Debates

WEEKLY HANSARD

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Wednesday, 17 June 2009

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Wednesday, 17 June 2009

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

Petition
Ministerial response

The Clerk: The following response to a petition has been lodged by a minister:

By Mr Stanhope, Minister for Transport, dated 16 June 2009, in response to a petition lodged by Ms Bresnan on 25 March 2009 concerning wheelchair accessible taxis and the taxi subsidy scheme.

The terms of the response will be recorded in *Hansard*.

Taxis—petition No 96

The response read as follows:

> The ACT Government notes the Petition submitted by the petitioners, tabled by Ms Bresnan, MLA on 25 March 2009, and makes the following comments:
>
> **Wheelchair Accessible Taxis**
>
> - The ACT Government is committed to ensuring that people with disabilities have the same access to services as others in the community and is assisting public transport operators and providers to achieve compliance wit the *Disability Standards for Accessible Public Transport 2002* (Cth).
>
> - To support the taxi industry to achieve this goal the Government has implemented a number of initiatives to help ensure that waiting times for Wheelchair Accessible Taxis (WATs) are the same as for standard taxis.
>
> - The Government balloted 12 surrendered WAT licences in 2007, bringing the total number of WAT licences to 26. This is almost double the number of WATs operating in 2007.
>
> - Currently there are 24 WATs operating. One operator is waiting for a replacement vehicle and renewal of his operator accreditation and one operator recently surrendered his WAT licence.
>
> - In addition, in the previous two standard taxi ballots, the Government provided financial incentives for operators to use a vehicle that was capable of carrying wheelchair passengers. It is anticipated that an increase in the number of standard taxis which are wheelchair accessible will improve service levels for WAT users.
>
> - Further, to assist WAT operators to secure the services of drivers at a time when there are traditionally even higher driver shortages than usual, the

Government provided incentive payments for drivers to work during the Christmas/New Year period in 2007/08 and 2008/09.

- There were two components to the initiative payment scheme. The first was to provide a payment of $150 for all WAT operators whose vehicles were on the road, or available for hire for a minimum of 15 hours on the specified days. The second component was an increase in the lift fee payment from $11.90 to $25.00 for every hiring undertaken on the specified days, which also included the lift fee component of a 75% TSS voucher.

- Feedback from WAT users, and the taxi industry, indicated that the scheme worked well and there were no reports of any WAT bookings not being carried out during this period. The scheme has, therefore, been extended and will now also apply on, Mothers Day, Fathers Day, Good Friday, Easter Sunday and Anzac Day each year. The extended scheme commenced on Mothers' Day, Sunday 10 May 2009.

- The Government has also agreed to increase the lift fee from $11.90 to $25.00 for WAT drivers who undertake hirings between the hours of 9pm and 6am each day, when it has been typically difficult to attract drivers to work.

- The Government has also implemented other measures designed to improve the viability of WAT services, which includes a substantial concession on the annual licence fee for wheelchair taxis (the operator of a dual capacity wheelchair taxi pays $1,000pa and the fee for a single wheelchair capacity taxi is $3,000 compared with $20,000 pa for a standard taxi licence). Previously all wheelchair accessible taxis were required to accommodate two wheelchairs.

- The introduction of driver incentive payments and financial support to taxi operators is designed to provide better opportunities for operators and taxi networks to encourage drivers to actively participate in WAT work.

- It is not acceptable that members of our community are, only because they use a wheelchair, regularly, left stranded, run late for appointments and miss out on the normal social and other daily interactions that most of us take for granted.

- The initiatives implemented by the ACT Government to support improved WAT services compare very favourably with the level of incentives offered by other jurisdictions. The ACT has implemented and/or offered more incentive options for WATS than any other jurisdiction to ensure that WAT services remain viable and of a satisfactory standard.

- I have written to both taxi networks and met with industry representatives to express my hope that the industry can work cohesively and, that with ongoing support by the Government, can significantly improve services provided for WAT users.

- As the Minister for Transport, I will continue to place a strong emphasis on improving taxi services generally, but particularly for those members of the community who are substantially reliant on taxis.

Taxi Subsidy Scheme (TSS)

The Department of Disability, Housing and Community Services administers the TSS.

- The TSS subsidises the taxi transport costs of individuals who are unable to use other means of public transport due to a severe disability. Currently, there are over 3,200 members, of which approximately 85% of clients are aged over 60.

There are two levels of subsidy:

  - 50% subsidy for eligible individuals accessing the TSS with a maximum subsidy of $17.00 per trip; and
  - 75% subsidy for individuals accessing the TSS who use a wheelchair with a maximum subsidy of $26.00 per trip. A lift fee, paid to the driver is provided in addition to the subsidy.

- The 50% subsidy is available to people who can travel in a standard taxi and the 75% subsidy is available to individuals who are permanently dependant on using a wheelchair for all mobility and must travel in a wheelchair accessible taxi.

- The Lift Fee is equivalent to 25% of the waiting time rate. On 1 July 2008, a new taxi fare determination was introduced and the waiting time rate was raised to $47.50 per hour, as a result the Lift Fee was increased from $11.25 to $11.88 (rounded up to $11.90).

- Members of the TSS generally receive up to 126 vouchers per year. Additional vouchers are available on request to members who have travel requirements over the above this level, due to employment, education, community programs, medical therapy and vocational training reasons.

- The Government also provides 'Lift Fee Only' vouchers for passengers who use a wheelchair, but can travel in a standard taxi.

- Other States and Territories operate a taxi concession scheme similar to the TSS. The following is a brief outline of the comparative rates across the other jurisdictions.

Level of Subsidy

- Victoria and WA each provide two levels of subsidy – 50% for people who can travel in an ordinary taxi and 75% for people in wheelchairs who require a wheelchair accessible taxi. All other jurisdictions provide a 50% subsidy only.

- The maximum subsidy across other jurisdictions ranges from $25.00 in WA (both 50% and 75% members) to $60.00 in Victoria. NSW pays up to $30.00 with a "lift fee" of $8.47.

- It should be noted, however, that the maximum subsidy needs to be considered within the context of annual caps. While the benefit per trip may

be more, the benefit across the year may be greater where an annual limit applies. For example, the subsidy per fare in the Northern Territory is not capped, however, the annual cap varies from $210 to $1,785, depending on the person's category of membership.

Maximum number vouchers per year/subsidy cap

- NSW, Qld, Tasmania and WA have no cap on the maximum subsidy per year. Victoria has no cap for wheelchair users or members who are legally blind, or have severe/permanent disability, dementia or intellectual disability.

- Northern Territory has a maximum subsidy of between $210 and $1785 per annum, depending on a person's category of membership.

- SA has a maximum allocation of 160 vouchers and between $3,200 and $4,800 per year, depending on whether the member uses a wheelchair.

- The ACT has a potential cap of 126 normal vouchers per year, which equates to a maximum of between $2,142 and $4,772 (depending on the level of membership). This does not include additional vouchers allocated for specific purposes.

- DHCS is currently examining the ACT TSS policy and will consider the issues that have been raised by the disability sector in relation to increasing the subsidy levels.

Unparliamentary language
Statement by Speaker

MR SPEAKER: Yesterday at the conclusion of the morning session, Mr Smyth asked me whether I would consider reviewing *Hansard* as he believed there may have been comments made that may have been unparliamentary.

I have reviewed *Hansard* and, whilst it is fair to say that there was a robust debate yesterday on a number of issues, I do not consider any of the words used were unparliamentary.

Water and Sewerage (Energy Efficient Hot-Water Systems) Legislation Amendment Bill 2009

Ms Le Couteur, pursuant to notice, presented the bill and its explanatory statement.

Title read by Clerk.

MS LE COUTEUR (Molonglo) (10.02): I move:

That this bill be agreed to in principle.

Members will recall that in April this year I introduced the Building (Energy Efficient Hot Water Systems) Legislation Amendment Bill, which took the much-needed step

of setting an energy efficiency standard for hot-water systems. The purpose of the bill was to reduce the environmental impacts and financial costs of hot-water systems for ACT homes. The bill I am introducing today is a replacement for that bill, and I will either withdraw the old version or allow it to lapse.

The new bill is the Water and Sewerage (Energy Efficient Hot-Water Systems) Legislation Amendment Bill 2009. It will have the same practical on-the-ground effect as the earlier version of the bill. However, as the new title reflects, the difference is that it takes a slightly different legislative approach. I decided to replace my earlier bill after advice from the excellent drafters at PCO that this would be a better way to achieve the desired outcome. They told me that, ideally, the bill should amend the Water and Sewerage Act and the water and sewerage regulation instead of amending the Building Act and building regulations. The water and sewerage instruments are a better home for my amendments, because they also contain other regulations about hot-water systems. So this new bill just ensures that the right laws are kept together. It is neater and cleaner, and basically it is just an administrative change.

The original version of my bill would have worked and, in fact, would have been using the same legislative tools that COAG is talking about using. It would have achieved the intended effect, and I contemplated bringing on the debate and asking the Assembly to vote for it in its current form, because it is imperative that we take action on climate change urgently. But I also want to pass the best laws in the best form, so I thought we should change to a better vehicle.

I was also influenced by the attitude of the government, which, unfortunately, has not been cooperative. The government told me that ACTPLA thought there was a better way to achieve the bill's intended outcome. But, unfortunately, the government has continually refused to give me any details as to what it believed the problems were, and it did not allow me to receive a briefing from the ACTPLA experts in the area. It just has not worked with me on this issue.

It has now been almost three months since I introduced the bill, and my office have tried on numerous occasions to get more useful information from Mr Barr's office, given that they made it clear that they would not support the bill, and they told the *Canberra Times* they would not support the bill in its present form. I have had to resort to writing formally to Minister Barr asking for information on the issues he saw with the bill, and that was a few weeks ago. Yesterday afternoon I actually got a response from Mr Barr, and my suggestion to other people who are having difficulties getting responses from the government is to put your item on the notice paper; you may well find that you then get a response from the government.

Mr Barr's letter said he thought that the changes should be made in a more appropriate regulatory vehicle. As I have just said, I agree and, of course, by the time the letter had arrived, my staff and the PCO had already discovered this and had redrafted the bill, which is why I am reintroducing it today. However, Mr Barr's letter also said that a principal concern with the bill was the actual policy objective, which I found a bit surprising. He said that the electric hot-water services are highly efficient appliances, which they are. The concern, he said, was the greenhouse gas intensity of coal-fired electricity generation.

The Greens certainly agree that coal-fired power is central to the greenhouse problem, but I just do not quite understand what the government's position is here. Is its position that because the problem is coal-fired generation we should not be taking any action to increase energy efficiency? That appears to be what Mr Barr is suggesting, and I am not quite sure what this means for Mr Corbell's intentions that he expressed yesterday of making Canberra into a solar city. I would like to hear whether Mr Corbell is united with Mr Barr on this position—that is, that energy efficiency policies are not really needed because the fundamental problem is coal-fired electricity generation. If it is the case that that is the government's position, I believe the support for my bill is, in fact, even more urgent, because it is no longer clear that the ACT government would even support COAG's moves towards better hot-water efficiency standards.

I should mention at this point that I do appreciate very much Mr Corbell's response to my request that the government should consider expanding the present heat rebate scheme for replacement hot-water services. I believe this is going to become part of the increased switch your thinking program. I am hopeful that we will have a situation where there is a stand-alone rebate for replacement of inefficient hot-water services, one that does not require the householder to first have a full audit done of their property.

I now present a new version of my bill to reduce the greenhouse gas emissions from hot-water heating. The bill does, as I said, take a better administrative approach than the original bill but, basically, it achieves the same outcomes. I am hopeful that the government will now support it and, of course, I am happy to work with the government and the Liberal Party on any amendments or improvements that either party would like to make. We have already experienced a lengthy delay between my first introduction of the bill and now, so I feel the need to remind the Assembly that global warming is accelerating at a terrifying rate.

Scientists are having to reassess their worst-case predictions for climate change impacts. The Arctic summer ice, for instance, is now expected to melt entirely in the next five years—80 years earlier than previously thought. Just in the few months between introducing my original bill and this bill, the important Wilkins ice shelf underwent rapid deterioration, with scientists expecting part of it to break up. As we all know, we are already experiencing climate change impacts in Australia—droughts, fires, floods, threats to wildlife, natural icons, the impacts on agriculture. A safe climate response demands that we reduce our emissions as fast as humanly possible, and we cannot afford to be complacent.

I am aware that COAG has been moving towards introducing the hot-water efficiency standard nationally. However, this is not even scheduled to be implemented for another two years—that is, mid-2011—and that is provided that there are no delays. Unfortunately, in national schemes, there typically are. Two years is just too long to wait, and when this COAG standard is finally implemented, it will only apply to new dwellings, and that is not enough. Most buildings are, of course, existing buildings. Most hot-water services which are going to be installed are going to be installed in existing houses. My bill applies a standard to both new and existing houses.

Unfortunately, given Mr Barr's letter, I am not even sure if the ACT is going to be supporting the COAG approach.

I have seen the draft regulations that the Australian Building Codes Board recently put out for comment, and my bill is very similar. The more technical aspects of my bill, such as performance standards and the exceptions to the standards, are amenable to finetuning, if the government feels this is needed. Of course I am happy to discuss this. If a national standard is, in fact, ready for implementation by mid-2011, I will be delighted to stand here and vote to repeal the relevant parts of my legislation so that the ACT can transition to a national building code standard. That, of course, will only affect new buildings.

The re-introduced version of my hot-water bill also has some new aspects. Much of it relates to the feedback and consultation that we have undertaken over the past few months. The bill was in the media; we spoke to people in the hot water and energy efficiency industries as well as quite a few individual Canberra residents who have contacted us. Remember as well that the initiatives in this bill have been slowly crawling to fruition over a number of years at a national level. Similar standards already exist in Western Australia, Queensland and South Australia.

One interesting comment that I received from the ACT Master Plumbers Association was that it had been well known for a long time that Australia is moving towards new hot-water heater requirements. I have received similar comments from other people in the industry. This is not surprising as COAG has been talking to the industry about energy efficiency measures for years, and nearly half of Australia's states already have these measures for new hot-water services.

Rather than repeat my last introduction speech, I will just briefly outline the new aspects of this bill. Firstly, my bill complements the hot-water system and energy standard by introducing a water flow rate standard. Under the water flow rate standard, any time a hot-water system is replaced, under the legislation water-efficient shower heads will also need to be installed. This obviously is good from a water point of view, but it is also very good from a financial point of view. You have already got the plumber in your house; you may as well get him to fix up your shower heads as well.

Australia is the driest inhabited continent in the world, yet Australians are one of the highest consumers of water per person. The ACT is under stage 3 water restrictions, and there is no likelihood this is going to improve any time soon. It has been estimated that about 30 per cent of domestic water used indoors is consumed in the shower, and a water-saving shower head alone can save 60 litres of water a day. It has also been estimated that the electricity used for heating this water accounts for almost 20 per cent of the electricity consumed in a typical household. Water efficient shower heads will therefore not only cut down water consumption but also contribute to lower water and energy bills. The water efficient shower heads themselves are pretty cheap—they range from $10 to $30.

Secondly, the bill adds a new exemption to the hot-water efficiency standard. If a person's hot-water system fails while under warranty, a like-for-like replacement is permitted, even if the replacement heater would not meet the performance

standard. This measure simply allows people who have recently purchased a hot-water system to utilise the warranty that came with the system if they so choose.

Another change in this new version of the bill is the addition of a regulation-making power. The bill permits the making by regulation of additional exemptions to the efficiency standard. This is permitted for circumstances where technical restraints would make meeting the standard unfeasible or unreasonably difficult. This gives the bill important flexibility. It recognises that, in some cases, there could be technical restraints which will prevent the efficiency standard operating efficiently in every situation. As an example, some dwellings in Canberra do not have access to natural gas. A very small percentage of these might also be in a situation where they have insufficient solar exposure.

It is also possible that heat pump technology might be inappropriate because of very close proximity to neighbours. Potentially, for houses as unfortunate as these, the regulation-making power could be used to exempt this type of dwelling by allowing the technical detail of an exemption to be set in a regulation. I expect the government will be pleased with this additional power. It allows it to use the building expertise in ACTPLA to set technical exemptions. The power cannot, of course, be used to water down the bill; it can only be used when the technical restraints make meeting the standard unreasonable.

Lastly, the bill ensures that the efficiency standard is comprehensible to the general public. A new section will require the minister to publish a yearly list of hot-water systems which are compliant so that purchasers can make the right purchase.

I commend this bill to the Assembly. It is an important and timely initiative. I look forward to Liberal and Labor parties supporting this in August. It will see the ACT catch up with three other Australian states which have already taken action on this issue, and it will get us two years ahead of the COAG timetable in the critical fight against climate change.

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

Personal explanation

MR COE (Ginninderra): I seek leave to make a personal explanation under standing order 46.

MR SPEAKER: Mr Coe, do you claim you were misrepresented?

MR COE: Yes, I do.

MR SPEAKER: Proceed.

MR COE: Yesterday, Mr Stanhope made some inaccurate comments by speech and also by media release, and I seek to clarify the record. I have not received a briefing on the TAMS portfolio as requested, and, in actual fact, as per my letter of 1 December 2008, I am still waiting for briefings on municipal services, government

services including Shared Services, transactional information, payment and property services, sportsground maintenance, ACT library service, overview of Canberra Connect, cemeteries, overview of current and planned major infrastructure projects, bushfire management, Roads ACT, overview of regulations and issues in the taxi industry including issues at the airport, and transport policy and regulation.

In conclusion, I find it amazing that someone who calls himself the mayor of Canberra and who holds a seat at COAG would spend his day responding by media release and speech to blog sites.

Mr Corbell: On a point of order, Mr Speaker: Mr Coe needs to restrict himself to where he has been misrepresented.

MR SPEAKER: Mr Coe, you need to stick to your own personal explanation and not comment on Mr Stanhope's motives or motivation.

MR COE: I have finished.

Remonstrance—Australian Capital Territory (Self-Government) Act 1988

MS HUNTER (Ginninderra—Parliamentary Convenor, ACT Greens) (10.19): I move:

That this Assembly:

(1) recognises the tri-partisan view expressed in the ceremonial sitting for the 20th anniversary of self-government for the Australian Capital Territory that it was time to re-visit the ACT's Self-Government Act;

(2) is of the one mind that subsection 35(2) of the Australian Capital Territory (Self-Government) Act 1988 is an unwarranted restriction on the democratic rights of ACT citizens;

(3) calls on the:

(a) Chief Minister of the ACT to write to the Prime Minister of Australia requesting that the Australian Government respect the view of the whole Assembly and initiate action to repeal that provision of the Act; and

(b) Speaker of the Assembly to present to the President of the Senate and the Speaker of the House of Representatives of the Commonwealth Parliament copies of a Remonstrance objecting to the power of the Executive of the Australian Government to override enactments of this Assembly; and

(4) determines that the Remonstrance will read as follows:

REMONSTRANCE

The Legislative Assembly for the Australian Capital Territory respectfully addresses the President of the Senate, Senators, the Speaker of the House of Representatives and Members of the House of Representatives.

