. I understand the Minister has taken steps in recent times to see if more efficient use can be made of those theatres.

There is a further recommendation, among others, that we would ask the Minister to consider - that surgery not clinically required may perhaps be removed from the public sector. That may be done in private systems. That would have some impact on waiting lists and times. Maybe that ought to be considered. We did not explore that issue all that closely, but on the surface there appear to be reasons that some surgery should not be carried out in the public system and at the expense, perhaps, of other people with greater need - with a real clinical need as against a social need. We look forward to continuing advice that comes in, in the way that it does in those reports that we get tonight, and in the lists of specialists and their waiting times. We look for continuing reports in the future on measures being taken to reduce those waiting times. We commend the report to the Assembly and to the attention of the Government.

Debate (on motion by **Mr Moore)** adjourned.

PERSONAL EXPLANATION

MS TUCKER: I would like to make a personal explanation under standing order 46.

MR SPEAKER: Proceed.

MS TUCKER: There are a couple of comments in the previous debate to which I need to respond. The first was from the Chief Minister. I need to put on the record how much information I had when I made and issued statements about the coroner's report. A member of my staff attended the court when the coroner presented his findings. It is true we were not able to obtain a copy of the report immediately. When my adviser told me about that, I contacted the magistrate and arranged a copy immediately. My adviser collected it. We already had the advantage of my adviser having listened to the coroner. We had time to look at those findings and relevant supporting material in the report.

In addition, the inquest had been the subject of extensive media coverage over the last two years. Much of this factual information was already in the public domain. I realise it is a distraction, an attempt to distract from the major issues by the Government. While I respect the right of Mr Osborne and Mr Rugendyke not to have followed up that report as quickly as I did, and not to have made a public comment as quickly as I did, I do not think it is useful for people to try establish lack of credibility because we chose to act more quickly.

The other matter: I apologise if I did not hear Mr Moore correctly. I think what he said I had said was that I would support any no-confidence motion regardless, because I did not like this Government. Mr Moore knows as well as anyone that the Greens are very

careful to present thorough arguments before they vote. Anyone who chooses to look at the *Hansard* of this Assembly would see the fact that as a member of the crossbench on my own I probably do that much more than other members. I respect the right of other members on the crossbenches to make a different choice. But Mr Moore is quite incorrect to suggest that the Greens do not support their vote with strong argument.

DISCRIMINATION AMENDMENT BILL (NO 3) 1999

MR STANHOPE (Leader of the Opposition) (6. 10): I present the Discrimination Amendment Bill (No. 3) 1999, together with its explanatory memorandum.

Title read by Clerk.

MR STANHOPE: I move:

> That this Bill be agreed to in principle.

Mr Speaker, I am pleased to present a Bill to amend section 27 of the Act to overcome the difficulties highlighted by the AAT decision in Vella & Ors and the more recent Supreme Court decision in Richardson's case. My Bill completes a process I started in March 1999 when the AAT's decision was drawn to my attention. After preliminary consultation with affected organisations, I asked the Parliamentary Counsel for a draft Bill on 11 June 1999. In August, I made a public announcement of my intention and commenced wider consultations on my draft Bill. It has received broad acceptance from advocacy groups and service providers. I know that the Government introduced a similar Bill last week. I do not know when the Attorney issued his instructions, but the fact that the Office of Parliamentary Counsel has drafted these two Bills in this timeframe does raise some questions about legislative drafting that the Assembly could usefully investigate.

I do not know what public consultation the Attorney-General has conducted, but I do know that affected organisations - and some have already approached me - believe that his approach does not cure the problem highlighted by the AAT. People within a special needs program, whether because of a disability or some other attribute such as gender or ethnicity, will continue under the Government's approach to be disadvantaged, in that it will be possible for service providers such as the Government to discriminate against them.

This amendment I propose should make it clear that the exemption contained in section 27 is designed to prevent complaints about positive discrimination in favour of persons admitted to a special needs program without abrogating the basic human rights of those persons to be treated fairly, equitably and with compassion. Mr Speaker, I commend the Bill to the Assembly.

Debate (on motion by **Mr Humphries)** adjourned.

- HOLIDAYS AMENDMENT BILL 1999

Debate resumed from 20 October 1999, on motion by **Mr Berry:**

That this Bill be agreed to in principle.

MR SMYTH (Minister for Urban Services) (6.13): The Chief Minister announced some time ago that the Government will not be supporting Mr Berry's Bill. I am sure those opposite will characterise this as worker bashing from a conservative government, while round the country there are Labor governments guaranteeing a half-day holiday for workers. Unfortunately for Mr Berry, the facts do not support this. For a start, one of the major reasons the New South Wales Government has introduced a half-day holiday on New Year's Eve is to cope with transport issues of moving literally millions of people out of Sydney and millions of people back into the CBD and Sydney Harbour in time for the festivities.