Preamble

The passage, in the Commonwealth Parliament, of the *Australian Capital Territory (Self-Government) Act 1988* established, as a body politic under the Crown, the Australian Capital Territory. The Act established a Legislative Assembly for the Australian Capital Territory with a plenary grant of legislative powers to legislate for the peace, order, and good government of the Territory.

The Legislative Assembly for the Australian Capital Territory is constituted of 17 representatives of the people of the Australian Capital Territory; duly and democratically elected pursuant to the *Electoral Act 1992*.

On 11 May 2006, the Legislative Assembly for the Australian Capital Territory enacted the *Civil Unions Act 2006*.

On 19 May 2006, the Civil Unions Act was notified on the Australian Capital Territory Legislation Register and became the law of the Territory.

Subsection 35(2) of the *Australian Capital Territory (Self-Government) Act 1988* provides that the Governor-General may, by legislative instrument, disallow a Legislative Assembly enactment within six months after it is made.

On 13 June 2006, the Governor-General, pursuant to subsection 35(2) of the ACT Self-Government Act and acting on the advice of the Executive Council, issued an Instrument of Disallowance voiding the *Civil Unions Act 2006*.

Grievances

The Legislative Assembly for the Australian Capital Territory presents its grievances to the Commonwealth Parliament. These are that:

(1) the exercise of the disallowance powers on 13 June 2006 constituted an antidemocratic interference in the affairs of the Australian Capital Territory, its parliament and its citizens, fundamentally undermining the principles of self-determination and self-government; and

(2) the continuing effect of the disallowance provisions contained in subsection 35(2) of the *Australian Capital Territory (Self-Government) Act 1988* constitutes an arbitrary curtailment of legislative prerogatives of the Legislative Assembly and the democratic rights of the people of the Australian Capital Territory and creates a prevailing uncertainty as to the extent of the democratic remit that applies in the Australian Capital Territory.

The enactment of the *Australian Capital Territory (Self-Government) Act 1988* by the Commonwealth Parliament was predicated on the fundamental democratic principle that citizens within a polity have the right to govern themselves. The second reading speech on the Self-Government Bill made by the Minister for the Territories underscored, in plain language, the intention of the bill "It will allow 270,000 people the same democratic rights and social responsibilities as their fellow Australians… In proposing self-government for the Territory, the Government has once again demonstrated its commitment to democracy for all.".

This high ideal—the promise of democracy—has not been fully realised.

Following the passage of the *Civil Unions Act 2006* by the Legislative Assembly for the Australian Capital Territory, a claim was put by the Commonwealth that the Civil Unions Act was inconsistent with the Marriage Act 1961 (Cwlth) and that it would, through the Governor-General, exercise the disallowance provisions established in subsection 35(2) of the *Australian Capital Territory (Self-Government) Act 1988* to void the civil unions law.

On 13 June 2006, the Commonwealth Executive, through legal force and without political mandate, overrode an enactment of the Legislative Assembly for the Australian Capital Territory and, by extension, overrode the will of people of the Australian Capital Territory. The disallowance of the Civil Unions Act was the first and only time such a power has been used against an Australian Territory in the history of the Commonwealth Parliament.

In passing the Territory's self-government legislation over two decades ago, the Minister for the Territories emphasised in his second reading speech that the subsection 35(2) disallowance provisions were "instruments of last resort and it is the Government's intention to resolve any potential conflict with the ACT by consultation and negotiation.".

The Australian Capital Territory and its legislature having seen the exercise of these powers in the arbitrary manner that occurred on 13 June 2006, without genuine consultation and negotiation as envisaged by the Minister for the Territories, has no confidence that a similar incursion into the affairs of the Australian Capital Territory will not happen again at some time in the future. The disallowance and the continuing effect of subsection 35(2) creates a high degree of uncertainty as to the status of existing and future enactments of the Legislative Assembly for the Australian Capital Territory and the scope of the Assembly's law making powers.

The ongoing operation of the disallowance provisions within the Self-Government Act also provides for a lower standard of democracy for the citizens of the Australian Capital Territory when compared to Australians living in one of the six States.

The disallowance power is not available to the Commonwealth with respect to the States and, had a State legislature passed an analogous law to that of the ACT in this matter, the mere assertion by the Commonwealth that the law was inconsistent with Commonwealth statute would have been insufficient for voiding the enactment. Pursuant to section 109 of the Australian Constitution, the High Court, not the Federal Executive, would be required to determine that, at law, there was an inconsistency between the State and Commonwealth laws.

This is as it should be with respect to the Australian Capital Territory, a city-state of 340,000 people whose democratic rights should be recognised in the same way as those Australians living in the States.

Petition

> The Legislative Assembly for the Australian Capital Territory and its democratically elected Members respectfully request that the Commonwealth Parliament affirm the rights of the people of the Australian Capital Territory to self-government by removing the relevant provisions of section 35 of the *Australian Capital Territory (Self-Government) Act 1988* which permit disallowance of enactments of the Legislative Assembly for the Australian Capital Territory, and so enhance the democratic character of the Australian Capital Territory.

The ACT Legislative Assembly is 20 years old. The 20th anniversary of self-government in the ACT last month was marked by a ceremonial sitting on 11 May and a conference on 12 May. A feature of these events was a fairly universal expression of pride in the work of the Assembly and the often-articulated view that, in terms of self-government, the ACT and its Assembly had come of age.

Across the two days, the current Chief Minister, the Leader of the Opposition, I and all the ACT's surviving past chief ministers expressed the view that the Prime Minister's power to overrule ACT legislation was unnecessary and inappropriate. Different views were expressed about other aspects of self-government, such as how it should be run, how many members and ministers there should be, what cities and towns it should have domain over and so on. But our position on section 34(2) of the commonwealth's Australian Capital Territory (Self-Government) Act 1988, which gives the Prime Minister this overriding power, was unanimous. I quote opposition leader Zed Seselja from the conference on 12 May:

> We need to take a step back and look at the ability to override and when that should exist. I agree with Senator Humphries that when it is done with no accountability, simply executive fiat, that is when we have a real problem.

That is the case with section 34(2), and it is time to get rid of it. And that is why I am moving this motion today. Given we have made it so explicitly clear that we all agree, across three parties, on this, there is no real reason why this motion should not have unanimous support. It is, in essence, very simple.

The key point of my motion, including through the remonstrance, is that section 34(2) of the self-government act is undemocratic. It can be exercised by the Governor-General on advice from the Prime Minister without scrutiny, debate or vote in the Australian parliament, and it should be repealed.

When the Australian Capital Territory (Self-Government) Act 1988 was introduced, the commonwealth minister said it would allow ACT citizens "the same democratic rights and social responsibilities as their fellow Australians". The ACT Assembly has responsibility for law and order, roads and development, health and education. I think it is clear that we have the social responsibilities that the Australian government has promised us. But with that equal responsibility should come the same democratic rights as residents of Brisbane and Hobart, for instance, enjoy, which is to elect our legislators and to hold them to account for the laws that they make.

The ACT Assembly is directly accountable to voters in the ACT. ACT people have very little say in who the Prime Minister of Australia is and who makes up the government of Australia. That is why section 34(2) is undemocratic and discriminatory. I am aware that some in the past have seen this provision, the power of the Prime Minister to look over the Assembly's shoulder and overrule any law he or she finds offensive or disturbing, as a safety net. But it has never been used that way.

As Rosemary Follett, the ACT's first Chief Minister, pointed out at the anniversary conference last month, the time to bring that safety net into play would have been in the early days of ACT self-government, when clearly there was some instability and a few alarming initiatives. But the prime ministerial override was not needed. And I would contend that it has never been needed since.

As we all know, it was used once, without explanation, because the act the then Prime Minister chose to override was offensive to him. We do not know whether that was politically or morally offensive. Who knows why? And the use of this provision has been inferred or threatened since then by the current Prime Minister.

We should remember that Prime Minister Rudd, just after his election, first announced that he would not use this power to override legislation allowing for civil unions. But then the temptation to ride roughshod over the legislative independence, the democratic rights, of this territory, with no apparent justification but for some unacknowledged political gain, was just too great. Once again, no real explanation was offered as to the actual social damage that would be caused by same-sex couples launching their relationship with a ceremony. And I know that we do not want to go there in this debate, because the other political parties here are very keen that this discussion about self-government steers away from this one particular issue and sticks to the big picture.

Given we are asking for the Australian government to amend its legislation, it seems we have to be very cautious, whatever the people of Australia themselves, let alone the people of Canberra, may think, because civil unions are a no-go zone. But it is the lack of rationale and explanation that have been provided in the past that is the point.

Section 34(2) has been used, and is threatened to be used, for no clear purpose. There is no accounting for it and there is no accounting for when it may next be used. In terms of any notion of good law, this section fails. And I would like to know where the commonwealth parliament's scrutiny of bills committee was when this bill got pushed through.

I do not know how one makes the Australian government take a slightly more progressive approach but it seems to me that keeping your head down is not the way to do it. And the 20th anniversary and the clear, united position of the leaders of all political parties with an interest in that matter provide imperative enough to act now.

Of course, the ACT Greens are not unique or alone in taking action on this front. The Chief Minister announced that he was writing to the Prime Minister following our

ceremonial sitting, and since then I have learnt that other letters were written before that, although without reply, it seems. And we learnt, once I announced our intention to move on this in the Assembly, that fruitful discussions between Attorney-General Corbell and ex-home minister Debus have been moving things along, perhaps.

But I think it is best to get out there and try to make the change you want rather than merely trust that behind-the-scenes discussions will make the difference. That is why this motion, in the first instance, seeks to give the ACT Chief Minister the unanimous support of this Assembly in his attempts to engage the Prime Minister. I am confident that the unanimous support of the Assembly would give the Chief Minister more credence on this issue, relating, as it does, to the operation of self-government, to democracy rather than politics.

It is also why this motion calls for the Speaker to deliver a remonstrance to the commonwealth parliament and put our claim to all members of the Australian parliament, because the concerns of a small jurisdiction, protesting at the arbitrary, unaccountable power of the Prime Minister and the discriminatory nature of the law that allows those powers to be used unaccountably, ought to reach the members of the parliament which has actual responsibility for that law. In arguing for the democratic rights and responsibilities of ACT citizens, the Assembly itself ought to address the parliament of Australia.

It is a fascinating thing then that neither the Labor Party nor the Liberal Party can countenance this remonstrance. It may be that the notion of the Assembly making a claim on Parliament House is somehow embarrassing for them. Furthermore, given Parliament House is so big and the MPs come from all over the country—and of course few think highly of Canberra—there is probably no point in putting our case before them because they probably could not care less.

I am foreshadowing here the expectation that we will not gain support for the remonstrance that makes up the bulk of this motion, and that is disappointing. If I had time, I would read it out aloud but, given it is a part of this motion, the Greens take comfort from the fact that it will be incorporated in *Hansard*. It is a good document that simply and clearly puts forward the case for the enhancement of democracy in the ACT. It makes the point that the promise of full democracy invoked when the Australian Capital Territory (Self-Government) Act was passed in 1988 has not been delivered. It explains how the disallowance works, how it has been used, how uncertain its application is in the future. It eloquently illustrates the undemocratic, inequitable nature of this section of the act and calls on the commonwealth parliament to:

> … affirm the rights of the people of the Australian Capital Territory to self-government by removing the relevant provisions … and so enhance the democratic character of the Australian Capital Territory.

The key problem with the remonstrance, as it was put to us, is that, by necessity, it explained when the offending section of the self-government act was used. The mere mention, it would seem, of the Civil Unions Act 2006 is the kiss of death for discussions about democracy. I think such peculiar sensitivity to something that, in essence, is about a simple act of commitment and affection is remarkable.

That it should somehow be seen as a red rag to a bull, whether that bull is the Prime Minister, half of the Liberal Party perhaps, or a section of the community as a whole, is disappointing. The fact that the simple but necessary reference to the actions of Prime Minister Howard in overriding the Civil Unions Act has become an excuse for the other political parties to resist the Greens' proposal for the Assembly to engage with the commonwealth parliament is unfathomable. Nonetheless, that appears to be the case.

Instead the Labor and Liberal parties have worked with us to find a way to unite on a more general review of the Australian Capital Territory (Self-Government) Act. Issues such as the capacity of the ACT to govern the size of its own Assembly have been raised. Somehow it is thought to be more acceptable if the issues around section 34(2) can be swept up in a broader review.

There is still, I believe, a common commitment for the Assembly to use the 20th anniversary celebration as a platform for a unanimous way forward. The ACT government understandably hopes to bring on an Australian government review of the act, and in collaboration with them. The opposition suggested an Assembly inquiry, building in representation of all three parties, so that the subsequent report would have Assembly endorsement by design. I am concerned that nothing may happen in both cases.

The Rudd government may see no need, nor feel any pressure, to act on the Australian Capital Territory (Self-Government) Act. The Assembly committee may lose focus and face so many different or competing inputs that nothing clear or concrete can be arrived at. I would like to see all parties in this Assembly put together the terms of reference for a review of the self-government act that would then be presented to the federal government but I would like to see us push for the repeal of section 34(2) as well. There are no arguments that I have seen to explain why we should not do it. It is all a little eerily familiar, just like the use of section 34(2).

I look forward to the Assembly's support.

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

Hospitals—Calvary Public Hospital and Clare Holland House

MR HANSON (Molonglo) (10.31): I move:

> That this Assembly:
>
> (1) notes with concern that the Stanhope-Gallagher Government:
>
> (a) has conducted secretive negotiations surrounding the potential purchase of Calvary Public Hospital (Calvary) and potential sale of Clare Holland House (CHH);
>
> (b) has failed to consult with the community on the potential purchase-sale of Calvary and CHH;

(c) has not adequately demonstrated the costs and benefits to the public health system of the purchase-sale of Calvary and CHH; and

(d) has not provided details of the potential appropriation in the 2008-2009 or 2009-2010 ACT Budgets; and

(2) calls on the Stanhope-Gallagher Government to:

(a) develop a comprehensive business case outlining the long term costs and benefits of such a transaction;

(b) provide an alternative course of action should the purchase-sale not proceed;

(c) conduct extensive consultation with the Canberra community of the purchase-sale;

(d) provide the business case, alternate course of action and results of community consultation to the Assembly; and

(e) present an Appropriation Bill to the Assembly concerning the decision to purchase-sell Calvary and CHH.

Obviously we have already had an amount of debate on this issue through the estimates process and in public. It seems to be a matter of a difference of opinion about the level of scrutiny and accountability and the consultation revolving around this issue before we can make a decision or not. It is, in the main, in this regard that I would like to address my comments today.

It goes to the very heart of what the role of the opposition is in this place. I consider that the role of the opposition is very much about providing scrutiny of the government and the decisions that they make and ensuring that the government is acting in the best interests of the people of Canberra. I would hope that those opposite and on the crossbenches would agree with that proposal.

To ensure that the government are making those decisions, it is appropriate that we scrutinise that they have done the necessary work and analysis to support any decisions that they are going to make on such a significant investment. These sorts of decisions should not be made in a vacuum behind closed doors; they should subjected to rigorous and robust debate and scrutiny, both in this chamber and in the community. The government need to ensure that due process is being followed by the government.

The purchase may in fact be a good idea. There are certainly arguments for that case; we have heard those arguments and we are not discounting them. But until we have all the relevant information available to us, it would be imprudent to form that view—until we have all the information.

Mr Seselja: Full disclosure is what we are asking for.

MR HANSON: Indeed, Mr Seselja: "full disclosure" is a phrase that I think is most appropriate.

The opposition have maintained open minds on this issue. We very much want to see the detail. We want to engage with the government and with the community to understand the issue. But to this date we have not been provided with sufficient evidence, we have not seen the process that the government should be following and we have not seen the consultation that allows us to make that decision.

The opposition reserves its right to make an informed decision once it has been made aware of all the facts. We will not be rushed. We will not be pressured by the government through some sort of scare campaign to force us to make a decision. The people of the ACT deserve full disclosure when it comes to this matter. Thus far, we do not have the facts. We have not had the ability to scrutinise them in detail.

Let me just quote my own words on this, because there is a bit of a scare campaign being run by the government in relation to what the opposition is proposing. In the estimates hearings, I said:

> When we had a briefing a few days ago, I made it very clear that the opposition retains an open mind about this sale. What we are trying to do is investigate the full details. As the AMA has said, there needs to be more close scrutiny of this whole proposal. To suggest that, because we are scrutinising this proposal, it suggests that we are either for or against is misleading. What we are trying to do is get to the bottom of all the detail.

That is an appropriate and responsible position at this juncture. The response from Ms Gallagher points to the government's approach and to their position and their attitude when they are subjected to scrutiny and asked for accountability. Her response to those words—I think it is a pretty considered and reasonable position—was to say:

> … I think, from Mr Hanson's point of view, that he is out here to spoil.

It is a tremendous leap of logic to say that. She says further:

> … he is trying to create fear and misconceptions … in the community that we were holding secret discussions about something.

"Fear and misconceptions"—that is a remarkable response. We are trying to engage in the debate, trying to get to the bottom of what has occurred and what the detail of the plan is. To respond in such a manner is remarkable.

We believe that the massive costs involved, not only in the purchase of the hospital but with the subsequent flow-on of other money that would be invested at that site, require us to examine it in detail. The government must be open and transparent in that regard; we need full disclosure on this.

I must admit I pay great heed to what Ms Gallagher says on regular occasions. With that comment she was making, I thought I would reflect on what the Labor Party considered about these sorts of issues when they were in opposition. In the lead-up to the 2001 election, what were the sorts of comments that they were making about an

opposition's role, what an opposition should be doing, and what a government should be doing? These statements from the Labor Party which I will read are quite informative. This comes from the Stanhope 2001 election campaign launch on 10 October 2001. I seek leave to table that document, Mr Speaker.

Leave granted.

MR HANSON: I table the following document:

> ACT Labor's 2001 Campaign Launch—Extract from ALP website.

It is a fascinating read, and I encourage you all to take the opportunity.

Mr Seselja: I think it has turned out to be a work of fiction, though, hasn't it?

MR HANSON: In some part it has, Mr Seselja. I will read some quotes from it. Mr Stanhope says:

> Too often in contemporary politics—particularly for an opposition—the focus is on the negative.

But he says:

> It almost has to be, and almost always is.

When we hear in this place "opposition for opposition's sake", we should remember that Mr Stanhope has previously said:

> It has to be, and almost always is.

At that stage he thought it was okay. What he then said was:

> Governments must be scrutinised. They must be accountable. This is a role of oppositions, and it is a role that is particularly necessary as governments become lazy, arrogant, aloof and accident prone.