I would like to think that our celebrations were going to attract as many people as they were going to attract in Sydney. The reality is that is not true. There will not be millions of people making their way to Lake Burley Griffin on New Year's Eve. The reality here is that - and I have to remind people that at the Christmas season a large number of Canberrans are already on holiday, and even if all our hotel rooms were full of visitors, and I would hope for that, I would wish for that - we are not going to have the same sorts of transport problems that Sydney will experience.

The advice I have from both Canberra Cabs and ACTION is that they do not anticipate any great difficulty in transporting people around on New Year's Eve. So I am not sure why Mr Berry does. I hope we get the big crowds to the festivities. But I doubt very much that there will be the sorts of transport problems in Canberra that Mr Berry seems to anticipate. It is a shame that Mr Berry is behaving in this way, because there is nothing to suggest that there is a need for another half-day holiday in Canberra on New Year's Eve.

We have to look at why we are doing this. People might have seen from yesterday's *Financial Review* not even Mr Bracks is willing to endorse a half-day public holiday in Victoria. I table this and ask for it to be included in *Hansard.*

Leave granted.

The article read as follows:

Bracks fails first IR trial

> The new Victorian Government has stumbled over its first conspicuous industrial relations test, evading responsibility for a New Year's Eve pay claim for public servants by making individual departments and agencies answer union demands.

The Bracks Government yesterday examined the unions' pay claim for a 300 per cent bonus, plus a 250 per cent increase in penalty loadings and a $30 meal allowance for public servants working over the New Year's weekend.

But the Government decided to delegate responsibility to departmental secretaries and agency CEOs to determine appropriate levels of compensation for their workers.

The cost of any New Year's Eve incentives would be absorbed by the departments' existing budgets unless they could prove exceptional circumstances, said the Premier, Mr Steve Bracks.

The Government also failed to announce whether any extra public holidays will be gazetted over Christmas-New Year, with unions keen to secure the same 1½ days of extra leave granted in NSW.

The announcement followed a warning from the State Opposition that the pay claim would cost the Victorian Government up to $100 million and comes amid mounting pressure from business for a demonstration by the Government that it is not beholden to the unions.

The secretary of the Victorian Trades Hall Council, Mr Leigh Hubbard, said yesterday that the Government had "wimped it", arguing its "non-decision" was extremely disappointing and was something the former Kennett Government would have done.

He said the move was likely to disrupt essential services such as police, fire, child protection and nursing over the New Year's Eve weekend because there was not enough time left to negotiate individual arrangements and many workers would just decide to make themselves unavailable without the extra incentive to work.

Mr Hubbard said that while the union movement was unlikely to take the matter further at this stage, it did send a bad message to them and to public sector workers in particular, who were suffering from extremely low morale.

"We're not going to go to war over this," Mr Hubbard said. "But this is a recipe for leaving many emergency services uncovered for the period."

He said it was ironic that Mr Bracks had rejected the framework pay claim when the newly privatised tram services had approached the unions for an industry-wide deal.

Mr Bracks will not gazette a public holiday either. In Victoria the Government is making individual departments and agencies respond in an individual manner to the unions' demands for activity on the New Year's Eve weekend. There is no central direction. There is no order from above. It is: "We are not going to gazette a public holiday". It seems these nasty conservative union-bashing governments are popping up all over the country.

There are more critical issues to this. The critical issue is that the Full Bench of the Australian Industrial Relations Commission has indicated that Australians should be entitled to a minimum safety net of 10 public holidays per year, plus one additional holiday in each State or Territory for employees covered by federal awards. The commission draws the distinction between public holidays and holidays, but for the purpose of this debate, the total is 10 plus one. The commission recognises New Year's Day, Australia Day, Good Friday, Easter Saturday, the Monday after Good Friday, Anzac Day, the Queen's Birthday, Labour Day, Christmas Day and Boxing Day. In addition, federal award employees in the ACT have these 10 public holidays and they get two territory holidays, Canberra Day and the union picnic day. That is one more than New South Wales in any normal year. This would be an extra half day on top of that.

What is this going to do? It will hurt local businesses, because local businesses will have to pay for this. It is local businesses that employ Canberrans. The fact that we are debating this Bill at the end of November does not help either. For a long time Mr Berry has known this has been coming. Businesses have been preparing for the holiday weekend for a very long time and have made certain assumptions on what their costs will be. Based on that, they will have made offers or priced their services for that night at an according rate.