He certainly had his crystal ball out that day, I would suggest, Mr Speaker. Indeed, he did. He further says—this is quite entertaining, to be honest:

> A Stanhope Labor Government will put an end to the waste and mismanagement.
>
> We'll put an end to the fiascos.
>
> I will lead a Government committed to openness, honesty, and inclusiveness.
>
> In place of the waste and mismanagement and fiasco, we'll implement well thought-out programs—

this program that we are talking about today is well thought out?—

> drawn from policies developed—

wait for it—

> in broad consultation with the community.

So it is a well-thought-out process, a well-thought-out policy, developed in broad consultation with the community. Fancy that! He said:

> We will try not to make mistakes, and if we do, we'll be open and honest about them.

They have certainly been very open about all the mistakes they have made, and they are very comfortable being held to account! He said:

> … in working to achieve our aims we will be measured, responsible and open.
>
> … there will be no hoopla in a Stanhope Labor Government.
>
> There will be no gloss, or glitz.
>
> There will be no beating of the breast.

Hasn't the worm turned, Mr Speaker? It really has. I encourage you to read that document, because it is solid gold. It is full of pearls of wisdom from Mr Stanhope on how a government should behave—that we can all learn from.

I further went and had a look at a couple of websites from that time. I found Mr Corbell's website. There is a fact sheet here, with lots of facts on Labor's plan for good government for all, for their priorities. I seek leave to table that document.

MR SPEAKER: Is leave granted?

Ms Gallagher: No. We have got to stop this tabling. No, leave is not granted.

MR HANSON: All right; I will not table it. That is fine. I will just quote from it.

Ms Gallagher: Be serious here. I mean, for God's sake, we are talking about Calvary, Jeremy.

Mr Seselja: That is ridiculous.

MR HANSON: Now, we are talking about—Mr Speaker—

Ms Gallagher: What is becoming ridiculous is you tabling constantly—Jeremy tabling constantly documents that are irrelevant to the matter that we are discussing now.

MR SPEAKER: Order, members! Order, Ms Gallagher! Ms Gallagher, Mr Hanson has the floor.

MR HANSON: It does go to part of the issue, Mr Speaker, and that is about the accountability of the process, the scrutiny. What I am doing is illustrating the point that when the government, the Labor Party, were previously in opposition, they demanded that this would be the case and said that when they were in government this is the process that they would follow. I think it is entirely appropriate, when we are talking about this deal about Calvary, that I point this out.

What is on the fact sheet? It says:

> Labor understands that good government does not bully. It leads.
>
> Good government accepts criticism.
>
> Good government has the courage to allow itself to be closely scrutinised. It conducts its operations in an open, honest and accountable manner, not in secret.
>
> … Labor rejects behind "closed-door" deals and the failure of process—a failure of process that has left a legacy …

I will just read that again: "rejects behind 'closed-door' deals". Clearly, that changed overnight. It has certainly changed somewhat since that statement was made.

Then there is reference to "sinister deals over land development" and "secret deals over parking". They say further that they will "restrict the use of commercial confidentiality in government contracts". The whole reason that this has been kept behind is commercial confidentiality. They have said that they will "release cabinet papers after six years". I certainly look forward to them doing that. They said that they will "ensure government records, and records of decisions, are properly kept"; we are struggling to find any record of the decisions that have led to a point where it looks as though a deal is going to be signed on something that is going to have such a huge impact on the future of Canberra and on our budget.

Ms Gallagher: It is going to have no impact on the future of Canberra, you fool.

MR HANSON: It is going to have no impact?

Ms Gallagher: No impact. Nothing will change for the people of Canberra.

MR HANSON: We are spending $100 million and nothing will change! You are going to have to explain that one to me later in your response, minister.

Ms Gallagher: I will; you have an inability to understand simple concepts, Jeremy.

MR HANSON: Nothing is changing? It sounds like a lot of money to spend on nothing. What you are asking the opposition to do is sign off on a deal that we do not have the facts on just because we should trust you.

Ms Gallagher: I am not asking you to do anything.

MR HANSON: I think you are. You have demanded that we should have a position. You have called for us to have a decision. It is basically, "Come on; you are either with us or you are against us." Well, no. What we would say is that we want to see the proper scrutiny process.

Are we simply going to accept what the government tell us? To do so would be taking a leap of trust with this government in the way that they manage the budget—and we see where the position of the budget is—and to take a leap of faith with the government in how they manage health. I am sure that I do not have to remind members here of the situation we find ourselves in with the number of GPs, the bed occupancy rates, the sorry state of elective surgery—we saw in the latest AIHW report that we are waiting for elective surgery here almost twice as long as in other states—and emergency departments where the time you will wait to be admitted through the emergency department is over 10 hours when the worst figure in any other state is in the six-hour region.

This is a government that would be asking us, based on their performance in the budget and their performance in the management of health, to simply take a leap of faith and join with them in this endeavour, without the proper scrutiny. That would be negligent. And if you refer to the words said by Mr Stanhope, he would have to come into this chamber and agree that it would be negligent of us not to do what we are doing, which is demand full scrutiny and consultation, accountability and process when it comes to this sale.

Ms Gallagher: Proposed.

MR HANSON: Well, proposed sale, Ms Gallagher. But until we see the detail, it is obviously difficult for us to form an opinion on exactly where the process is at.

Ms Gallagher has told us that this is a proposed sale, that this is a potential. But what we have seen is that this is a minister who has said to us that she has put her plans on the table, that when she led up to the last election she said that she had put her plans on the table. She has her reasons why she has said that she did not do that, but for her to then have said in a public forum that in relation to health policies her plans were on the table was entirely disingenuous. It was not the case. What she should have said is: "All of our plans are on the table less those that are subject to closed door deals, behind closed door deals." That would have been a more accurate description of where she was at in the development of her plans and her policy.

Negotiations and discussions on this matter have been ongoing since August. It is still a little unclear to us as to where those discussions are at and what sort of plans have been presented backwards and forwards. Maybe the minister can illuminate the matter for the chamber and let us know exactly where we are at—what she has proposed or not proposed. Is it a matter of just phone calls? Is it discussions? Do we have documents that have been signed? Where are we at in that proposal? I would encourage the minister to be forthright and let us know.

Let me move on. We are talking a lot about Calvary, but I just want to mention Clare Holland House—the impact on Clare Holland House and where that fits in this

proposal. At this stage, that seems to be something that has been tacked on the end. I am not quite sure why, and I would like to understand that as well.

In closing, Mr Speaker, let me say that what we are asking for through this motion is clear accountability, scrutiny, a business case—and that it be presented to the Assembly for the Assembly to properly debate and understand what is going forward before the members in this place are asked or called on to make a decision on something that is going to have such great impact on the future of Canberra.

MS GALLAGHER (Molonglo—Treasurer, Minister for Health, Minister for Community Services and Minister for Women) (10.47): The government will not be supporting this motion. I think the opposition have written it in a way that ensures that we are unable to support it, and this is what we expect from the opposition. They are not here to be serious about contributing to the debate; they are here to play politics all the time. For those reasons the government will not be supporting the motion. I made it clear yesterday that, on this matter, I am happy to update members of the Assembly at the appropriate time about where negotiations have got to. Of course, the Assembly will have close scrutiny of this through legislation that will come about if this sale is to proceed.

Mr Hanson really has failed to understand that he is the opposition spokesperson on health. He actually thinks he is the health minister; he just does not have to do any of the work or have any of the responsibilities. But I find it absolutely unbelievable that the party of business, supposedly, would expect, through a commercial negotiation process, that we would be in a position to table in a public forum information that is currently subject to those negotiations. I find it absolutely unbelievable that they would be running this line that, with respect to commercial-in-confidence negotiations—and this is the normal way that business negotiations continue—they should be able to call for things such as a business case to come here whilst those negotiations are ongoing.

I have been very up-front that these negotiations have not reached a point where there is agreement around whether or not this proposed sale should go through. Not only does it have to come back here to the Assembly; it actually has to go to Rome and is subject to all of the church's processes as well. So there are quite a number of steps that need to be followed. We are not at that point yet. But when the negotiations reach the point where those parties have either reached agreement—and essentially it will be around price—or failed to reach agreement, that will be the point in time where more information will be able to be made available.

That is not excluding the Assembly. The Assembly is not the government. The government has carriage of this issue in terms of moving the negotiations to a certain point. The Assembly has a particular role, and we are not at that point in time yet. In terms of—

Mr Seselja: When were you planning on sharing that with the community?

MS GALLAGHER: Mr Seselja interjects, "When were you planning on informing the community?" I would have informed the community at a time when there was (1)

something to say and (2) the agreement of the other party in negotiations to make that information public. However, it is impossible now to determine when that would have been because the information became public prior to either of those events occurring. Because of the opposition's complete inability to understand simple concepts or to accept in any way the truth from me on this matter, or indeed from Mr Brennan, the chair of Little Company of Mary—and I provided to the estimates inquiry information from Mr Brennan that he had asked me, on behalf of the government, to keep negotiations confidential whilst they worked through their own processes—

Mr Hanson: A letter I received late at night from one of your—

MS GALLAGHER: Be careful, Mr Hanson; you are probably subject to some legal proceedings already. Are you now going to start slandering Little Company of Mary as well? Little Company of Mary have made it clear, and indeed in their meeting with you, back on 21 April, they indicated that they would keep you updated on matters as they proceeded. I do not know whether that has been happening. It is your job as opposition health spokesperson; I am sure you have been having regular updates from Little Company of Mary. It is actually your job to do that, and I am sure you have been, as you are so interested in this. Mr Hanson, have you been meeting regularly with Little Company of Mary?

Mr Hanson: We have met; indeed we have met.

MS GALLAGHER: Right; other than the first time, when this became a matter in the *Canberra Times*? I doubt it very much, because what we see from the opposition is laziness. They want the government to do their work for them, and what they are trying to do here is to create some conspiracy theory around the government negotiating in good faith with a very reputable health provider around the possibility that the ACT community could actually acquire an asset that it does not currently own and that we could invest in that asset in a way that does not cripple our budget. I think that is a pretty strong position to be coming from.

The Liberal opposition keep saying, "We can't have a view on this because we don't have all the details." Well, the details are that we think it is in this community's long-term interests for the ACT government and the ACT community to own and operate both of their public health authorities.

Mr Seselja: That is the detail: "Trust me." That's the detail for us, Katy; thanks!

MS GALLAGHER: Here it is in simple concepts for you, Mr Seselja. Here it is in simple concepts.

Mr Seselja: Is that the detail?

MS GALLAGHER: Here it is in simple concepts for you to understand. Here it is for you to understand.

Mr Hanson: Let me remind you of Mr Stanhope's words.

MR SPEAKER: Order, Mr Hanson!

MS GALLAGHER: This is the decision that you have to grapple with yourselves: should the public own the public hospitals; and, if the public is going to invest $200 million in that asset, should the ACT community own it or should it be owned by the Catholic Church?

Mr Seselja: This is your business plan—you think it's a good idea? That is your business plan.

MS GALLAGHER: No, that is not—

Mr Seselja: You said that's the detail.

MS GALLAGHER: No, twist my words, Mr Seselja.

Mr Seselja: No, no. You said that's the detail and you'll make it simpler for us.

MS GALLAGHER: Twist my words.

Mrs Dunne: Yes, you said it was the detail: "Here it is, in simple terms."

MS GALLAGHER: Here is the detail for the Liberals. These are the Liberal details—the details for a party that is without intellectual capacity. I am sorry I have had to dumb it down for you guys to get you to understand what we are trying to do here.

Mr Seselja: You don't seem to have any more than that; you're struggling.

MR SPEAKER: Order!

MS GALLAGHER: We can't get you to understand complex tasks or concepts, Mr Seselja. We can't get you to do it. So here it is in a nutshell.

Mrs Dunne: You're struggling to actually justify your position.

MS GALLAGHER: It is pretty easy.

Mr Seselja: This is the detail; this is the business plan.

MR SPEAKER: Order! Let's hear Ms Gallagher.

MS GALLAGHER: It is pretty easy, I have to say, for you to get those great intellectual minds to grasp. It is pretty easy for you. We will wait and see if it actually translates into any understanding. I doubt it very much.

Mr Speaker, I will not stand here and allow the Liberals to run this line that we have been holding secret meetings around the future of Calvary. We have been in confidential discussions—

Mr Hanson: Oh, confidential!

Mrs Dunne: Confidential.

Mr Seselja: As opposed to secret.

MS GALLAGHER: There is a difference here because of the connotation that you were attaching to "secret" as though there is some conspiracy to withhold information from the ACT community. In the long term, if this sale proceeds, this community will be better off for it, Mr Speaker. It is a government's job to lead, it is a government's job to negotiate outcomes for the community and it is a government's job to have a long-term view on health.

This is what this government have done with our plans on health. I note all the comments going up to the last election. Going up to the last election, the Liberals had a policy on their website, which I do not have on me just yet but I will no doubt find it, where they said they would release a long-term plan for health covering the next 20 years. And we never saw that. We never saw that work. It was probably started in Mrs Burke's office and then went somewhere and was not released. We had Mr Seselja saying that they were funding intensive care beds at our hospitals—except they would only fund them when they were actually needed. They would not actually provide the funding for them. So your shameful record on health here, in comparison to the ACT government going out to the community with a long-term view on health—

Mr Seselja: So is that when you said you had all your plans on the table, Katy?

MS GALLAGHER: Exactly—a plan for the future, a plan which included detailed work on what is to happen on the Calvary site, including what is to happen on the Canberra Hospital site. We went out with all of that information, Mr Seselja.

Mr Seselja: Except for all the secret bits.

MS GALLAGHER: All of that information.

Mr Seselja: No, no.

Mrs Dunne: Except for the secret bit.

MS GALLAGHER: The important thing here—

Mr Seselja: You can't say that you had all your plans on the table—

MS GALLAGHER: We had a plan—

Mr Seselja: again when you didn't.

MS GALLAGHER: for health. It was a 10-year plan for health.

Mr Seselja: Say it again.

MS GALLAGHER: It was clear what we needed to do in our health facilities. What we did not get from you was any plan on health. What we still do not have from you is any plan on health; what we do not have is any view on public health in the ACT.

Mr Hanson: You'll get a letter from a public servant!

MS GALLAGHER: We have a lazy opposition spokesperson on health who struggles in his capacity to understand the concepts and the challenges that are facing the health system here in the ACT. The Calvary discussions are important for this community. They should not be derailed—

Mrs Dunne: Darn tooting they are.

Mr Seselja: Indeed they are.

Mrs Dunne: They are important.

MS GALLAGHER: They should not be derailed by an opposition that is bent on opposing absolutely everything this government does, by trying to create conspiracies which do not exist. The Calvary hospital is a good negotiation, an important negotiation, for the ACT community.

What the Liberals are arguing now is that, before we have any negotiations as a government with a significant health provider in the ACT, we should bring that matter here; we should get the agreement of the Assembly; we should then undertake an extensive community consultation process to actually establish whether or not we are allowed, indeed, to talk to that health provider about whether there are any changes to governance. That is the argument you are running, and it is simply not credible.

This government has an opportunity to deliver to the people of the ACT a fantastic health facility on the north side of Canberra. Not only do we have that; we have the opportunity to have that asset sit on our balance sheet as an asset of the ACT community. That is what is guiding my drive to make sure that we have an integrated public health system that is ready for the challenges ahead. We have an opportunity where the other provider, Little Company of Mary in this case, is willing to engage with us. Even Little Company of Mary accepts that there are some good reasons for one public health provider to operate two public health hospitals here in the ACT. Even Little Company of Mary accepts that, and this is why it has been prepared to enter into negotiations with us.

Mr Seselja: So give the detail then. Put forward the business case.

MS GALLAGHER: Mr Seselja keeps interjecting, "Put forward the business case." You do not understand how negotiation processes operate, do you, Mr Seselja?

Mr Seselja: The business case is that you think it's a good idea. That is what you've told us so far.

MS GALLAGHER: Do I have to dumb this down for you as well? You would like me, prior to any negotiations with the provider, to bring a business case to the Assembly for you to have a view about whether the negotiation process should start or not?

Mr Hanson: No, before you sign off on the deal, before we are asked to vote on it in the Assembly.

MS GALLAGHER: How ridiculous! So the Assembly now has to view business cases? Why don't we do the whole budget like that? We will bring every business case here, we will find out whether Zed agrees or not: "Okay, yes, this holds up, you can now consider that as part of what you do as a government." What a ridiculous line to be running here!

Mr Seselja: Why did you hide it before the election, Katy?

MS GALLAGHER: There is absolutely no attempt by this government to hide anything, and you can't prove anywhere that there was any attempt by this government to hide anything. We were very clear with our plans around health, and those plans will continue regardless of whether this sale goes ahead or not. And at this point in time I do not know whether it will. I do not know whether those negotiations will be able to be completed to a point where the parties involved actually reach agreement. That is where the negotiation process is up to. At the right point, at the point where there is something to discuss, that matter will come back to the Assembly, and it is right that it should come back to the Assembly.

Mr Hanson: Isn't that what I have asked for in my motion? Isn't that what I have asked for?

Mr Coe: So you agree with what he is asking?

MS GALLAGHER: No, I do not agree with the motion.

Mr Seselja: Have you read the motion?

Mrs Dunne: You had better read it again.

MS GALLAGHER: I do not agree with the motion. I have read the motion, Mr Seselja, and unlike you, I actually understand simple concepts, and this motion is rather simple but it is extremely negative. As I said at the beginning, it is written in a way that makes the government unable to support it, and that is exactly why it was written in that way.

Mr Seselja: Is that like all those economic concepts you had—

Mr Hanson: Why can't the government do this?

MADAM DEPUTY SPEAKER: Mr Hanson, Mr Seselja! Ms Gallagher has the floor. You will get your turn.

MS GALLAGHER: It is a ridiculous motion. It is written in such a way that we can't agree to it.

Mrs Dunne: You can't agree with it because it was ours.

MADAM DEPUTY SPEAKER: Order, members!

MS GALLAGHER: I have been very clear with the Assembly around the negotiation process, where it is up to, to date, and the fact that the Assembly will be involved at the right point in time. We are not there yet. The Assembly has a role. It has a legitimate role. I am meeting with stakeholders as we speak—in fact, I am meeting with some more tomorrow—to talk with them around the idea that the ACT community might be able to purchase a public hospital and then invest in it and build up a fantastic facility on the north side of Canberra, in a way that does not cripple our budget. We are unable to do that if the ownership arrangements remain the same.

Mr Hanson: Why not?

MS GALLAGHER: I have been through it with you, Mr Hanson, a number of times. If you do not understand, I can't help you anymore. I can't help you. I have explained it at length in estimates and you do not understand it. If you can't understand how funding of this capital asset development plan impacts on Calvary, I can't help you anymore. The government will not support the motion and the Assembly will be involved at the right point in time.