Maybe Mr Berry is not aware that they will have already made these plans. People have been booking these events for years; certainly for more than half of this year. They have built their cost structures on the standard rate of pay that they would expect for these events, not for what Mr Berry is proposing to put to them. So it is too late for these businesses to go back to their customers and say, "Well, look, the Assembly has bunged this extra public holiday on; the Labor Party has bunged this extra holiday and I'm not going to wear the cost. We'll include it in what you're doing". It is often impossible to go back. They would have made arrangements with their customers to simply say, "Here is the cost". It is impossible for many of these people to go back and say, "Look, we have incurred an extra cost because of what the Labor Party has done in the Assembly".

Perhaps Labor just expects them to carry this cost. It is another burden. It is just taken out of the boss's pocket. It is a classic case of Labor's lack of business acumen. It clearly shows Mr Berry's lack of understanding of what it is to run a small business. It clearly shows their classic disregard for the private sector in the ACT. What you may get, of course, is a reduced level of services as businesses find it cheaper not to pay somebody to be there.

Because of the actions of the Labor Party enforcing this extra half-day holiday upon us at such a late point in time, workers themselves may suffer. Mr Berry does not seem concerned. He has put forward this proposal that these people should have a half-day

holiday. He bases it on the fact that Sydney is giving it. We are totally different to Sydney. There is no point to the additional half-day holiday. The Assembly should vote against it.

MS CARNELL (Chief Minister) (6.19): The comments that Mr Smyth makes are very relevant. This will be a huge impost on small business, people who really cannot afford it. I think it is encapsulated in one letter among many we got. I will table a number in a minute. This is a letter from a very small business in Canberra, called the Balloon Shop. It says:

> I was amazed to here that New Years Eve is still been considered as a part Public Holiday.
>
> How stupid! We are fully booked out for New Years with the understanding that staff be paid at normal rates. We haven't raised prices as others have, and now it looks that we will be working for nothing.
>
> If the decision was made last year, we could have adjusted our prices to accommodate the overtime.
>
> Mr Berry then goes on to say if we have a Public Holiday here than more Canberra people can travel to Sydney to celebrate the New Millennium. I thought it would be better for our economy if people were to say here. I Wonder what other things Wayne suggests to support Sydney.

Mary Lindbeck goes on. She says:

> Let's try and use some commonsense, don't make New Years Eve a public Holiday.

Mr Speaker, for the interest of members, I table responses from the chief executive, Restaurant & Catering New South Wales; the chief administration officer, Coles Myer Ltd; the president, Canberra Small Business Council, to Mr Berry; the president, Canberra Small Business Council, to me; and the general manager, Australian Hotels Association (ACT Region). I ask that they be incorporated in *Hansard*. They make it clearer than any of us could that this will cost jobs and cost small business money.

Leave granted.

The letters read as follows:

> Kate Carnell MLA Chief Minister
> Australian Capital Territory
> GPO Box 158
> CANBERRA ACT 2601

Dear Chief Minister,

Thank you very much for your letter where you called our attention to the Holidays Amendment Bill 1999 that was tabled by Wayne Berry MLA.

Restaurant & Catering ACT believes that the declaration of a half day public holiday commencing at midday on 31 December 1999 will cause an undue hardship on not only restaurants and caterers but the entire retail sector.

Most restaurants and caterers have committed themselves to pricing for New Years Eve with substantial numbers having booked at already released prices. The impact on cost will be significant as labour increases to double time and a half.

Those employed in the tourism sector are aware of the demand to work on occasions such as New Year's Eve and Mother's Day. While we are concerned about our staff on the Millenium celebration, as an industry, we must participate with our staff ensuring that the community at large have restaurants in which to celebrate.

We appreciate your on going support.

Sincerely

ROBERT GOLDMAN
Chief Executive
Restaurant & Catering NSW

Coles Myer Ltd

3 November, 1999

The Hon. Kate Carnell, MLA
Chief Minister - A.C.T.
A.C.T. Legislative Assembly
London Circuit
CANBERRA CITY 2601

Dear Chief Minister,

Additional Half-day Public Holiday - New Year's Eve

We write to convey our serious concern regarding recent speculation that the A.C.T. Government is considering the granting of an **additional** half-day public holiday on 31 December.

Granting an additional half-day on 31 December would add substantial wages costs across our businesses in A.C.T. In Coles Supermarkets alone this would add more than $25,000 to our wages costs.