MS BRESNAN (Brindabella) (11.02): I move my amendment to Mr Hanson's motion:

> Omit all words after "That this Assembly", substitute:
>
> "(1) notes that the ACT Government is currently in negotiations to purchase the Calvary Public Hospital; and
>
> (2) calls on the ACT Government to:
>
> (a) commit to providing as a minimum the current level of services at Calvary, if the purchase goes ahead;
>
> (b) conduct a survey of health consumers who use Calvary Hospital on the level and quality of services provided and their expectations for the future; and
>
> (c) implement recommendations 53 to 55 of the Select Committee on Estimates Report on the Appropriation Bill 2009-2010."

The Greens believe that the Liberals' motion goes too far. That is why we are moving the amendment today. In particular, I refer to 1(a) of the motion about the secretive negotiations. We have had the same briefings as the Liberals have. It has been explained to us by the Little Company of Mary themselves that they did actually

request that these negotiations not be made public, and I think that is something that we should be listening to and respecting. Also, as the health minister stated today, and as we have also been informed about in the briefings, the Little Company of Mary do have a very hierarchical structure which all decisions have to go through. They do literally have to go to Rome.

Members interjecting—

MADAM DEPUTY SPEAKER: Mr Hanson and Mr Seselja, if you want to have a conversation, have it outside.

MS BRESNAN: We have all had the same briefings, so they know about this as well. It is a very complicated structure that it has to go through. So that is something we have to respect with these sorts of organisations, particularly an organisation like Calvary: if they make these requests, respect them.

The thing we are still not clear about is: do the Liberal Party actually support this purchase? We have not had any statements about that. The Greens think that public health services should be in public hands and we support the purchase; we think it is a good thing to be happening.

Referring to our amendment, we want to see commitment to services. We have consistently stated that we want a commitment to the sorts of services that are provided at Calvary, and this is reflected in our amendment at paragraph 2(a). This is a key issue which has been raised by organisations like the AMA, and also from the public, and is one which needs to be addressed substantially.

Paragraph 2(b) is about consultation about services with users of Calvary. As I understand it, this is something which does occur now, so it should be a process which can be undertaken fairly easily. Again, a particular type of philosophy is applied at Calvary and a particular level of service and quality of service, so it is about recognising that and respecting the people who use that service.

Paragraph 2(c) is about ensuring that certain recommendations from the estimates report are implemented. Recommendation 53 was about the budgetary performance of Calvary. It is a recommendation that each member of the committee agreed to and it is basically about getting clarity on the performance of both the Canberra and Calvary hospitals. A number of statements have been made about whether Calvary underperforms. The budget papers were somewhat unclear about this because there were a number of indicators which showed that Calvary outperformed TCH in some areas.

Referring to the estimates discussion, there was a wide-ranging discussion about this, and I do understand, obviously, as was explained by department officials, that TCH is the major regional tertiary service in the region and obviously, then, it does have somewhat of a different performance to Calvary. But it is just about having clarity about this, so that we understand the processes there.

Recommendation 54 asks the minister to explain where funding for the purchase would come from. Is it unencumbered cash? Is it allocations for health growth funds?

Will it need an appropriation? I think they are all reasonable questions to be asking. This is again about having clarity. If the transfer occurs at a particular stage, where would we expect this significant level of funding to come from? It is a significant level of funding and we need clarity around that.

Recommendation 55 asks the minister to inform MLAs about the purchase details once the purchase is close to finalisation. It also asks the minister to explain what the government's plans are if the sale does not go ahead. We know the government wants to purchase Calvary so that it has security over infrastructure that it has invested in. So the question is: what investments is it prepared to make if the purchase does not go ahead? Again, that is just about having clarity about the future provision of health services in the ACT, and again I think it is a fairly reasonable recommendation to be addressed.

The other key substantive issue that the community have raised is the fact that taxpayers' money must be used to purchase a facility that the government gave to Calvary some 20 to 30 years ago. But this is something that occurred many years ago and so we need to be pragmatic and deal with the circumstances that are before us. For that reason, I have moved the amendment to Mr Hanson's motion.

MR HANSON (Molonglo) (11.07): My concern with Ms Bresnan's amendment is that it does not actually hold the government to account as I believe that they should be; that it does not provide for a business case explanation in detail, of which I think the community deserves to understand the full implications in both physical terms and also in the provision of health care, and which I think the people of Canberra should be provided with before we in this Assembly should be in a position to make a decision. It also does not ask for any alternative positions.

As the minister has alluded, this sale may not go through. It may go through. If we have a clearer understanding of what alternative positions are being considered, that would provide the community with a far more comprehensive ability to understand the issue. At the moment, we have basically a position of the government holding a gun to the heads of the opposition and of the community, saying: "This is what we are doing. There are no better plans. There is nothing else we can do. We have got to do it. This is a once-in-a-lifetime—rush, rush, rush and hurry it through." Without an understanding of what the alternatives are if the sale does not go through, I do not think the community are in a position where they can support this.

Also what is missing from Ms Bresnan's amendment I believe is a comprehensive process of consultation. It should be reasonably expected that for such a significant purchase, which involves both Calvary and Clare Holland House, for such a major impact on our budget, and because of, I guess, the emotional attachment that a lot of people have to Calvary, they should be consulted and informed properly about all the ramifications of this decision, so that, if it is the right thing to do—and we are open to that view—we make sure that the community get behind this decision and are fully supportive of it and that it does not create any sense of fear or disturbance amongst people in the community that use both of those facilities, many of whom are the most vulnerable people in our community,

I am also concerned that this should be subject to scrutiny in the Assembly and be referred back to this place for a comprehensive review. If necessary, the Assembly could at that juncture put that forward to a committee, either a select committee or a standing committee, to review it in more detail, in a scrutiny of bills type affair.

So I do have some concerns with Ms Bresnan's amendment at this stage. I am not sure that it achieves everything we want. I will continue to consider that and I will have a chat to Ms Bresnan. What the opposition and the Greens both want is the right result for the people of Canberra.

Ms Gallagher: What—and the government doesn't want that, Jeremy?

MR HANSON: No; I agree that you do as well. That is what we all want. But what we need to do is make sure that we are assured that this is the right decision before we move forward. We have got to make sure that the process that is being followed here reassures the community of that. I could reflect back to some of the words that were used by Mr Stanhope, when he was in opposition, about making sure that governments are open and accountable, making sure that broad consultation on major decisions is taken with the community, making sure that there are no backroom deals—something we want to make sure there is no sense of in the decision-making process.

So at this stage I am probably of the view that we could get rid of the first paragraph in my motion talking about the concern that we have with the Stanhope-Gallagher government. But, in terms of the action that we are calling on the government to do, I am a little concerned that Ms Bresnan's amendment does not fully hold the government to account and does not provide for the sort of consultation we need with the community, so we will have some discussions around that.

MR SMYTH (Brindabella) (11.11): We have to ask the question: why is it that we are debating this in the Assembly today? And why is it that we know about it at all? We know about it because the *Canberra Times* reported it, because people with concerns gave information to the *Canberra Times.* And I am concerned that the process so far does not give me, and probably does not give anybody in the ACT, any confidence that the government actually has a process.

It is very instructive when you read the last sentence of an article published last week in the *Canberra Times* titled, "ACT Government weeks away from purchase of Calvary Hospital", by Mr Victor Volante. The last line is: "The transaction is unlikely to require Legislative Assembly approval." I wonder: did Mr Volante make that up, which I doubt, or was he told, or was it intimated to him, that of course it does not have to go back to the Assembly? Last week at a Property Council lunch the minister—and she changed her story yesterday—was saying that she did not believe she had to do an approp bill. Now she has got advice that she has to have an approp bill. This is the problem: this deal has been conducted in total secrecy.

No-one on this side of the house has asked the government to put on the table its bargaining chips. We have never asked for that. What we have sought on behalf—

Ms Gallagher: So a business case would not do that?

MR SMYTH: A business plan would not do that. We are not asking you to tell us what money you are offering or what deal you are cutting, because apparently that detail does not exist—it just does not exist—because the minister cannot provide it. I asked the minister a question on this in the estimates process and I got the answer yesterday. Again, after the committee had reported, the flimsy detail starts to emerge. The questioning in estimates went something like this:

> **MR SMYTH**: So is there a document that supports the view that the one governance model is the better model?

There was a discussion, for members who do not recall it, about evidence to support a proposed governance model of Calvary and the benefits that would flow to the people and to the system because of this. So I asked that question. The reply:

> **Ms Gallagher**: A document specifically?
>
> **MR SMYTH**: Yes. Is there evidence to support that claim? Is there something you or the department could table for the committee that says, "This is the work we've done and this supports the claim"?
>
> **Ms Gallagher**: I would have to go back and have a look. There has been so much work done on the government's model at Calvary, and I am very happy to look at what we can provide to the committee, for sure.

Well, the answer came yesterday—and remember that "there has been so much work done" on the governance model at Calvary. There has been so much work done that we have to go back to 2002 to find any. And, yes, here is the answer—

Ms Gallagher: No, that's not true.

MR SMYTH: Well, that is what you said—

Ms Gallagher: Read the bottom line, Brendan.

MR SMYTH: You said:

> The answer to the member's question is as follows:

Ms Gallagher: Read the bottom line.

MR SMYTH: It continues:

> The Reid Report, which was a review of the organisational arrangements of the Government health services, was received in May 2002.

The government, for the government's own documents, has to go back to 2002. The minister says, "Go to the last line." Yes, I note the last line:

> Other material is being considered in the context of the current negotiations with Little Company of Mary and therefore is commercial-in-confidence.

We can go to everything this government has said about commercial-in-confidence. I go back to the code of good government:

> We will open debate with the community, rather than contain it to members of the Assembly.
>
> Openness is one of our core values …
>
> We will not compromise our integrity. We will lead when necessary and not trade off our position in secret deals.

The government's core value document, a code of good government, goes on to say:

> Under Labor, the ACT Government and its agencies will restrict the use of commercial confidentiality to the narrowest possible application. Labor accepts that there are exceptional occasions when some commercial arrangements between Government and private sector must remain confidential …

but the stress is on "exceptional occasions"—

> Labor won't hide behind a cloak of confidentiality.

Then it goes on to say, about some of the things that occurred in the Carnell-Humphries years, that it:

> … revealed an appalling lack of documentation of decisions and approvals …
>
> It is essential that there is a paper-trail where the expenditure of public money is involved.

Ms Gallagher: Yes, and you will find that—

MR SMYTH: But what the minister is saying is, "We don't have any of that and we are not going to show you."

Ms Gallagher: No. That is not what I'm saying.

MR SMYTH: It says:

> Honesty is central to the values held by ACT Labor.

Well, there is not much honesty here—

Ms Gallagher: Read the last line again, Mr Smyth.

MR SMYTH: I will read the last line again.

Ms Gallagher: Again, it's that simple concept. Try and get it.

MR SMYTH: We go through from 2002, and there is nothing from 2002, despite there being so much work done on the governance model. The governance model is a model; surely that is available to the members of this place. Surely the governance model does not contain your negotiation strategy with a third party? If there has been so much work done, one would assume that that work was done before—when did you first mention this?—August 2008, between May 2002 and let us call it July 2008. But none—

Ms Gallagher: There has been.

MR SMYTH: Well, where is it? Why isn't it detailed here?

Ms Gallagher: It is.

MR SMYTH: It is not detailed here.

Ms Gallagher: Read the last line.

MR SMYTH: We always go to the last line:

> Other material is being considered in the context …

So there is the contradiction: the government has been planning this since 2002 and all of that work is now commercial-in-confidence.

Ms Gallagher: No—wrong!

MR SMYTH: The minister says I am wrong.

Ms Gallagher: You are—again.

MR SMYTH: Well, if it is not, then table it. And the reason you will not table it is that it does not exist. And the reason that it does not exist is that you have not done the work. Otherwise—

Ms Gallagher: Wrong! I can't wait. This is just going to be too good when it all gets tabled.

MR SMYTH: Oh! It is going to be too good when it all comes out. There you go: "when it all comes out", which I think means "after the deal". It is quite clear from the article last week and the minister's attitude that this was never going to come to the Assembly. But, under pressure, she has checked and what she has now found, and what she should have known, is that section 6 of the FMA reads:

> No payment of public moneys must be made otherwise than in accordance with an appropriation.

We do not have an appropriation for this because it was not included—

Ms Gallagher: Yet.

MR SMYTH: Well, there was never going to be one. If there is an appropriation, why isn't it in this year's budget?

Ms Gallagher: Because the deal hasn't been made.

MR SMYTH: Oh, because the deal has not been made. That is not what was being said last week. Last week it was, "The transaction is unlikely to require legislative approval." Now she has gone and found that she actually does have to do it. There have certainly been no funds appropriated to the department of health to fund the purchase of Calvary hospital.

Ms Gallagher: That's right.

MR SMYTH: So what other articles are there? What other options are there? Option section 9A:

> An appropriation for a capital injection may be stated to be made for, or partly for, the net cost of purchasing or developing of assets.

The provision of funds that can be used for capital work is authorised by paragraph 1(b) of section 8 of the FMA. I am not legally trained, although I do have some experience in preparing and using legislation. But, in my opinion, the key word in this is "may". The use of "may" appears to provide some flexibility for the government, and it may have been this section that the minister was going to use. But the problem is that we have no idea of what is happening here. There is no case and there is no justification for what is going on. When the minister is asked what the benefits are, she cannot quantify them. When the minister is asked what savings there are, she cannot quantify them. When the minister is asked what is the value for money, the minister cannot quantify it.

Instead, we have got a conversation that apparently just floated up in a meeting last August about an ideological position. Let us face it: this is about an ideological position from the minister: "We would like to own Calvary." Minister Corbell tried it two years before that and was soundly rebuffed by the community.

The only reason—the only reason—that we are having this discussion today is that the article appeared in the *Canberra Times*. This notion that "we will update you at the appropriate time" I suspect was going to be after they had cut the deal and there was no room for the Assembly to do anything because it would have subjected the government to countercharges from the Little Company of Mary. "We will talk to you when we have cut the deal." That is what the minister is saying. There has been no discussion about the principle of this. There is no evidence to support it.

The good governance model that she refers to goes back to 2002 and it is interesting because the good governance model suggested things that the government could do to actually make the governance work better, and some of that included legislation—yes,

indeed. I quote the minister, relating to specific examples of changes that were not made in respect of recommendation 4 of the Reid report:

> This Recommendation included proposals for legislative change to achieve the following arrangements that related to Calvary Public Hospital:

It lists four things that could be done. The paragraph goes on to say:

> These legislative changes were not made, and ACT Health is not able to exercise these powers as envisaged in the Reid Report.

We have just finished four years of majority Stanhope government. If the one governance model as desired was what the government wanted to achieve, the government had four years to move those legislative changes.

Ms Gallagher: We should have just bulldozed it through, should we?

MR SMYTH: You say there were things that could have been done—"but we didn't do it". That leads us back to today: why are we here? We are here simply because the *Canberra Times* outed the minister in her secret negotiations. *(Time expired.)*

MS GALLAGHER (Molonglo—Treasurer, Minister for Health, Minister for Community Services and Minister for Women) (11.22): Just for the record, this discussion that we have been having with Little Company of Mary is not ideological. It never has been and I reject those allegations completely.

I have to say that I think the services provided by Little Company of Mary have been first rate. I think they have had a long and proud history in providing health care services to the people of the ACT. I do not like those allegations being made that this is me pursuing an ideological agenda. It never has been and I have always enjoyed a very happy and close working relationship with the Little Company of Mary since I became Minister for Health.

This is about securing an asset for the people of the ACT. Little Company of Mary has a lease to operate a public hospital on that site until 2070. We are not in a position to wait until 2070 to make the level of investment that the ACT community needs and there is an opportunity here where Little Company of Mary, who hold all of the bargaining chips in this discussion because they alone can determine whether or not they are prepared to engage with us or not, have been on this occasion prepared to engage with us in a discussion around potential change in ownership arrangements at the Calvary Public Hospital site.

I think that is an opportunity for discussion that any government would have been negligent to let go without responding to it. All we have done at this point in time is proceed with those discussions. There has been no agreement reached, there have been no deals signed, there have been no documents signed that predetermine this sale and assume the fact that it will go ahead. We are not at that point yet.

In relation to Mr Smyth's claims that we only know about it because of the *Canberra Times* article, I can certainly say, and I have said this in my initial speech, that my

agreement had been sought to keep these negotiations confidential until Little Company of Mary and the Catholic Church itself had had long enough time to consider some of the issues that were presented to them. It was solely at their request that this negotiation process remained confidential. How long it was going to remain confidential I cannot speculate on now because the matter became public prior to Little Company of Mary certainly indicating to me that they were happy for that matter to become public.

Let us be honest here: they have had some very difficult discussions within their own organisation about whether or not this is the right thing to do. That has gone from the head of the church here, through the archbishop, all the way down to individual parishes. It has involved a lot of soul searching for the Little Company of Mary, the sisters at Calvary who I have had a number of discussions with about this.

It has not been easy for that organisation even to discuss or contemplate this change in ownership, but I acknowledge the fact that they have been able to do so in a mature way and not necessarily with the agreement of everybody involved with the Catholic Church or with the Little Company of Mary as an organisation. However, they have been prepared to have that discussion and the tone of that has always been about whether or not this is the right thing for the people of Canberra. That has been the motivation that Little Company of Mary, as an organisation, have been moved by and it is the motivation that I, as the Minister for Health, have been moved by. Let us not lose that in this nasty attack by the opposition, which is trying to create some conspiracy theory. This matter should be rightly discussed by the Assembly; it will be discussed by the Assembly.

We as the government are happy to support Ms Bresnan's amendment. I think it does address a number of Mr Hanson's concerns anyway. If it is not covered specifically in the amendment, it is covered in the recommendations of the estimates report. In terms of paragraph 2(a), I can give that commitment now. In fact, I have given it a number of times. The minimum current levels of service at Calvary will continue. This is about investing additional resources at Calvary. We would be crazy to invest additional resources and then wind back services. This has not been motivated by any clinical decisions about service levels at Calvary.

The north side requires a hospital with significantly enhanced facilities and that has been another underlying motivation of our discussions: (1) what is in the best long-term interests of this community and (2) how do we invest to protect the budget and protect taxpayers' dollars in the north-side hospital?

We are happy to conduct a survey of health consumers who use Calvary hospital. We regularly survey patients and I am happy to broaden that out. I will discuss with members how that should occur. Reference is also made to implementing recommendations 53 to 55 of the report of the Select Committee on Estimates. In relation to recommendation 53, I believe that I have answered that through a question on notice but I will check.

In relation to recommendation 54, which again I answered yesterday, we would be looking to appropriate the money. The question would be at what point in time. It was

not included in this year's Appropriation Bill because there was no agreement reached around whether or not this was actually going to go ahead. If there is an appropriation, it is a capital appropriation. It would come through our unencumbered cash. It would not affect the budget bottom line. It would be a transaction of cash going out the door and an asset coming back onto our balance sheet.

In relation to recommendation 55, of course plans would be developed if the sale did not proceed. First, the status quo would continue in the short term. In the longer term if the sale does not proceed there will be a genuine issue around how we provide hospital services to the people on the north side. Say there was an alternative government, be it this government or a Green government. I cannot even bear to think about a Liberal government. I just pretend that that would never happen and that the people are too smart for that. But say there was an alternative government not of a Labor Party colour. It would not be able to invest $200 million off its bottom line in a grant to a third party and sustain a budget. You just simply could not do it and that is the reality.

If this sale does not go ahead, additional plans will need to be resolved and they would have to cover things such as another hospital on the north side, which would be crazy and we do not want to do that at all, or looking again at opportunities that exist within that site, if there are any. We have not got to that point in time. So I am very happy to do that.

In relation to Mr Hanson's concerns around a business case and Mr Smyth's view and twisting of the truth that occurred this morning around my answer to his question on notice, there have been a number of reviews into the government's arrangements at Calvary, including the latest one that I would be aware of that has been published. I refer to the Auditor-General's report that was published in July last year. There have been other reviews that have been done, whether they have been through the government or through a joint process with Calvary. All of those are feeding into the discussions and the negotiations that we are having at the moment, and it is quite right that they do.

Mr Smyth, I think, went to the point that his government had been criticised for not having a paper trail or relevant documents. There is an extensive paper trail on this but, yes, that paper is currently being considered by the government and by Little Company of Mary throughout this negotiation process. It is only right that that material be protected to a point where it can be made available to members.

I have always taken the view that we should make as much information available as possible, but I have taken advice on this. I have sought opinions about what we can release and what we cannot. At this point in time, when we are in quite detailed negotiations around an appropriate price for the facility, that information should remain commercial-in-confidence. But I can assure you that an appropriation will come, debate will be had, an estimates committee would be convened, I imagine, and we would be very able to sit there and answer in very close detail any questions that other members of the Assembly may have about this. This debate is a good thing for the people of the ACT to have and I am very proud that the government has been leading those discussions.

MRS DUNNE (Ginninderra) (11.32): I shall be moving an amendment to Ms Bresnan's amendment, which I am just asking the Clerk to circulate. For the convenience of the house, I will speak to Ms Bresnan's amendment and, when the amendment is circulated, I will formally move it.

As a member for Ginninderra, the future of Calvary hospital, which is the pre-eminent health facility in my electorate, is an issue of vital importance to me, and I think it is to most of the members of my electorate that I speak to. The reason the Canberra Liberals have brought this issue before the Assembly today is to ensure that if we do make a decision one way or the other, it is the best decision for the health care of the people of the ACT, and particularly for people in my electorate, which Calvary hospital serves. That is the prime, sole and only motivation of the Canberra Liberals.

We want the best health outcome for the people of the ACT. It may not suit the minister's conversation that she is having with herself about how she likes to demonise the opposition. It may be inconvenient for her, but that is the motivation of the people on this side of the Assembly. We seek to serve the people who elected us. I seek to serve the people of Ginninderra, for whom Calvary is a vital cog in their social structure.

Just for the information of the house, because it has not been read out here today—and clearly the minister has not read this—what the substantive part of this motion, paragraph 2, does is to call on the government to do particular things. It calls on it to develop a comprehensive business case. It does not say, "Table it today." There is no time line in here that says, "By such and such a time, this must be tabled." At an appropriate time that business case should be provided. But the government must develop a business case outlining the long-term costs and benefits of such a transaction.

Ms Gallagher: What, you don't think that work is being done, Mrs Dunne?

MRS DUNNE: It may have been done; it may be being done. But it is not here and it has not been committed. There has been no commitment to provide that information to the people of the ACT for the benefit of their understanding of this procedure. It boils down to this: the minister has said that the business case so far, her dumbed-down version—it is a pretty dumb version—is that "I think it is a good idea that we should change the ownership." At the same time, both here and in question time yesterday, the minister said there will be no difference. The people of the ACT will not see a difference at Calvary hospital as a result of this transaction.

I ask myself and my constituents ask me: if the government is planning to spend $90 million or $100 million of their money—that seems to be the ballpark figure—we need to know what we are going to get which is substantially better. What is going to be the benefit for the ACT community? It seems to me that the only benefit for the ACT community is a financial transactional difference.

That may be a potent argument but I do not think that the people of the ACT care very much about the ownership. They care about the quality of the service and the ethos

that comes with the hospital being run by the Little Company of Mary. They say to me that Calvary Hospital provides a service that they appreciate and that seems to them to be substantially better than the service that they get from the Canberra Hospital. I do not know what the vital X factor is, but the people of the ACT appreciate what happens at Calvary hospital and they appreciate that the service they get from Calvary hospital is a great service. They do not want to see it go backwards.

There are no guarantees here. The minister says that nothing will change. But if nothing will change, why are we proposing to spend a large amount of taxpayers' money on this process? The government has a responsibility to the people of the ACT and, through this Assembly to the ACT, to account for the reasons why they should do this and put forward the case. That is why I propose to move an amendment to Ms Bresnan's amendment.

I take Ms Bresnan's point that perhaps subparagraph (a) could be seen as somewhat confrontationist. I know that the Greens have a different approach to debate and discussion in this place. They think, for better or worse, that sometimes the robust nature of the debate is unedifying, and sometimes it is. Yesterday was pretty unedifying; that is true.

I can see that there may be matters of concern about some of the language in paragraph 1. But the real crux of this lies in paragraph 2. That paragraph calls on the government at an appropriate time—not today; at an appropriate time—not only to develop the business case, but to provide any alternative action. As the minister said, this sale may not go through. If the sale does not go through, there needs to be a plan B. Paragraph 2 calls on the government to conduct extensive consultation. I do not see that in the words that come from Ms Bresnan. Ms Bresnan's words are somewhat weak on that. It also calls on the government to provide the business case, the alternative course of action and the results of the community consultation to the Assembly at an appropriate time and also to present an appropriation bill. This was done because when this motion was being drafted and being discussed, it was unclear what the minister was going to do to expedite the sale, if the sale goes ahead.

This motion brought today is a motion that requires that there be full disclosure to the ACT community about the process. The minister is saying, "We had confidential negotiations because Calvary asked for it." Yes, I appreciate that, but for some little time, nearly two years before this became an issue, the minister had been talking about her $1 billion infrastructure plan for the development of the health system in the ACT. At no stage was there even a hint that an integral part of that development would have to be a look at the ownership of Calvary hospital.

At no time did this minister or the Chief Minister ever address the issue of ownership. When they said at election time that all their plans were on the table, they lied to the community, because one of their plans was not on the table. Whatever the reasons are that they want to own Calvary hospital, and they may be good reasons, they need to take the community with them. When they said that all their plans were on the table, at no stage did they intimate that part of their plans included the change of ownership of Calvary hospital.

As I have said before, there may be good reasons and the Labor Party may be able to convince the Liberal opposition—the Greens seem already to be convinced—and the community that this is the right way to go. But without the information that this amendment calls for the people of the ACT will be left in the dark. Representing my electorate where Calvary hospital is situated—I have a very close relationship with Calvary hospital and have over a very large number of years—I want to see full disclosure and complete openness so that the people of the ACT know that they are getting a good health system and they are getting value for money. I seek leave to move an amendment to Ms Bresnan's amendment.

MADAM DEPUTY SPEAKER: You do not need leave, Mrs Dunne.

MRS DUNNE: I move the following amendment to Ms Bresnan's proposed amendment:

> Omit paragraph (2), substitute:
>
> "(2) calls on the Government to:
>
> (a) develop a comprehensive business case outlining the long term costs and benefits of such a transaction;
>
> (b) provide an alternative course of action should the purchase-sale not proceed;
>
> (c) conduct extensive consultation with the Canberra community of the purchase-sale;
>
> (d) provide the business case, alternate course of action and results of community consultation to the Assembly; and
>
> (e) present an appropriation bill to the Assembly concerning the decision to purchase-sell Calvary and CHH.".

MR SESELJA (Molonglo—Leader of the Opposition) (11.42): Firstly, I think that this motion as originally presented by Mr Hanson is an excellent one and I am not quite sure what the crossbench problem is on this. I do not think there is anything that is not a statement of fact in the preamble. And what it calls for is full disclosure. That is what we are calling on here from the government—full disclosure before they go ahead and make this decision. We did not get it before the election. In fact, we were misled again by this minister when she claimed that all of the plans for health were on the table when she was, indeed, conducting secret negotiations and already had a plan to go ahead and purchase Calvary hospital.

That is not open and honest, and it is reasonable that we, as an Assembly, given that record, look very sceptically at this process going forward. We should look very sceptically at this minister's performance and make sure that she is forced to be open and accountable on this process. She chose not to share this information with the community prior to the election. She chose deliberately to withhold it and, indeed, then misled the community by claiming that in fact she put all her plans on the table, which clearly was not the case.

I note also that the minister refused to repeat that statement in the Assembly. And we can only assume that she refused to repeat it in the Assembly because misleading the community is one thing but misleading the Assembly is another. But we believe misleading the community is a very serious thing, nonetheless. Perhaps the minister, if she is confident that that statement was true, can repeat in the chamber for us that she had all her plans for health on the table prior to the election. But of course she cannot, because the facts speak for themselves on this. She had a plan to purchase Calvary hospital and she did not want to be open about it.

We heard a bit of the Greens' position, which I think is a very concerning precedent, on this. They seem to be giving the minister an extraordinary amount of latitude. And if we look at the Greens' position on this, they essentially are saying that, because the organisation asked for it, that is why she did not have to be open with the community prior to the election. That is essentially what we have heard, that the Little Company of Mary, whom I have a great deal of respect for, a private organisation, asked the government to keep it secret.

Let us change that for a second; let us pretend it is a developer and it is a land deal and they are asking for that consideration prior to an election. What other deals with private organisations can be kept secret and can excuse a minister for misleading the community prior to an election? This is a very dangerous precedent that the Greens appear to be signing up to. I would put on the record my concerns and the concerns of the opposition over this apparent precedent. How far will they extend this principle? Essentially they are saying that, if a private organisation asks the government to keep something quiet, then it is okay to not just keep it quiet but to deny its existence and to claim something that is not true as a result. That is what the Greens have accepted.

We have a real concern. I think that is why there is a real difference of approach here. I think Ms Bresnan's amendment to Mr Hanson's motion is not really seeking the full information. And that is the problem with it and that is why we cannot support it.

Mrs Dunne is seeking a compromise because the Greens have expressed concern particularly about the first part. Here is the compromise. But what the amended motion, with Mrs Dunne's amendment, would do is actually still provide for full disclosure. And that is what we are asking for here. That is the key.

It seems that the Greens have lowered the standard here on full disclosure. They have said you do not have to be honest before the election if you are asked to keep things quiet by a private organisation. That is the new standard that is being set, and we have real concerns about that.

We believe there should be full disclosure on this. We believe that it is a very important decision. We believe that the minister should have been open about it before the election. And in fact it is only because it was out in the *Canberra Times* that we are even talking about it now.

No doubt the minister's preference would have been to stitch up the deal before there was any scrutiny, before there was any accountability. In fact, based on what she told

the Property Council and, it would appear, the *Canberra Times*, she did not even want to bring it back to the Assembly. It appears now that she is backtracking from that position and will be forced to bring it back to the Assembly. But we want the information. And it is reasonable that we ask for it. And that is what Mr Hanson's motion does.

The Greens' amendment and their comments are concerning to us, and we do not believe they are pursuing this issue as they should and pursuing the accountability and the full disclosure that is necessary here. Mrs Dunne's amendment is a worthy compromise. I would be concerned and we would certainly be concerned that, if, with that compromise, the Greens do not want this information to be presented, they are happy for these deals to be conducted in secret, that they are happy for this information to be withheld. We have not seen any record of openness from this government or this minister, and we heard the attitude in estimates that, if we do not extract the information from her, she is certainly not going to offer it up.

Ms Gallagher: You have not got over that, have you?

MR SESELJA: We are taking—

Ms Gallagher: You just have not got over the fact you were asleep in estimates and you did not ask the question.

MR SESELJA: It was always something we knew with the minister but I think it is perhaps an eye-opener for the Greens as well. You are not going to get information from this minister unless you force it out of her. I think we all know that. And now, as an Assembly, we need to back that up. We need to not simply accept that ministers are going to give us information because they are being magnanimous. They will only give us information if we force them to. The Calvary issue is a clear example of that. She hid it before the election. She would have hidden it in an ongoing manner until it was out in the *Canberra Times.*

What this amendment is doing is correcting that, saying no, we do not expect that this minister certainly will offer up any information; we will seek to enforce it; we will seek, as an Assembly, to express our very strong view that it should be provided; and we seek all members of the Assembly's support for what is essentially a motion about full disclosure. This is about full disclosure before the fact. We have not got it to date. We expect that we will get it now, and I call on all members to support Mr Hanson's motion in its original form. But if the Greens feel the need to amend it then I would put to them that Mrs Dunne's amendment is a worthy compromise which still ensures that we get the full disclosure that we need and that we can be absolutely assured we will not get unless we push for it.

If we are just going to sit back and wait for this minister to give us the information, it will not happen. We need to get it and we need to force it out of this government. And these are the accountability processes we need to put in place. This is the role that the Assembly needs to play, and I would urge all members very strongly to support Mr Hanson's motion or, at the very least, to support the compromise offered by Mrs Dunne to Ms Bresnan's amendment.

MS BRESNAN (Brindabella) (11.50): First off, I will address the claims by the opposition leader. Is he saying that we should have gone against the wishes of the Little Company of Mary? When they said, "We don't want you to make this public," should we have gone, "Sorry, we're going to go out and tell everybody about that"? I am not quite sure what they are saying about that one.

Mr Seselja: You do not mislead and you do not—

MS BRESNAN: What are you saying then?

Mr Seselja: How far are you extending the process?

MADAM DEPUTY SPEAKER: Mr Seselja, this is not a conversation between you and Ms Bresnan.

Mr Seselja: She is addressing it.

MADAM DEPUTY SPEAKER: Be quiet.

MS BRESNAN: Thank you, Madam Deputy Speaker. I am not quite sure what he is saying anyway. We have heard the reasons why it was not made public. It was not about misleading the public; it was actually about respecting the wishes of a very well-respected organisation. It is completely different from anything which involved delaying sales, a completely different situation.

I think the opposition do not actually understand the context of the situation. It is a hospital and it is a religious organisation that we are talking about here. We are not talking about anyone else, land sales or anything like that; we are talking about a very well-respected and highly respected organisation. So I am not quite sure what the opposition are saying there.

Members interjecting—

MS BRESNAN: Madam Deputy Speaker, can I please—

MADAM DEPUTY SPEAKER: Excuse me. Could you stop the clock for a moment, Clerk. Order, members! I cannot hear Ms Bresnan. She has the floor at the moment. Could you be quiet so that she can continue.

MS BRESNAN: Thank you, Madam Deputy Speaker. Again I am not quite sure what they are saying there. Again I will go to the issue that we still have not heard from the opposition whether or not they support the sale. Do they support it or do they not support it? Be clear about what your position is and stop the waffling about particular issues.

Mr Hanson: What is your position then, Amanda?

MS BRESNAN: I would actually say that the reason we do not support the first bit of the motion is that it is a whole lot of politicking, with no substance. That is why we do

not support it. I think it is pretty obvious what is going on with the first part of the motion.

In terms of the amendment which Mrs Dunne has moved, I do not know whether the opposition have read the recommendations in the appropriation report. We have members who actually agreed to these recommendations. We agreed to this as a committee. So I am not quite sure what they are talking about here. Basically an alternative course of action is what the recommendations actually state. The recommendations state that, if the sale is to proceed, we have plans about that; if it does not go ahead then the government must provide detailed plans about what their plans for the health service are. That is what it says. So I am not quite sure why you have got that in there.

In regard to the business case, I do not think the opposition have actually explained what they want with that. They have not actually put forward any course of action or anything we should be doing.

With regard to consultation, the reason we have referred to the users of Calvary hospital is that they are the people we should be talking to. They are the people on the north side of Canberra who are using Calvary. They are the people who are going to be affected; so they are the people we should be talking to. And that is what that says. It is something which does already occur to some as part of the—

Ms Le Couteur: Madam Deputy Speaker—

MADAM DEPUTY SPEAKER: Stop the clock.

Ms Le Couteur: I was going to raise a point of order that the member should not be interrupted. However, I note that, in that time, the opposition has stopped interrupting; so thank you, Madam Deputy Speaker.

MADAM DEPUTY SPEAKER: Thank you, Ms Le Couteur.

MS BRESNAN: Thank you, Madam Deputy Speaker. As I said, the people we should be consulting with here are the users of Calvary itself. That is why we have that added in the amendment to the motion. They are the people on the north side of Canberra who are going to be affected. They are the people who should be consulted, and they are the ones we should be talking to about the quality of service that is delivered there and what they would like to see for the future.

I am, I guess, a bit confused about what the opposition are trying to achieve. We have got the recommendations here and we have referred to them. We have got something about talking to the users of Calvary. They are the people we should be talking to. The opposition actually have not said how they will conduct the community consultation—and it is a wide-ranging consultation apparently—whom they are going to consult with, how they are going to do it. Again, there is a lack of detail, politicking, and we will not be supporting the amendment.

MR HANSON (Molonglo) (11.54): I speak specifically to Mrs Dunne's amendment.

MADAM DEPUTY SPEAKER: So you are not closing the debate at this stage?

MR HANSON: No, I am not closing the debate. I am speaking to Mrs Dunne's amendment to Ms Bresnan's amendment. I do support Mrs Dunne's amendment, for the reasons that she has outlined. We want it to be as easy as possible for this motion to be accepted by the crossbench. She has removed some of the preamble.

But I will make a point that the preamble is correct. There is nothing in there that is not correct. The government has conducted secretive negotiations surrounding the potential purchase of Calvary hospital and Clare Holland House. And I think that that is indisputable. It has failed to consult the community on the potential purchase/sale of Calvary and Clare Holland House, and that is true. It has not adequately demonstrated the costs and benefits to the public health system of the purchase and sale of Calvary and Clare Holland House. That, again, is true. And it has not provided the details for the potential appropriation, either in this year's budget or in the next financial year's budget.

Although I am quite happy for those to be removed—and I understand why Mrs Dunne has done so, and I support her doing so—I think it is appropriate that I add the point that there is nothing in that preamble that in itself is necessarily that emotive or could be considered untrue.