We are particularly impacted in our supermarket operations because:

> We have moved significantly away from a bias towards casual employees to a greatly increased reliance on permanent employment. Declaring the half-day holiday on New Year's Eve means normal rosters will become voluntary. We will be paying our permanent staff even when they are not there and then paying casual employees to fill the breech. Nationally the proportion of casual staff within Coles has fallen from over 60% five years ago to 32% now.

> New Year's Eve trade is expected to be one of the busiest food trade days of the year with some community disquiet about Y2K. Providing service as usual will be very important in our ability to meet community food supply expectations. Service levels may be strained under public holiday circumstances.

> Food stores traditionally trade longer hours than general merchandise stores (most of the general merchandise stores will probably close around 6pm in any case)

We urge the A.C.T. Government not to grant an additional half-day on 31 December. If you would like to discuss this further, please contact me via Kerrina Watson on 03 98293610.

Yours sincerely

TIM HAMMON
Chief Administration Officer

CANBERA SMALL BUSINESS COUNCIL INCORPORATED
PO BOX 105 AINSLIE ACT 2602
Telephone 6230 6622

4 November 1999

Mr Wayne Berry MLA
ACT Legislative Assembly
London Circuit
Canberra ACT

Dear Mr Berry

We would like to submit our objection to your *Holiday Amendment Bill 1999.*

Most of our members are retailers operating businesses from local shopping centres to the major malls. They consider 31 December as one of their busy and peak periods. This is one of the few moments when they can make some money and recover costs.

To declare a public holiday from midday would not be fair to all the small business in the ACT. This would prove that you and the Labor Party do not care nor support small business at all.

Staff is paid normal pay of rates till closing time and now they will now have to be paid double time and a half. This would cause another burden to the business owners who are trying to make ends meet.

We therefore ask for your assistance in withdrawing this legislation.

If you would like further consultation in this matter please do not hesitate to contact me.

Yours sincerely,
Manuel Xyrakis
President
Canberra Small Business Council

CANBERRA SMALL BUSINESS COUNCIL INCORPORATED
PO BOX 105 AINSLIE ACT 2602
Telephone 6230 6622

4 November 1999

Mrs Kate Carnell MLA
Chief Minister
ACT Legislative Assembly
Canberra ACT

Dear Chief Minister,

Thank you for your letter dated 21 October 1999 regarding Mr Berry's *Holiday Amendment Bill 1999.*

We definitely agree with you that it would not be advantageous to Canberra businesses and the community.

I have written to all the Independent MLA's asking them to help defeat this legislation and to all Labour MLA's asking them to withdraw this legislation.

Enclosed is a copy of the letter I sent to Wayne Berry. The letter I sent to all other MLA's is only worded slightly different

Most of our members are retailers operating businesses from local shopping centres to the major malls. They consider 31 December as one of their busy and peak periods. This is one of their few moments when they can make some money and recover costs.

If you would like further assistance in this matter please do not hesitate to contact me.

Your Sincerely,

Manuel Xyrakis
President
Canberra Small Business Council

AUSTRALIAN HOTELS ASSOCIATION
ACT REGION

19 November 1999

Ms Kate Carnell
Chief Minister
ACT Legislative Assembly

Dear Chief Minister

Thank you for your letter dated 21 October 1999 with respect to Wayne Berry's Holiday Amendment Bill.

The introduction of this Bill resulted in our organisation issuing a media release that detailed our concerns. Please find attached a copy of that release.

We have also raised this issue at meetings with Mr Rugendyke and Mr Kaine.

Mr Kaine indicated that he would be supporting the Government in their opposition to the Bill.

Mr Rugendyke listened to what we had to say, and commented "I had not thought about it that way", when we described the potential loss of employment for young people on that day and the extra financial burden on small business.

He concluded by saying that he still had not made up his mind.

It is the AHA's belief that Mr Rugendyke and Mr Osborne will vote with Labor due to it being a popular political decision in the eyes of the general public.

Thank you for your letter outlining the Governments opposition to the Bill and I hope a satisfactory outcome is achieved.

Yours sincerely

Andrew Wilsmore
General Manager

MS TUCKER (6.22): This is quite a difficult issue. We did not find it easy to arrive at the correct course of action. I am well aware that many small businesses, particularly retailers, rely on holiday periods to boost their profitability. I acknowledge that unexpected labour costs are never welcome. But my primary concern is for employees in the weakest bargaining position. I know that federal public servants working back on New Year's Eve will get a bonus. Peter Reith, the Minister for Employment, Workplace Relations and Small Business says, "Good luck to any worker who gets a bit extra".