MR COE (Ginninderra) (11.56): I rise to support Mr Hanson's motion on the future of Calvary Public Hospital and Clare Holland House. It is about transparency; it is about disclosure; it is about full disclosure; it is about consultation; it is about prudence; and it is about the taxpayers.

The debate about Calvary is a debate about how this government does business. The Calvary hospital is about to become another one of this government's failed projects. Because it is not telling us the information, how can we possibly vote, how can we possibly give a view on something when you are not going to give us information? What we want is for the government to give us all the information so that we can have an accurate view.

What has happened so far? We have had secretive negotiations; we have had no community consultations; we have not seen any cost-benefit analysis and no proof that it would be a good deal for the people of the ACT. We cannot make a call one way or another without seeing the evidence. There are no financial details in the budget papers. All this adds up to a situation which is pretty unfortunate. We are in a dangerous place, because the government to date refuses to provide a business plan, refuses to consider alternative courses of action and refuses to engage the Assembly on the issue.

Everybody has questions about this issue and so few people seem to be able to get answers. The archbishop has a lot of questions. The AMA have grave concerns, according to the estimates process. They have also questioned whether a government-run hospital would provide services that are any better than they are now. Again, we cannot make a call on this, because the government is not providing information.

But if you treat this whole situation like a company, if you treat the people of Canberra as taxpayers, as actual customers, as shareholders, as taxpayers and if you treat cabinet like a board of directors and then you have got advisers and then you have all the other facets of a decision-making process, do you think a big company that has revenue of around $3½ billion, like the ACT government does, would make a decision in the way this government is? Do you think a company like that would act as unprofessionally as this government is? Do you think a company like that, with revenue of around $3½ billion—and we have got some pretty big companies that have revenue of $3½ billion—would be treating their shareholders and their stakeholders with such contempt as this government is treating the taxpayers of Canberra and the Assembly, I might add? It seems to me this is all part of a pattern of how this government does business.

On numerous occasions in this place I have raised the issue of how this government have squandered the boom and not prepared for the bust, how some $1.6 billion in revenue that was not budgeted for has been spent, with nothing to show for it. As the revenue has boomed, what have we got to show for it? We have got delayed and abandoned infrastructure projects, closed schools, a health system in crisis, second-rate public services and now a public deficit.

Now that we have run out of the record revenue, has the government changed its tune? Has the government heeded the lessons of the past and current budget management woes? No. It continues now, even in times of deficit, to crash or crash through. It continues to spend money without debate, without consultation, without disclosure, without full disclosure.

This government is afraid of being accountable, because, were their policies in the public eye for all to see and scrutinise, those policies would be quickly discredited and abandoned. What we want is for us to see the information so that we can make an accurate decision.

Let us remember Mr Hanson's quote of Mr Stanhope earlier: "Governments must be scrutinised. They must be accountable. That is a role of oppositions, and it is a role that is particularly necessary as governments become lazy, arrogant, aloof and accident prone." This government has been particularly lazy. Look at the territory budget that takes no difficult decisions when the times demand them and has no sensible economic strategy informing it. Is the government arrogant? I think the contempt it has shown for this place and the community shows that.

What about aloof? Their record of not consulting or listening to the community's view when they do consult is a constant complaint made of this government. And is this government accident prone? This one goes without saying. This government have accident after accident, and that is why we are concerned, when $100 million of taxpayers' money is going to be spent, that it is spent properly. And that is why we want to see the information.

By Mr Stanhope's own logic, we have a government that is particularly necessary to be scrutinised. Especially at a time when taxes, fees, rates, fares, charges and fines are

all going up and the territory is being loaded with a significant debt burden, the ACT public has the right to expect answers on an investment in the order of $100 million. I commend the motion to the house.

MS GALLAGHER (Molonglo—Treasurer, Minister for Health, Minister for Community Services and Minister for Women) (12.01): I was not intending to speak again, but I just have to respond to Mr Coe's contribution to the debate. For one, the figure of $100 million has been put around today, and I am not sure where anyone has got that figure from. I understand there was a figure in their paper, but, just for the record, my understanding is that it is certainly not a figure that the government has confirmed, and negotiations are currently underway around price. I have said that a number of times.

Mr Coe said that cabinet members were like directors and the shareholders were the community and that we needed to act like a company. I support the general theme of that. He used it then to twist it into his own argument, but the way directors make decisions is in the interests of the shareholders' money. Here is the situation: the directors—in this case, the government—a couple of years ago made a decision to invest $9.4 million of shareholders' money in an ICU at Calvary. That money comes through the company, through the shareholders, it is spent, and that money then sits on a third party's balance sheet—that is, it is not improving the assets of the company at all. If you use your argument about shareholders and companies—

Mr Coe: Did you take that policy to the election?

MS GALLAGHER: Right, we are changing it now. His little scenario there just is not working now. We are in a situation where we built a subacute facility there. Again, the shareholders generously provided that money. That money is no longer in the company; that asset is no longer in the company, Mr Coe. I think it is a good analogy, and it actually supports my argument a lot more than it supports yours.

Mr Coe then goes on to say that there is a health system in crisis, and this is what we are getting from the opposition—talking down the public health system. They say it is a health system in crisis. I challenge you, Mr Coe, to indicate where the ACT's public health is in crisis. It is not in crisis. You are a leader, Mr Coe, as much as I struggle to accept that. You are a leader, and if you come in here and say that the public health system in the ACT is in crisis then you need to stand by that. When you talk to your constituents—

Mr Coe: That's what they tell me. That's what they tell me.

MS GALLAGHER: No, no, you have come in here and said, "We have a health system in crisis." Then you go and talk to the doctors and nurses that are currently providing first-rate public health services to this community. That is your point: we have a health system in crisis. Well, you stand by those claims.

We also have Mrs Dunne saying that Calvary provides superior care to the Canberra Hospital. That is what she said in her speech, and I reject that completely. Our public hospitals provide excellent care. It is nothing to do with the governance arrangements;

it is to do with the professional staff who are employed in our health system to provide care to the people of the ACT. I reject the allegations that I know the opposition support that Calvary provides superior care to the Canberra Hospital. They both provide excellent care. They both provide a whole range of different services, and they do it very well. They always act in the interests of the ACT community. This opposition need to understand that, when they come in here and talk down our public health providers, they do so as leaders in this community and that they wear the consequences of running those lines. While you think no-one is listening, people do listen; people listen to their members of the Assembly. Be careful, is what I ask of you. Be careful when you talk down our public health system, because the people that work there do not deserve it. They do not deserve your politics.

Mr Hanson: On a point of order, Madam Assistant Speaker, a personal explanation under standing order 46: what I, Mr Coe and members of the opposition have said are reflections on the status of the management of the health system through this government. At no stage have any of us done anything—

Ms Gallagher: There is no point of order, Madam Assistant Speaker.

MADAM ASSISTANT SPEAKER (Ms Le Couteur): Mr Hanson, I do not think it is a point of order; you would have to make this afterwards. Please, Ms Gallagher, continue.

Ms Gallagher: I have finished, thank you.

Question put:

> That **Mrs Dunne's** amendment to **Ms Bresnan's** proposed amendment be agreed to.

The Assembly voted—

Ayes 6		Noes 9	
Mr Coe	Mr Smyth	Mr Barr	Mr Hargreaves
Mr Doszpot		Ms Bresnan	Ms Le Couteur
Mrs Dunne		Ms Burch	Ms Porter
Mr Hanson		Mr Corbell	Mr Stanhope
Mr Seselja		Ms Gallagher	

Question so resolved in the negative.

Question put:

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

The Assembly voted—

Ayes 9		Noes 6	
Mr Barr	Mr Hargreaves	Mr Coe	Mr Smyth
Ms Bresnan	Ms Le Couteur	Mr Doszpot	
Ms Burch	Ms Porter	Mrs Dunne	
Mr Corbell	Mr Stanhope	Mr Hanson	
Ms Gallagher		Mr Seselja	

Question so resolved in the affirmative.

MADAM ASSISTANT SPEAKER: The question is that Mr Hanson's motion, as amended, be agreed to.

MR HANSON (Molonglo) (12.13): In closing, I thank the members for their contributions today to the debate on my motion. I thank Ms Gallagher for her words. Ms Gallagher and I obviously have a lot of disagreements, but I do believe that, although we have a somewhat different approach to and different views on this matter, she is attempting obviously to look at the longer term interests of Canberra's health system. I do recognise that; I do acknowledge that. We have a difference of opinion regarding the process being undertaken here and the way it is being conducted.

I thank Ms Bresnan for her amendment. I appreciate that she has gone some way with those amendments to try and get out of the government what I was looking for—that is, more openness and accountability. But I do believe that the amendments do not go far enough, and that is why we did not support them.

What is apparent out of this debate is that we are being rushed; we are being rushed to come to a decision, almost forced to come to an opinion and being criticised for not coming to an opinion. On whose time line are we working—the Little Company of Mary's or our own? I have great respect for the Little Company of Mary; they are a wonderful company who have for many years in the ACT delivered superb health care both at Calvary and at Clare Holland House. They have done an absolutely fantastic job, and I am sure all members would join with me in acknowledging that. But I am not sure why we are rushing. I do not think it is from their perspective. But, if it is, then that is not my problem and it should not be our problem. Our responsibility is to the taxpayers and the people in the ACT that use our health care system. I see no need for rush.

The sort of development that Ms Gallagher is talking about requires spending additional money at Calvary, which is a justification for the sale. The purchase is not in phase 1 of the CADP. It is in an outphase, but we have not been told when that investment will be made. So I cannot understand why we are being forced to rush this through, where a decision is being demanded of the opposition to support or not support the proposal, when, in fact, the implications of this sale will not play out for many years, and we still do not know when. It is really not apparent to me at all why we are being rushed to make this decision. It is odd.

What are the other plans? As Mrs Dunne said very well in her speech, the capital asset development plan is a 10-year plan worth a billion dollars. Surely, when they made

the decision to commit a billion dollars to our health system, they had a pretty clear understanding of what they were doing. One would hope that they did not say, "Here's a billion dollars; we'll put it in the health system somewhere." One would anticipate that if they were committing a billion dollars of taxpayers' money they had a pretty comprehensive plan for that. Again, that is not apparent. Either at that stage they understood that this is what they were going to be pursuing or they decided that they were going to commit a billion dollars without the appropriate analysis. Either is somewhat damning in my view.

I will again quote from what the government said in the lead-up to the 2001 election when they were in opposition, because it is worth repeating after the debate we have had today:

> Good government has the courage to allow itself to be closely scrutinised. It conducts its operations in an open, honest and accountable manner, not in secret.
>
> … Labor rejects behind "closed-door" deals and the failure of process—a failure of process that has left a legacy …

And they talk about sinister deals and secret deals. What you are hearing is similar language to what we are putting forward, but what you do not have here is a government who have lived up to the rhetoric that they provided when they were in opposition. Hopefully if we become the government in 2012, we will ensure that we do.

A number of people have given opinions for and against the Calvary sale/purchase, but I will just read a quote that I think is a good one from Andrew Podger, the President of the Institute of Public Administration of Australia and former secretary of the commonwealth health department, in reference to the sale:

> But where is the debate about the most important issue: which arrangement is most likely to deliver high quality and efficient hospital services to patients?

I think that is a fair question to raise, and that is the point that we have been making all day and through the estimates process. It is not whether it is or is not a good idea. It may be a fantastic idea, but until we are given proof then it would be negligent of us to commit to it in the sort of time line that the health minister is demanding of us.

So, what is it that we do want? What we want is a comprehensive business plan with the evidence that provides us and the community with confidence that this is the right decision and that what is being put forward is appropriate. We want to know what the alternatives are, because, at the moment, the suggestion is: "Do this or the whole health system collapses. We can't do anything in the north of Canberra. There won't be enough hospital beds." What are the options? If that is the case then this adds to the weight of logic behind the purchase of Calvary, and surely in the development of a billion dollar plan, they have come up with a series of alternatives and options for the future of the health plan. I find it incomprehensible that they would not.

We are also asking for extensive consultation. I remember at the last election, all of us—the Greens, Liberals and Labor—were all talking about the need for extensive

consultation. Indeed, you could probably go back to almost all of our press releases leading up to there and you would read about it. That is what we are asking for, and I do believe that extensive consultation in this regard is needed for so many reasons that I have outlined. It goes to more than a simple survey. I believe that a survey really does not go to the heart of consultation. Consultation and a survey are not the same thing.

I then ask that the results of the business case, the analysis, the consultation and the presentation of what alternative options are on the table be provided to the Assembly. This is the house of debate in the ACT. This is where we should be provided with that information. If Labor are going to live up to the rhetoric that they put forward when they were in opposition leading into government, that is what they need to do. If they are going to live up to that rhetoric, to their good intent, that is the way that they should approach this issue, so that we can have a full and inclusive debate. If the evidence is there, I am sure the opposition will give this plan its wholehearted support. But at this stage, how can we do that? It would be impossible.

We also ask that an appropriation bill be put forward on this. I want to confirm that that is the case. There has been some speculation that this might be done through other arrangements. Because of the scale of this investment and because of the implications for the long-term investment in that site, I think it would be appropriate for that to be put forward as an appropriation bill so that it can be debated in this place.

In conclusion, it does appear, based on what I have said, that the Liberal Party is the only party now that is living up to the promises that so many make when they put out press releases. We are now the only party that wants consultation on such a substantial issue, and I find that incredible. We are the only party that wants to see and wants the community to see the business case, the facts and the details around this issue. I find that incomprehensible.

I will quote from Jon Stanhope when he was the Leader of the Opposition on the eve of the 2001 election. What he said Labor was going to do was implement "well thought-out programs drawn from policies developed in broad consultation with the community". My view is that by not supporting this motion today the government has abjectly failed in the promises and statements it has made, and it is very difficult for me to draw any other conclusion.

Question put:

> That **Mr Hanson's** motion, as amended, be agreed to.

The Assembly voted—

Ayes 9		Noes 6	
Mr Barr	Mr Hargreaves	Mr Coe	Mr Smyth
Ms Bresnan	Ms Le Couteur	Mr Doszpot	
Ms Burch	Ms Porter	Mrs Dunne	
Mr Corbell	Mr Stanhope	Mr Hanson	
Ms Gallagher		Mr Seselja	

Question so resolved in the affirmative.

Sitting suspended from 12.26 to 2 pm.

Questions without notice

Planning—proposed hospital car park

MR SESELJA: My question is to the Minister for Planning in relation to the call in of the proposed hospital car park. Minister, in a public statement on 29 May, you said:

> … applications must not be held up by politically motivated or frivolous objections, and for this reason I have decided to consider the applications myself.

Minister, it has been revealed that what you claim to be a frivolous and politically motivated objection was in fact a single letter from a resident in Kambah who has said that he had no intention of appealing against an approved DA. How can you possibly justify a $40 million project being called in on the basis of one letter from one resident who has never appealed a single DA in his life?

MR BARR: From the outset I indicated that, following receipt of the request from the Minister for Health to consider the matter of a call in in relation to this project, I would assess it in accordance with the Planning and Development Act, which sets out some very clear criteria under which the Minister for Planning can call in a development application. That piece of legislation is one that was supported unanimously in this place only about 18 months ago, I understand.

As members would be aware, it takes only one individual to lodge an appeal against a decision of the planning authority for there to be then an elongated process to make a final determination. The frivolous and political nature of the objection that was lodged by the individual is frivolous given its content and was political because it was sent to the *Canberra Times* first and then forwarded to the planning authority later.

In my view, I will assess a politically motivated objection to a development application to be one that is forwarded to the media before it is forwarded to the Planning and Land Authority. No other objector felt the need to advise the *Canberra Times* and other media outlets of their objection to the development application.

Mr Speaker, I remind those opposite that the Planning and Development Act has specific criteria in relation to call ins. The criteria in section 159 relate to projects that have substantial public benefit. If those opposite do not believe that this development has substantial public benefit, let them say so.

We know that in their heart of hearts the Liberal Party are opposed to investment in public health. We know they are opposed to investment in public health. But I repeat that, following a request from the Minister for Health to consider a call in under section 159 of the legislation, I called in the material, made my assessment and notified in accordance with the legislation that I would be making the decision on the development application. I have subsequently made that decision.

That is the substance of the matter. Those opposite know that it takes only one person to appeal, to hold up a development. It takes only one person to appeal and hold up a development. The rationale for my call in was the request for me to consider it by the Minister for Health—that is the rationale—in accordance with the legislation because there was a frivolous and politically motivated objection.

That is the decision I have made, the decision I am empowered to make in the Planning and Development Act. If those opposite do not believe that there should be call-in powers, let them again say so and seek to remove them from the legislation.

MR SESELJA: What a ridiculous answer, but I ask a supplementary question. Minister, what is the point of having a consultation process if the entire process can be thrown out on the basis of one letter to the editor?

MR BARR: The premise of the question is wrong. There are strict criteria in relation to the use of call-in powers and there are very strict requirements in the legislation. There are thousands of development applications lodged—

Mr Seselja: That is the new bar—letters to the editor.

MR BARR: The new bar is two qualifications: one, it is a project of such significance as indicated in the legislation. That is the most significant criterion. The second one is that there is not a risk of frivolous and politically motivated objections holding up such a—

Opposition members interjecting—

MR BARR: That is the requirement that I have set for consideration of this matter. The first and most important qualification for a call in is as outlined in the act. But when considering that matter, I have to consider the risk of objections holding up a major piece of infrastructure.

Let us go to the detail of the objection. The objector did not like the architecture of the building. The objector wanted solar panels on the roof competing with the cars. There is no roof on the car park; cars park on the roof of the car park. It is not there for solar panels. It was a frivolous objection. It was politically motivated. This gentleman is a regular objector. We are aware of that and he did send it to the *Canberra Times*. How else would you like me to interpret it? No other objector felt the need to send their objection to the *Canberra Times* prior to sending it to the Planning and Land Authority.

Mr Seselja: But he has never appealed.

MR BARR: Whether or not Mr Kershaw has a history of appealing is irrelevant. I have taken a decisive action to remove the risk. There is now no risk of these developments being held up by frivolous or politically motivated objections.

I can rest assured that in making my observation on 29 May that there would be frivolous and politically motivated objections, I can only rely on the Liberal

opposition. It is interesting to contrast this approach with the fact that this is the first time I have used the call-in powers under the new Planning and Development Act, with an average of five call ins a year under the call-in king, Mr Brendan Smyth.

Mr Seselja: You can't have it both ways. You can't say you are against call ins and then say that.

MR BARR: You have just come out today and suggested I should not call it in, Mr Seselja. You are flip-flopping on the issue. Do you or do you not support the use of call-in powers and do you or do you not support this development at the Canberra Hospital? What I have done is provide certainty. It is a $45 million investment; 80 new construction jobs; a resolution to car parking issues at the Canberra Hospital campus; and it facilitates a significant investment in public health.