I know that months ago employees in strong bargaining positions, ranging from banks to hotels, were being offered a holiday or well over double-time-and-a-half. Since then, deals have been done at workplaces all over Canberra. Those of us who enjoy a big night out over the millennium will not begrudge security guards and food and drink providers extra pay. In addition to the massive, well-publicised millennium event in Sydney, we are facing a big one here in Canberra. The Government has invested $600,000 in music, fireworks and entertainment beside the lake from 6pm and has amended the Liquor Regulations Act to make provision for increased frivolity and celebration.

For everyone who can get the day off, it is all there waiting for them. For those who can negotiate a bit of extra money to make working on New Year's Eve worth their while, good luck to them. Most people at the top end of income and lifestyle can organise their time and their resources to suit themselves. What we are looking at here is a few hours' additional holiday for people further down the independent and affluent spectrum.

I recognise that such a holiday will impact more significantly on small businesses most vulnerable to unplanned expenses. I regret that this Bill has come forward so late in the day. But I am not prepared to vote against a Bill that extends equal privileges to employees least able to negotiate benefits that have been extended to everyone else.

MR BERRY (6.24), in reply: I heard on the radio the other day Mr Smyth ask what the Labor Party stood for. It stands for a fair go for all working people. That is one thing we stand for. It was a bit disingenuous of Mr Smyth not to mention that the public holiday does not just apply in Sydney; it applies across New South Wales. People in Queanbeyan, Yass and all the surrounding regions of the ACT will be enjoying this public holiday. There is no reason why workers in the ACT should not enjoy this. Why

should they see their counterparts in New South Wales receive extra benefits when they work or extra time off when they, in turn, do not receive those benefits?

There will be ACT festivities, as Ms Tucker has mentioned, and there is no reason why the same rules should not apply. The level playing field so oft described by the conservatives opposite as a good thing should apply in this case. When there is an opportunity to bring something good to ACT workers as a result of something happening in New South Wales, we should adopt it. In the past, the Government quite often adopted New South Wales standards when they were bad for us. This one is good for ACT workers, so why should they not have it?

Mr Smyth also drew attention to the Full Bench of the Industrial Relations 10 plus one rule. What he forgot to mention was that what-plus whatever other holidays States introduce for their workforces. That is why the union picnic day in the ACT was lawfully passed by this Assembly.

Mrs Carnell drew attention to letters she had received. I received one of those, and I would not have tabled it in this place without permission of Ms Lindbeck. But as the Chief Minister has done so, I will read into *Hansard* what I wrote back to her:

> Thank you for your letter in relation to the proposed New Year's Eve half-day holiday.
>
> This proposal has its origins in the decision by the NSW Government to declare such a day across the state in recognition of the new millennium. Employers will have the normal alternative of closing early or paying the usual public holiday penalty rates.
>
> In the ACT the Carnell Government has budgeted to spend $500,000 -

It appears I was wrong on that, it was $600,000 -

> on New Year's Eve celebrations, beginning at 6pm. This proposal is in recognition of the disadvantage of those who might be required to work and to ensure an ample break for those who wish to join the celebrations following earlier closure.
>
> In addition, there is no reason to treat ACT workers differently to those in New South Wales. It would be ridiculous for Queanbeyan and other nearby NSW workers to be enjoying this condition and those in
> the Act to miss out.

Sadly, Mr Rugendyke cannot be here today. He is a supporter of this particular piece of legislation. The Government has generously agreed to pair with Mr Rugendyke. Mr Moore, I understand, will be providing that pair. I thank the Government for their generosity on this score in order that we can pass this legislation.

I regret I have not been able to deal with this earlier. However, it was a matter that only came up in New South Wales on 21 September 1999. As soon as I could get the legislation into this place, I have. I would have dealt with it earlier had that possibility been open to me.

Nevertheless, it is sensible to create the level playing field for us and for those in Queanbeyan, and to provide the benefits to those whom we represent, most particularly those workers who are not in a strong position to bargain the generous bonuses that some have been able to achieve because of their strong industrial position. I would have thought Mr Smyth would have adopted his former employer's approach to this, where Mr Reith backed New Year's Eve bonuses. The difference with this bonus is that it applies to all the workers, not just the strong ones.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

AUTHORITY TO BROADCAST PROCEEDINGS
Paper

MR SPEAKER: For the information of members I present, pursuant to subsection 4 (3)of the Legislative Assembly (Broadcasting of Proceedings) Act 1997, two authorisations to receive sound broadcast of Legislative Assembly and committee proceedings given to specified government offices, subject to certain conditions.