That is what gets in the craw of the Liberal Party. In their heart of hearts, they are fundamentally opposed to investment in public health. They stand condemned today for their hypocrisy on this matter, for their outright hypocrisy, their inability to put the public good first and their classic opposition for opposition's sake. It is no better exemplified than by their approach to this issue.

Given their history as the call-in kings of this territory, for them to accuse me in this instance of not taking that responsibility appropriately is an outrageous slur. It is what we have come to expect from a desperate, lazy opposition with no policy substance and nothing useful to add to public debate.

Credit cards

MS HUNTER: My question is to the Attorney-General and it concerns credit card limits in the ACT. Attorney-General, here in the ACT a credit provider must not increase the amount of credit available to a debtor unless requested in writing, and only after the card provider has carried out a satisfactory assessment process. This requirement has been in place for some time and the ACT is seen as a national leader. Has there been an evaluation of the effectiveness of this requirement and has it led to a decline in the ACT of credit card debt?

MR CORBELL: I thank Ms Hunter for the question. No, there has not been a specific evaluation of that matter, but I would draw to the attention of Ms Hunter the fact that the law surrounding credit is being transferred to the commonwealth as a result of COAG agreements, and that includes the provisions currently existing in the ACT statute for the specific provisions in place for credit card providers when it comes to an assessment of someone's ability to meet their obligations if credit is extended. The ACT is ensuring, through our discussions with the commonwealth, that in the transfer of those powers from the territory to the commonwealth those provisions are not lost or watered down, and it is a matter which is subject to ongoing discussion between the territory and the commonwealth.

Education—special needs

MR DOSZPOT: My question is to the Minister for Education, Mr Barr. Minister, yesterday you announced that non-government schools would now be included in the

Shaddock review into special education, despite the fact that only two weeks ago you categorically ruled out the possibility of including them in this review. Given that students with special needs require the same types of assistance irrespective of whether they attend a government or non-government school, what consultation took place with the CEO, the Association of Independent Schools and the parents and friends association before initiating the review into special education?

MR BARR: No consultation, Mr Speaker.

MR SPEAKER: A supplementary question, Mr Dozspot?

MR DOSZPOT: Minister, apart from "opposing us for the sake of opposing us", to quote you, why did you exclude the non-government school sector from the review in the first instance?

MR BARR: As I have indicated on a number of occasions, when the review was established it was established in the government schools. There was no specific exclusion of non-government schools; it was simply established—

Opposition members interjecting—

MR SPEAKER: Members of the opposition, Mr Barr is trying to answer the question. It would be useful to let him do so. Mr Barr.

MR BARR: No, we did not include non-government schools initially. I have subsequently had a request from the non-government schools themselves to be included. It is worth noting that I have not included non-government schools in my review of school-based management. They have not asked to be involved, and it would be inappropriate for the government, in a review of school-based management of our government schools, to include non-government schools. We respect the independence of the non-government school sector, and we would only seek to involve ourselves in reviewing their teaching and curriculum practices upon their invitation.

It is not for the Liberal spokesperson on education to indicate a view on behalf of the non-government schools; it is a matter for them. They have approached the government, and we have responded to their request. Equally, if we want to ensure that there is an extension of human rights principles—

Mr Doszpot: Under human rights principles, you have a responsibility, minister.

MR BARR: If we acknowledge that point and take it to its logical conclusion, then do we, in fact, require adherence to the human rights principles of senior secondary students in Catholic and independent schools, for example, in relation to the availability of contraceptives and contraceptive machines? Do we need to extend the Human Rights Act provisions in any other areas where they are currently excluded and where we only have policies that relate to the government sector? If we are to take Mr Doszpot's argument to its logical conclusion, there can never be a differentiation in policy, teaching practice, curriculum or anything that is relevant to the Human Rights Act.

My position is very clear: there have been examples in the past where non-government schools wished to be involved in the public review process in relation to government schools. We collaborated on the new curriculum framework, for example, despite much criticism from the then shadow minister about the involvement of independent schools in that at the time. Nonetheless, that collaboration occurred with the active involvement of the non-government school sector at their invitation. But it is not standard practice for a review of government schooling to be extended to the non-government sector. I give a couple of further examples: the school-based management review and school safety policies and bullying. Perhaps it would be appropriate—I am happy to discuss this with the non-government school sector—that they be involved in the safe schools task force in the future, because bullying extends across all schools.

So what has changed in relation to my position? I have had a formal approach from non-government schools to be included in the elements of the Shaddock review that are relevant to non-government schools. The vast majority of the areas that Professor Shaddock is examining are not relevant to non-government schools, because they do not have education provision of that type.

Hospitals—advertising

MR SMYTH: My question is to the Minister for Health. Minister, during the estimates process it was discovered that you personally intervened on behalf of the Labor Party in the facilitation of filming Labor Party political ads in Canberra Hospital. Your colleague Andrew Barr said of the same issue:

> It would have been improper for me as minister to have sought advantage for my political party in relation to such a request.

Minister, how do you reconcile your personal involvement in party political based advertisements against the statement of your ministerial colleague?

MS GALLAGHER: As I told the estimates committee, I did not personally organise the filming of the advertisement at the Canberra Hospital. But, in a phone call with the chief executive—and I have to confess that I do speak to the chief executive of ACT Health probably at the moment around six times a day—in one of those conversations I had with him, I mentioned there would be an approach and would facilities be available for this use if an approach was made. He indicated to me that he would be the person who considered that; that the facilities, if the terms were agreed on how to use them, would be made available to any candidate in the election. And that was the end of the conversation. I did not organise the advertising in the Canberra Hospital, but I certainly had a conversation where I inquired as to whether that was something ACT Health would consider.

MR SPEAKER: Mr Smyth, a supplementary question?

MR SMYTH: Yes, thank you. Minister, why do you believe it was proper for you as minister to seek political advantage for your political party by making such a request?

MS GALLAGHER: I did not seek political advantage, Mr Speaker. I sought an indication from ACT Health about whether or not facilities could be made available for an advertising campaign. I merely inquired and I said an approach would be made—an approach which I did not make.

Supermarkets—competition policy

MS BURCH: My question is to the Chief Minister. I understand that recently you appointed the former ACCC deputy commissioner John Martin to advise the government on supermarket competition policy. Why did you make this appointment and what does the government hope to get out of the process?

MR STANHOPE: I thank Ms Burch for the question. I am sure members would agree that there is no better qualified person in Australia to advise the ACT government on this very complex area of competition policy. John Martin was a commissioner with the Australian Competition and Consumer Commission for 10 years, until June this year.

A central part of his commissioner role was special responsibilities for small business related matters. Commissioner Martin was chairman of the commission's regulated access and price monitoring committee and was a member of the enforcement committee, the adjudication committee and the communications committee. Commissioner Martin was also responsible for health-related issues. He continues in a role as chairman of the International Air Services Commission and a board member of the Accreditation Board for Standards Development Organisations.

Prior to his appointment to the ACCC, John Martin had been executive director of the Australian Chamber of Commerce and Industry. In his role with the Chamber of Commerce and Industry, Mr Martin was an advocate on issues affecting Australian business. He finished his appointment, as I said, in early June. I must say that I believe the ACT was very lucky to be able to secure his services to assist with our review of competition policy.

As members would be aware, the ACCC made a recommendation, through an inquiry in 2008—an inquiry, I am sure, that has strong resonance with state and municipal governments. The particular inquiry focused on how state, territory and municipal governments should approach matters going forward. It is very important that we do give serious consideration to issues in relation to competition within, most particularly, the retail grocery market. As I say, in that context, there is no better person than John Martin to translate the ACCC's recommendations into a local context.

The review process will, therefore, look explicitly at the extent of competition in the ACT supermarket grocery sector in light of the findings in 2008 of the ACCC inquiry into the competitiveness in that sector; likely future trends in the structure of the ACT and Australian supermarket grocery sector; how the ACT government can support effective and sustainable competition in the grocery sector; policies that might be applied on a site-by-site basis to ensure site allocation supports the ACT

government's longer term policy objectives to promote competition and diversification; the dynamic impact on the grocery sector from the introduction of Aldi as a niche competitor; and any other additional measures that might be considered by the ACT government to support a diverse and competitive retail grocery sector over the medium to longer term.

I must say that I think it is vitally important in this very difficult and complex area that we get our policy settings right, not just in the short term but in the medium and longer term as well. I would also observe that the grocery sector is moving quickly and it is important that we understand the dynamics of the sector and what impacts are likely to play out locally. Again, John Martin will bring these perspectives to the review, courtesy of the 2008 ACCC inquiry.

I would also add that he has a wealth of experience in consultation and at all levels. He knows the major players in the grocery sector well and he understands the issues from a consumer and community level.

What the government is aiming for out of the processes is a short and a long-term policy framework. We expect to see outputs such as a clearly stated overarching policy which contains short, medium and long-term preferred outcomes and objectives in the sector; a forward plan for supermarket site release; a clear assessment process that would be applied against individual sites to determine how they would be offered to the market—this would also involve an agreed consultation process to engage all stakeholders, including the community; and at clear intervals a review and analysis to gauge the impact of new policy settings and opportunities for finetuning those as necessary.

This is not just about how the government approaches site issues that are challenging us now but about how we place such decisions in a logical policy framework and how we approach site issues and competition policy over the medium and the long term as well. The government, as I am sure some members are aware, have been criticised—some members are actually involved in criticism of the government—regarding the process we have committed to undertake in relation to this very important issue.

I will just recap: we have appointed a leading expert to assist with our deliberations and we are committing to a process that will give direct stakeholders and the community a chance to input their views. In my view, the criticisms that we see today and that surprise us reflect short opportunism and a level of ignorance of the complexity of the issues and how we need to respond to the ACCC's position.

MR SPEAKER: Ms Burch, a supplementary question?

MS BURCH: Yes. Why is it important to take the evidence-based approach to supermarket policy?

MR STANHOPE: I think it is important that we take an evidence-based approach to all significant policy initiatives that are pursued within the Assembly. I do not think it is in the best interests of the community to seek quick fixes to local supermarket site issues when those issues are not clearly understood, quite obviously.

I did outline just now clear arguments regarding the need to take a well-informed approach to a complex set of issues around supermarket competition policy. As I said earlier, it is not just about what happens at one site or another and which happens to capture the populist sentiment—the populist sentiment that we see being pursued by the Greens in their response to this particular issue. It is about establishing a long-term policy framework that reflects the input of key stakeholders, including the community, and that is based on evidence, not on wishful thinking or on assumptions about retail goodies and baddies. And it needs to be adaptable over time as new issues arise and competitive dynamics change in the sector.

It is also critical that the government have clear and well-grounded advice on the implications and opportunities that arise from the ACCC review, and we are doing that by engaging the best possible advice. John Martin brings to our consideration a wealth of experience, knowledge and a national and local view of these issues. We have also committed to a short but intense consultation process that will engage Canberrans at many levels. The government are committed to open consultation so that all issues are on the table and can be considered in our policy response. Our approach will be strongly evidence based because the best policy making occurs when that is done, but it will also be strongly consultation based.

I think it is fair and reasonable, in the context of the criticisms from the Greens in relation to this particular policy initiative that the government is pursuing, that one compares this with the approach that the Greens have taken, illustrated just this morning by the reintroduction of their flawed hot-water heater bill. The hypocrisy of the Greens' attack on the government's process in relation to consultation and evidence-based policy regarding competition policy is really quite amusing. The party that railed during the campaign about consultation—and we have seen lots of it over the last day or so about consultation, transparency and accountability—were reduced today to reintroducing legislation because they had not bothered to consult on it and it was so grievously flawed that they were forced to reintroduce it.

We see it again in relation to a process put in place seeking detailed and genuine consultation with the community in relation to supermarket competition. The refrain from the Greens is "Why bother consulting? Why not just get on with it and do it? Why don't you just introduce a policy? No need to consult; no need to be transparent; no need to be accountable."

Ms Le Couteur: Mr Speaker, I raise a point of order under standing order 118. I do not believe that the hot-water bill, Calvary hospital or anything else is actually relevant to the answer.

MR SPEAKER: Yes; the point of order is upheld. Mr Stanhope.

MR STANHOPE: Upheld?

MR SPEAKER: Yes. Please return to the issue around competition policy.

MR STANHOPE: Goodness me, Mr Speaker! I do draw attention to Ms Le Couteur's body language, Mr Speaker. I do not know whether you want to comment on that.

MR SPEAKER: Continue with your answer to the question, Mr Stanhope.

Ms Bresnan: Body language?

MR STANHOPE: My body language was a matter of grave concern to the Speaker yesterday. I just thought these were new issues that we take into account in rulings from the chair—the body language of ministers.

MR SPEAKER: Mr Stanhope, you are being irrelevant. Return to the question.

MR STANHOPE: Oh, we are not pursuing body language anymore, Mr Speaker?

MR SPEAKER: Mr Stanhope, would you like to finish?

MR STANHOPE: I had just completed but I was provoked by Ms Le Couteur. The irony and the hypocrisy are, of course, quite divine. The "Lite Greens", castigating this government for concentrating on transparency and openness, actually willing us—

MR SPEAKER: Sit down, Mr Stanhope.

MR STANHOPE: to pursue a supermarket policy without consultation or evidence.

MR SPEAKER: Mr Stanhope, resume your seat.

Ms Hunter: Mr Speaker, I raise a point of order under section 54 on offensive words. I request that the Chief Minister withdraw his references to the ACT Greens as "Lite Greens". This is not the name of our party, and I would ask the minister to show respect to the Assembly and the voters of the ACT community by referring to the ACT Greens in the chamber by their correct name.

MR STANHOPE: On the point of order—

MR SPEAKER: Order, Mr Stanhope! Sit down please.

MR STANHOPE: I just wanted to give you the benefit of my perception on this, Mr Speaker.

MR SPEAKER: Members, it is the practice in this place to—

Mr Barr: We should be debating heavier issues.

MR SPEAKER: Order, Mr Barr! It is the practice in this place to refer to other members by their proper title. It is not a formal practice to refer to political parties by their proper name. So whilst I would encourage members to stick to the proper names, the point of order is not upheld. Mr Stanhope?

MR STANHOPE: Mr Speaker, I withdraw the offensive suggestion or imputation. I won't again in this place refer to the Greens in that way. I apologise for having caused offence.

Roads—funding

MS LE COUTEUR: My question is to the Minister for Planning and concerns the environmental impact statement for the proposed Majura highway. Minister, given that the government has not yet secured funding to build the parkway and the EIS says that major ecological impacts will result from the road, does the government accept that it could extend the time to consult on the EIS without, in fact, affecting the project's timing?

MR BARR: I would need to take some advice from the Department of Territory and Municipal Services—it is not my project—as to whether the project could be impacted by an extension of the EIS. My understanding is that there is some funding available to commence work, although it may, in fact, be at the airport end of that proposed road project, rather than extending all the way through the Majura valley. I will need to seek some advice in relation to that matter. I am not in a position to declare one way or other at this point in time.

MR SPEAKER: Ms Le Couteur, a supplementary question?

MS LE COUTEUR: I suspect you may have to seek advice on this also, but it is the same question. Given the complexity and seriousness of the Majura Parkway EIS, which is huge, can you guarantee that the government will hold public information sessions about it which will cover the major ecological concerns and the alternative route options that were considered for the road?

MR BARR: I will not be making any policy on the run at this point. I will take the question on notice and provide some further information in the fullness of time.

Schools—bullying

MR COE: My question is to the Minister for Education and Training, Mr Barr. Minister, the *Canberra Times* of Thursday, 4 June carried the story of alleged bullying at Kingsford Smith school, including an assault on a year 7 student. The article also claims that the Kingsford Smith super school does not have a current bullying policy and has operated for almost the past two terms without such a policy. Minister, has the school's countering bullying, harassment and violence policy been ratified by the school board and why the lengthy delay?

MR BARR: There is a policy in place for all ACT public schools, and it has been in place for some time now. That policy was developed in conjunction with parents and citizens associations, the Australian Education Union, the Australian Federal Police and a number of other stakeholders who have been involved. In more recent times, I have extended the membership of the state schools task force to include representatives from my Youth Advisory Council and I am also actively considering extending this initiative into non-government schools and discussing that matter with them.

MR SPEAKER: Mr Coe, a supplementary question?

MR COE: Minister, if there is a policy at departmental level that is applicable to all schools, does that mean that the countering bullying, harassment and violence policy as it has been drafted would be a better policy, in which case does the policy need to be changed for all the other schools?

MR BARR: No, the policy does not need to be changed for all other schools.

Planning—proposed hospital car park

MR HANSON: My question is to the Minister for Planning and relates to the call in of the proposed hospital car park.

Ms Gallagher: Are you for the car park, Jeremy?

Mr Stanhope: Why do you oppose this hospital? Why do you oppose the women's and children's hospital?

MR SPEAKER: Order! Mr Hanson has the floor. Let's hear his question first.

Mr Stanhope: We would like to know why you oppose the women's and children's hospital.

MR SPEAKER: Order, Mr Stanhope! Mr Hanson, you have the floor.

MR HANSON: Thank you, Mr Speaker. I am just waiting for the government to be quiet.

Mr Stanhope: Hypocrite!

MR HANSON: Minister, would you, for the benefit of the Assembly and the community, provide an explanation as to which parts of the letter to the editor are politically motivated and which parts of the letter are frivolous?

Mrs Dunne: Mr Speaker, before you call the minister, could I ask you to ask the Chief Minister to withdraw the word "hypocrite" that he shouted—he did not shout but—

Mr Stanhope: I have to say it is a bit rich. Mr Hanson readily accepted that the hat fits and did not object. But, if he feels the need to be protected, I withdraw.

MR SPEAKER: Thank you. Mr Barr, you have the floor.

Members interjecting—

MR SPEAKER: Order, members!

MR BARR: Thank you, Mr Speaker. I can advise Mr Hanson that I will make a statement to the Assembly, in accordance with the Planning and Development Act,

within three sitting days of the decision I have made, and I have already responded to the first part of his question.

MR SPEAKER: Mr Hanson, a supplementary question?

MR HANSON: Minister, will you apologise to the constituent for making him the scapegoat for your calling in of the hospital car park development application?

MR BARR: I have not made the constituent a scapegoat. I have called in the application in response to a request from the Minister for Health and in doing so I have assessed the development application in accordance with the requirements of the Planning and Development Act and I have indicated that the objection that was lodged by that individual was frivolous and it was politically motivated.

Planning—proposed hospital car park

MRS DUNNE: My question is to the Minister for Planning and relates to the call in of the proposed hospital car park.

Ms Gallagher: Are you for it, Vicki?

Mr Stanhope: Why do you oppose the women's hospital?