LEGISLATIVE ASSEMBLY - QUARTERLY PERFORMANCE REPORT
Paper

MR SPEAKER: I present, pursuant to section 25A of the Financial Management Act 1996, the September quarterly performance report 1999-2000 for the Legislative Assembly Secretariat. The report was circulated to members when the Assembly was not sitting.

MINISTERIAL TRAVEL REPORT
Paper

MS CARNELL (Chief Minister): Mr Speaker, for the information of members, I present the ministerial travel report for the period July to September 1999.

WORKFORCE STATISTICAL REPORT
Paper

MS CARNELL (Chief Minister): Mr Speaker, for the information of members, I present the ACT Government workforce statistical report for the third quarter of 1999-2000, and I do not need to make a statement.

SUBORDINATE LEGISLATION
Papers

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety): Mr Speaker, for the information of members, I present subordinate legislation pursuant to section 6 of the Subordinate Law Act 1989 in accordance with the schedule of gazettal notices circulated.

The schedule read as follows:

> Electoral Act - Appointment of Acting Electoral Commissioner until 31 January 2000 - Instrument No. 264 of 1999 (No. 46, dated 17 November 1999).
>
> Liquor Act - Liquor Regulations Amendment - Subordinate Law 1999 No 29 (No. 46, dated 17 November 1999).
>
> Motor Traffic Act - Determination of fee for the issue of a restricted taxi licence - Instrument No. 262 of 1999 (No. 46, dated 17 November 1999).

ACTTAB LTD
Paper

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety): Mr Speaker, I present, for the information of members, the statement of corporate intent for ACTTAB Ltd for the period 1 July 1998 to 30 June 2001, pursuant to subsection 19(3) of the Territory Owned Corporations Act 1990.

LEAVE OF ABSENCE

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

> That leave of absence for today be given to Mr Rugendyke.

PATIENT ACTIVITY DATA
Papers

MR MOORE (Minister for Health and Community Care): Mr Speaker, for the information of members, I present information bulletins relating to patient activity data
for the Calvary Public Hospital and the Canberra Hospital for September 1999 and the Canberra Hospital ownership report for September 1999.

ESTIMATES 1999-2000 - SELECT COMMITTEE
Report on Review of Child and Adolescent Mental Health Services - Government Response

MR MOORE (Minister for Health and Community Care) (6.29): Mr Speaker, for the information of members I present, in accordance with recommendation 33 of the Select Committee on Estimates 1999-2000, the government response to the review of child and adolescent mental health services, and move:

> That the Assembly takes note of the paper.

I seek leave to have my tabling statement incorporated in *Hansard.*

Leave granted.

The statement read as follows:

> Mr Speaker, the Government has now had the opportunity to consider Dr Barry Nurcombe's report of the Review of Child and Adolescent Mental Health Services (CAMHS), which was commissioned by ACT Mental Health Services. I am therefore pleased to be able to table the Government's Response today.
>
> The ACT Government welcomes Professor Nurcombe's report and agrees with nearly all of his findings. Many of the issues raised in the report are already being addressed by ACT Mental Health Services and will be considered in the context of the next ACT Government Budget.
>
> In particular, the issues of increased staffing, improved accommodation, separate facilities for young people and induction training for CAMHS and triage staff are being looked at as priorities.
>
> Mr Speaker, there has been a substantial increase in demand for Child and Adolescent Mental Health Services. There has been more than a one hundred per cent increase in occasions of service delivered by CAMHS from 6,077 in 1996-97 to 12,426 in 1998-99.

The Government recognises that the present level of staffing in CAMHS is inadequate and has approved the recruitment of 5 new

temporary staff positions. This will alleviate in the short term, the consistent and unrelenting demand for service and allow CAMHS to examine, assess and plan for reform or development in other areas.

A major increase in staff will be considered in the 2000-2001 Budget. The Government also considers that a further review of staffing levels would be useful 12 months after the implementation of the proposed staff increases.

Measures that require additional funding will be examined in the 2000-2001 Budget context. Other issues such as improved consultation, the formation of an Inter-agency child and adolescent mental health forum and medical definitions are supported by the Government and can be implemented by ACTMHS with no budgetary impact.

As I am sure Members will agree, child and adolescent mental health is a crucial part of our health system.

I commend the Government Response to the Assembly.

Debate (on motion by Ms Tucker) adjourned.

JUSTICE AND COMMUNITY SAFETY - STANDING COMMITTEE
Scrutiny Report No. 15 of 1999 and Statement

MR OSBORNE: I present Scrutiny Report No. 15 of 1999 of the Standing Committee on Justice and Community Safety performing the duties of a scrutiny of Bills and subordinate legislation committee, and I ask for leave to make a brief statement on the report.

Leave granted.

MR OSBORNE: Scrutiny Report No. 15 of 1999 contains the committee's comments on five Bills, 29 pieces of subordinate legislation and the Government's response. I commend the report to the Assembly.

URBAN SERVICES - STANDING COMMITTEE
Report on Draft Variation to the Territory Plan - Heritage Places Register

MR HIRD (6.30): Mr Speaker, I present Report No. 34 of the Standing Committee on Urban Services, entitled "Draft Variation No 102 to the Territory Plan: Heritage Places Register", together with a copy of the extracts of the minutes of proceedings. The report was provided to you as Speaker for circulation on 22 November 1999, pursuant to the resolution of appointment. I move:

That the report be noted.

I seek leave to have my brief comments incorporated in *Hansard.*

Leave granted.

The comments read as follows:

> This report proposes to enter four sites on the Heritage Places Register.
>
> The sites are in Kingston, Griffith and Ainslie.
>
> The committee did its usual thing with this inquiry .... and invited public comment. And, as a result of the submissions we received, we held one public hearing.
>
> Our conclusion is that the draft variation should be endorsed - and that's what we say in the report.
>
> But we also comment on two other things that arose during our inquiry ....
>
> The first is a process issue
>
> We were concerned that a witness came before the committee to give evidence and based her remarks on the original draft variation that was released by PALM.
>
> She was unaware that the variation had been revised by PALM in light of the submissions it received from the public when the original variation was released.
>
> In this case, the changes were considerable.
>
> My Committee questioned PALM officials about the process used to inform people about the fact that a variation may have been revised.
>
> As a consequence, we learnt that PALM states this in its advertisement in the local media ... informing people that the revised variation has been forwarded to the Minister, and then to this committee.
>
> I also understand that this information is placed on PALM's website.
>
> But the committee feels that more is required in these instances.

We are recommending that PALM inform the people who have lodged submissions with it that a **revised** variation has been passed to the Minister and to this committee.

We realise this means extra work for PALM but we think the people who have taken the time to write to PALM in relation to the original draft variation deserve to be told that the document has been amended.

Although not in our report, I am sure I speak for my colleagues when I add that if our recommendation on this matter means that additional resources are needed by PALM, then the Government should find those resources!

The second issue that arose during our inquiry was that we became aware of a legislative anomaly in the different time periods prescribed for interim heritage orders, as distinct from draft variations.

Interim heritage orders can last indefinitely. But draft variations to the territory plan have effect only for one year.

The committee considers this is odd - and the anomaly should be tidied up.

We recommend that the legislative provisions in relation to the registration of heritage places be reviewed.

I Commend the report to the house.

Question resolved in the affirmative.

URBAN SERVICES - STANDING COMMITTEE
Report on Draft Variation to the Territory Plan -
Northbourne Avenue Precincts

MR HIRD (6.3 1): Mr Speaker, I present Report No. 35 of the Standing Committee on Urban Services, entitled "Draft Variation No. 96 to the Territory Plan: Northbourne Avenue Precincts", together with a copy of the extracts of the minutes of proceedings. This report was provided to you as Speaker for circulation on 12 November this year pursuant to the resolution of appointment. I move:

That the report be noted.

I seek leave to have my brief statement incorporated in *Hansard.*

Leave granted.

The statement read as follows:

This report deals with a big issue, namely, amending the Territory Plan to permit a variety of land uses along Northbourne Avenue.

Although this was a contentious issue when first released by PALM, it was significantly revised in light of comments made by the public.

The amended variation was forwarded on to my Committee and after inviting public input and holding one public hearing, we recommend that the revised draft variation be endorsed.

Members will see that our report is very brief - reflecting our efforts to simplify our processes wherever possible, so that we can keep up with the amount of work given to us by the Assembly.

The report is unanimous. And I Commend it to the House

Question resolved in the affirmative.

URBAN SERVICES - STANDING COMMITTEE
Report -Warrants for Traffic Calming Measures

MR HIRD: (6.32): Mr Speaker, I present Report No. 36 of the Standing Committee on Urban Services, entitled "Warrants for Traffic Calming Measures", together with a copy of the extracts of the minutes of proceedings. I move:

That the report be noted.

I seek leave of the house to have my brief comments incorporated in *Hansard.*

Leave granted.

The comments read as follows:

The Standing Committee on Urban Services was asked on 7 May 1999 to report on the use of a warrant system to determine whether traffic calming devices are needed in suburban streets and if so what type of traffic calming measure should be introduced.

My Committee invited public input through newspaper advertisements in June 1999.

A Seconded officer was appointed in September 1999 to assist with the Committee's workload and provide technical assistance in the development of the report and recommendations.

Committee members travelled to Newcastle, Queensland and Melbourne and interviewed a widely known and respected traffic management consultant, Mr Andrew O'Brien.

Twenty-one submissions were received from members of the public and public organisations and a public hearing was held on 8 October 1999.

The Committee's report contains 17 recommendations covering many issues raised during the investigation process.

The Committee supports the use of a warrant system for assessment and prioritisation of traffic calming works. The warrants proposed by the Department of Urban Services are considered suitable with some modifications reflecting advances in the field since the report was written.

Examples of improvements suggested include looking at road conditions .... especially on crests, curves etc, use by buses, and the presence of groups at risk, such as the elderly and the very young.

The warrants also should be reviewed against other design practices and codes in use in the ACT and any anomalies addressed.

There are recommendations concerning the involvement of elected representatives in the processes and a suggested consultation protocol has been provided.

During the investigation, and especially during the very valuable interstate visits, it became obvious to the Committee that there is a very strong link between traffic calming and the suggested reduction in speed limit to 50 Km/h in residential areas.

As a result of the linkage, the Committee has moved the 50 Km/h investigation up in priority and has requested the Minister for Urban Services to assist with provision of appropriate resources to conduct this very challenging investigation.

The Committee would like to acknowledge the assistance provided by the following:

Those making submissions.

Those who gave of their time to appear at the public hearing.

The staff and elected representatives of Gold Coast City Council, Brisbane City Council, City of Boroondara and City of Monash for their time and valuable comments and assistance.

The Minister for Urban Services and his Department for the use of a seconded officer for this investigation. (Mr Mark Rawson)

In conclusion, the Committee recognises that there is the need for a robust, well-founded and transparent system of evaluation and assessment of requests for traffic calming and Local Area Traffic Management schemes which should be used in conjunction with the application of experience and traffic engineering judgement.

This committee's findings will ensure that the system used in the ACT will live up to those expectations.

Question resolved in the affirmative.

LAND (PLANNING AND ENVIRONMENT) ACT - VARIATION NO. 96 TO THE TERRITORY PLAN
Papers and Ministerial Statement

MR SMYTH (Minister for Urban Services): Mr Speaker, for the information of members, I present, pursuant to section 29 of the Land Act 1991, Variation No. 96 to the Territory Plan relating to the Northbourne Avenue precinct. In accordance with the provisions of the Act, this variation is presented with the background papers, a copy of the summaries and reports, and a copy of any directions or report required. I seek leave then to have my tabling statement incorporated in *Hansard.*

Leave granted.

The statement read as follows:

Mr Speaker, Variation No. 96 to the Territory Plan proposes to vary, for the land immediately adjacent to Northbourne Avenue:

the Land Use Policies and Overlays in the Territory Plan Map; and

the Residential, Commercial E and Commercial A Land Use Policies in the Territory Plan Written Statement.

The draft Variation was released for public comment on 6 November 1998, with the closing date for comments being 21 December 1998.

As a result of the public consultation process, the draft Variation has been revised in a number of aspects, the most significant revision being:

The reduction of the maximum building height, for the areas identified as landmark nodes, from 40 metres to 32 metres. The reduced height generally reflects the height of existing development such as Macarthur House and Northbourne House.

The National Capital Authority (NCA) jointly released for comment Draft Amendment Number 24 to the National Capital Plan which proposed to alter Special Requirements for development relating to Northbourne Avenue, to ensure that changes proposed to the Territory Plan would not be inconsistent with the National Capital Plan

The Amendment to the National Capital Plan was approved and was Gazetted on 21 July 1999.

The Standing Committee on Urban Services considered the draft Variation and, in Report Number 35 of November 1999, endorsed the Variation.

I now table Variation No. 96 to the Territory Plan for the Northbourne Avenue Precinct.

ADJOURNMENT

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

That the Assembly do now adjourn.

National Capital Plan

MR MOORE (Minister for Health and Community Care) (6.34): My department informs me that they have received official advice from the National Capital Authority today that the Minister for Regional Development has approved amendment 36 to the National Capital Plan which now permits the siting of the hospice at Barton. The approval was gazetted on 24 November, which brings the approval into effect. The disallowable instrument has also been laid before both houses of parliament where it will sit for six sitting days, and, if not disallowed, then we will be free to proceed.

Question resolved in the affirmative.

Assembly adjourned at 6.33 pm