MRS DUNNE: Mr Speaker, I do not think members of the executive get to ask questions in question time. Minister, the public position of the Labor Party relating to call-in powers was:

> … we need to make sure that the community, the Assembly has all the information based on the exercise of power …

Further, it is policy that ministers fully substantiate their decision and release all documentation for scrutiny to the Legislative Assembly. Has this policy changed? If so, when did it change, and will you inform the Assembly as to why there has been a policy change?

MR BARR: I just responded to Mr Hanson's question and indicated that, as I am required under section 161 of the Planning and Development Act to provide to the Assembly not later than three sitting days after deciding an application a description of the development to which the application relates, the details of the land where the development is proposed to take place, the applicant's name, the details of my decision and the grounds for my decision, I will make that statement in accordance with the legislation.

MR SPEAKER: Mrs Dunne, a supplementary question?

MRS DUNNE: Minister, when you table that information, will you table all the advice that you received regarding the car park DA, including recommendations from any concerned departments in question? If not, why not?

MR BARR: I will table my notice of decision under the merit track for each of the development applications. That notice of decision contains a range of information. The rest of the information in relation to these development applications has been available online on the ACTPLA website, and, in fact, I understand even more detail in relation to these applications is available on the Health website. It has been discussed ad nauseam. What we come back to is the fundamental opposition of the Liberal Party to investment in public health, and that is why this is an issue. That is why this is an issue: the Liberal Party oppose investment in public health. It would appear now that the Liberal Party oppose addressing car parking on the Canberra Hospital campus.

Environment—air pollution

MS BRESNAN: My question is to the Minister for Territory and Municipal Services and concerns air quality in the Tuggeranong Valley. Minister, the Assembly has previously been advised that part of the TAMS strategy to address wood smoke includes a campaign called "don't burn tonight". Can you please advise the Assembly what the don't burn tonight campaign consists of? What actions under this campaign are being taken this winter?

MR CORBELL: This is actually a question I think most properly directed to me, given my responsibilities for the Environment Protection Authority. The government continues with a range of policy measures to discourage and reduce the amount of smoke pollution in the Tuggeranong Valley caused by wood burning fires. That is a matter that is being pursued through measures such as the wood heater rebate scheme where we encouraged people to replace their wood heaters with cleaner forms of heating such as gas and provide a subsidy to assist them with that.

In relation to the don't burn tonight program, I am not immediately familiar with the details of that program. I will not be able to answer that question today, but I will take the question on notice and provide details to Ms Bresnan.

MS BRESNAN: I was wondering if the minister could also provide some details on whether it is the government's position that the don't burn tonight campaign is successful, or does the government recognise that it needs to improve its public education program in relation to wood smoke in the Tuggeranong Valley?

MR CORBELL: Don't burn tonight is quite obviously and explicitly a voluntary education program that encourages Canberrans to have regard to the impact that wood heaters may have on the air pollution in a particular location such as the Tuggeranong Valley due to the inversion layer that is created there. I am not aware of any assessment that has occurred in relation to its effectiveness, but again I will provide those details as part of my response to Ms Bresnan.

Environment—climate change

MS PORTER: My question is to the Minister for the Environment, Climate Change and Water. Can you please advise the Assembly on the progress and development of

the government's significant budget initiative "switch your thinking", aimed at tackling climate change.

MR CORBELL: I thank Ms Porter for the question. I am very pleased to provide an update to the Assembly on one of the key climate change initiatives funded in this year's budget by the government, the switch your thinking initiative. This is a $19 million investment over four years in projects that will encourage Canberrans to reduce their carbon footprint, to improve the sustainability of their homes and to tackle issues such as energy, water and waste. It is another great example of the Labor government leading and investing in programs that tackle the significant climate change and sustainability challenges which our city faces. The initiative will also provide for better service delivery and will promote, inform and educate Canberrans about long-term behaviour change to improve the sustainability of our city.

The switch your thinking program is going to bring together the government's existing rebate and incentive programs, which are currently provided by my department, and make them available to householders, businesses and government agencies. It will build on the success of existing programs and significantly expand them.

Existing and new programs will be made more accessible through a virtual one-stop shop, which will ensure consolidation and streaming of our election and parliamentary agreement commitments. This one-stop, online presence means that Canberrans will be able to find in one location, for the first time, all information relating to government—education, information, assistance, rebates and other grants and other programs that enable them to make their home more water and energy efficient and more effective in terms of managing waste.

The Department of the Environment, Climate Change, Energy and Water is in the process of finalising the proposed new assistance packages, rebates and future expansion of existing programs, but the types of programs and services that are planned to be provided include a new home water audit program, incorporating water efficient dual-flush toilets, shower heads and tap flow regulators, and a new residential energy efficiency program that, while providing rebates on energy efficient appliances, domestic insulation and an improved solar hot water rebate, will also continue to provide the ACT Energy Wise Home Energy Advice Team and the West program.

It will provide assistance packages for renters and low-income earners—so, for the first time, a major emphasis on those people who are most vulnerable to the costs associated with energy, water and waste but who often, due to their income or due to their rental circumstances, are not able to influence these—by providing rebates for household energy saving additions and for energy efficient domestic whitegoods, an important social justice initiative as well as an important investment in addressing sustainability.

We will also be pursuing waste minimisation programs to assist offices and businesses to improve their recycling rates. A web-based portal will be developed, as I have said, that will provide one-stop shop access to all of these services as well as a package to assist small businesses to develop water management plans.

Mr Speaker, switch your thinking is a great Labor government initiative, a great initiative focused on tackling the issues that are most immediate and of great concern to Canberrans. Labor is moving ahead with its commitments to provide comprehensive programs to tackle climate change and to improve the sustainability of our city. This program allows us to do it in a way that starts at the household level.

Labor is proud of these programs. We look forward to their rollout and the assistance that they will provide to many thousands of Canberra homes.

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

Minister for Planning
Admonishment

MR SESELJA (Molonglo—Leader of the Opposition) (2.44): by leave, I move:

> That the Assembly censure Minister Andrew Barr for his contempt shown for the Assembly by his refusal to appear before the Estimates Committee when recalled.

Mr Speaker, the Liberal Party take censure motions very seriously. We also take the role of minister and the responsibilities it entails very seriously. We have seen many examples of this Assembly calling on ministers to consider an action or to take action, and these calls have been met. Unfortunately, the Minister for Planning apparently feels he is above the Assembly. He feels he can ignore the will of a committee. He feels that the ACT public does not deserve an open and accountable government and an open and accountable planning system.

The Westminster system has been designed to ensure that governments are open and accountable and that ministers can be recalled to committees to answer further questions that are in the public interest. The current composition of the Assembly, reflected in the composition of the estimates committee, should indicate to all members that this place is different from most parliaments and, as such, there will be both greater collaboration and greater scrutiny.

Since the election, and particularly following the budget release this year, the government talk of their plans to consult. They will consult on the proposed cemetery, they will consult on the future of the family and community day public holiday and they will consult on the kangaroo management plan, but they will not consult on the purchase of a hospital and they will not consult on the development of a hospital car park.

The Minister for Planning has made many comments about taking the politics out of planning. On 29 May, Mr Barr said:

> After a request from the Minister for Health I have decided to call-in the applications and consider them myself in order to keep politics out of planning …

He uses Orwellian language as he puts politics front and centre. Yesterday, he said, "More recently, the Liberals and the Greens party have attempted to use the Assembly committee system to put politics back into planning." I am unsure, Mr Speaker, how a minister making a decision about a development is taking the politics out of planning.

The planning system is designed to allow community consultation—to allow the community, especially those affected by the development, to have their say. The minister has dismissed the concerns of the community as politically motivated or frivolous objections, yet he has failed to indicate how they are politically motivated or frivolous.

The estimates committee had a number of questions for the Minister for Planning which were unable to be asked. During the Minister for Health's reappearance, she stated several times, "I cannot answer for Minister Barr." Well, it is now time for Minister Barr to answer for himself. The committee were so concerned by the actions of the Minister for Planning that they recommended that the Assembly pursue the Minister for Planning for his contempt of the committee and accountability processes in refusing to appear to explain to the committee his proposed use of ministerial call-in powers in relation to the Canberra Hospital car park.

"Contempt" is not a word used in this place lightly, yet that is what is being demonstrated by the Minister for Planning—contempt for the committee process, contempt for the Assembly and contempt for the ACT public. According to information given by the Minister for Health when she reappeared before the estimates committee, the concerns raised by the community "in relation to both the multistorey car park and a temporary car park relate to traffic safety, building design, the siting of the parking structure and temporary car parking".

These concerns do not appear to be either politically motivated or frivolous. They seem to be genuine concerns about a large structure that will be near the homes of members of the ACT community. The minister has shown his arrogance and disregard for the concerns of the public, admitting that his decision to call in the car park was in response to one letter to the editor—just one letter and the minister fast-tracked a $41 million project.

I find it interesting that this government takes action in response to letters or articles in the *Canberra Times*. We have seen the Chief Minister place a six and a half thousand dollar advertisement in the *Canberra Times* in response to an unflattering article and now we see the Minister for Planning use his call-in powers in response to a letter to the editor. An article in today's *Canberra Times* states that a Kambah resident submitted a letter to the editor and comment to ACTPLA, not an objection, proposing a different site and the inclusion of solar panels and rainwater tanks. The Minister for Planning considers these ideas to be politically motivated and frivolous.

It is worth separating the two issues, although they are linked. One is the merits of the call-in or otherwise; the other is the refusal of the minister.

Ms Gallagher: And what is your view on that, Zed? Are we going to find out?

MR SESELJA: Well, I will tell you. I have said it, but I will say it again in a moment for Ms Gallagher and I will say it really slowly. There are two issues here. The primary reason why we are moving this censure motion is that this minister showed absolute contempt for the Assembly. It was agreed by the estimates committee that this minister showed his—

Ms Burch: No, it was not. Don't put me into that.

MR SESELJA: Well, it was agreed. The committee agreed. Ms Burch did not agree with really anything that was potentially against the government. But the committee agreed. The committee agreed that this minister had shown contempt for the Assembly.

If we are going to be able to scrutinise ministers properly, they have to come forward and answer questions. We asked the Minister for Health and the Minister for Planning to come back; only the Minister for Health came back. We have the situation where the Minister for Planning believes that he is above scrutiny and that his conduct is not subject to the scrutiny of the Assembly or the scrutiny of the estimates committee. That is essentially what this minister was saying by refusing our recall.

Mr Stanhope was recalled last year. Mr Stanhope could have taken the same path as Mr Barr, but chose not to—in fact, in a different situation where there was a majority government. We have Minister Barr saying to the Assembly that he believes he does not have to explain himself. He does not have to come back and answer legitimate questions. The reason the committee's interest was piqued in the first place was the timing. It was clearly timing that was designed—

Ms Gallagher: The conspiracy theorists are alive and well.

MR SESELJA: It is a conspiracy theory. The Minister for Health says it is a conspiracy theory that both the Minister for Health and the Minister for Planning chose to take the relevant actions directly after they had finished appearing before the estimates committee. We had two days of hearings with the Minister for Health and this issue was discussed at length. Only after those hearings were completed did she write to the planning minister asking for him to call it in.

Then the Minister for Planning, only after appearing before the estimates committee as Minister for Planning, put out a press release saying that he would be calling in this car park. It was deliberately designed to avoid scrutiny and the committee had serious concerns about it. That is why we called them back. This could have been handled very easily in those hearings but they chose not to. So we called them back.

The Minister for Health came back and answered questions. There was nothing wrong with the minister's performance. She gave straightforward answers, some of which appeared to contradict what the Planning Minister was saying.

Ms Gallagher: No, they did not.

MR SESELJA: They did. Nothing in anything that the Minister for Health said indicated that there were politically motivated or frivolous objections. The Minister for Planning refused to come back. He thumbed his nose at the Assembly. I am not aware of a precedent in this place—there may be but I am not aware of it—where a minister has been recalled to a committee or called to come before a committee and has blatantly refused. I am not aware of such a thing. The question for the Assembly now—and I note the circulated amendment—is: what do we think of such an attitude from a minister? How do we respond?

I put it to members across the chamber—Labor, Liberal and Green members—that if we simply do nothing when a minister refuses or if, indeed, we admonish, and I am not quite sure what that is, or if we go for a weak censure or some form of weaker response by the Assembly, ministers will continue to defy the Assembly, will continue to defy committees and will continue to thumb their noses at scrutiny processes. It is reasonable and legitimate that we ask questions. It is legitimate that when we have concerns about a process we call the minister back to explain. When a committee feels that a minister has deliberately acted to avoid scrutiny it is reasonable that we ask these questions.

The issues are separate. There is the issue of the misleading public statements about politically motivated frivolous comments and there is the issue of contempt for the Assembly. We are not going to go into the merits of the call-in today. Our position is clear. We made it very clear that we believe that if the minister has a reasonable and genuine belief that not calling in this development would lead to unreasonable delays, we will support the call-in. That is what I told the media last night and that is what was recorded today and on the radio. I said, "The onus is now on the minister to actually show how he formed that reasonable belief."

Ms Gallagher: It has been called in, Zed. You have got to have a view now. Come on. It has happened.

MR SESELJA: The Minister for Health interjects. She seems to think it is a bit of a joke. She seems to think it is a bit of a joke that Minister Barr acts in this way. The issue is for him to actually put the case. So far all he has said is that there was letter to the editor and therefore he had to call it in. If that is the new standard, that when a letter to the editor is written that is politically motivated frivolous and therefore there needs to be a call-in, then you would expect that pretty much all major projects will be called in.

If that is the government's policy position, they should take that to the Assembly. They should move an amendment to the act. We happen to believe that the call-in power is an important power. It is one that should be used in certain circumstances, but you should justify it. Justifying it by saying that there is a letter to the editor from a guy who never, ever appealed against the development application is weak and it is pathetic.

It goes to why the minister did not want to come back—because his argument was so weak. His argument is so pathetic that he did not want to be subject to questioning of

the committee. That is at the heart of this issue. He thumbed his nose at the Assembly, he thumbed his nose at the estimates committee, he put himself above the Assembly and above scrutiny, and now we know why. We know it is because his argument was so weak and so indefensible that he was not prepared to be subject to scrutiny. He was not prepared to be subject to questions in a committee.

It is a serious matter, Mr Speaker. The government may not take it seriously, but the Assembly should. The Assembly should take this issue seriously because if we do not take action and if we do not have a strong response to the minister's refusal and the minister's utter contempt, as expressed by the committee, if we do not take a strong stance on that, we will get more of this. I guarantee that we will get more of this. It will not just be the planning minister; it will be all the ministers showing contempt for the Assembly.

It is time the Assembly stood up and said that we will not accept this kind of behaviour. We will keep ministers to high standards. We will keep them accountable. That is why this censure motion should be supported. I commend the motion to the Assembly.

MR BARR (Molonglo—Minister for Education and Training, Minister for Children and Young People, Minister for Planning and Minister for Tourism, Sport and Recreation) (2.57): It goes without saying that the government will not be supporting this motion as moved by Mr Seselja. I think it is worth exploring each of the issues that Mr Seselja has raised in his presentation today. It is worth noting that, yes, on behalf of the estimates committee, he did write to me on 2 June. And I responded, at which point I said:

> As you aware, this decision is made in accordance with Section 158 of the Planning and Development Act … It is the first step in a process under the Act which requires that I make a number of decisions over coming days and weeks. I am concerned that any hearing of the committee to "discuss the process"—

which is what I was invited to do—

> would inevitably anticipate the issues presently before me for decision under the Act. Therefore I do not think it appropriate for me to appear before the committee at this time.
>
> My appearance before the committee at this time would also inevitably risk politicising the planning process.

That is very clearly the case, Mr Speaker, given the response that we have seen. I said:

> As you know, I am determined to keep politics out of planning.
>
> I am aware that my colleague the Deputy Chief Minister and Minister for Health … has indicated that she will be available to appear before the Committee.

That was a reference to the committee inquiring into the territory budget. If there is now going to be a requirement in this place for committees to cross-examine ministers

in relation to the application of the Planning and Development Act, that should be incorporated into the Planning and Development Act. The act sets out a very clear process—and an accountability process.

It is interesting that the Liberals have brought on this motion today before even giving me the opportunity, through the accountability process that is built into the legislation—

Mr Smyth interjecting—

MR BARR: It is built into the legislation, Mr Speaker. I have the opportunity within three sitting days, subject to the scheduling of this place and the agreement of all parties, to schedule a time for me to present to the Assembly, in accordance with sections 161 and 162 of the act, my reasons for making the decisions I made.

Mr Smyth: It is not about the act.

MR BARR: So it is not about the act? So the act does not matter?

Mr Smyth: No; it is about standing order 258.

MR BARR: The act does not matter, according to the opposition. My fundamental point is that to have made an appearance before that committee in the middle of that decision-making process that is clearly set out with its own accountability mechanisms, which everyone agreed on less than 18 months ago—if we now believe as an Assembly that the call-in powers can be exercised only by the minister appearing before a committee, let us amend the act to that effect if that is the policy position, if that is the substantive policy position that is being proposed by those opposite.

In this context, it is interesting that I am regularly asked to use my call-in powers. Already in this term I have been asked to do so by the Greens in relation to a development near the Telopea Park school. Mr Coe has written to me only in the last week asking me to examine a development application. These sorts of requests for the use of call-in powers come regularly. Is it the expectation of the Assembly that I, as the minister, will appear before a committee each and every time to discuss my reasons for not calling in a particular development application?

Again, the leader of the opposition misunderstands the operation of the act. There are three stages, Mr Speaker. The first is the referral of documents for consideration, which I did on 29 May. The second stage is determining whether to call—for me to make the decision rather than the Planning and Land Authority, because there is under the act provision for the minister to call in the documents but then send them back to the authority. And then there is the determination, under the act, of a decision. I have made that decision. Within three sitting days, I must present to the Assembly the rationale behind that decision, the notice of the decision and all of the considerations, including the conditions that I put on the approval in response to the issues raised during the community consultation.

But no. The Liberal Party are not prepared to even give me that opportunity. No. They are all about censoring me today. This is all about politics; it has absolutely nothing to do with the process.

Mr Seselja: I gave you the benefit of the doubt. Then I heard that you had based it on a letter to the editor.

MR BARR: Zdenko Seselja, there is nothing I could say. There is nothing I could say at the moment, or could have said, in relation to this that would have appeased you. There is nothing, Zdenko, that I could have said. There is nothing. The request for a call in came from the Minister for Health. You have got that letter. You have all read it. Do I need to quote it back to you? Do I need to read from it to remind you of what was in the letter? In the letter, drawing my attention particularly to—

Mr Smyth: There is an attachment mentioned in the letter that we have never seen.

Ms Gallagher: They are all publicly available anyway. I am sure you have done your own research. I will check up.

MR BARR: Drawing my attention particularly to the flaws within the Planning and Development Act around the use of the call-in power, particularly in relation to the substantial public benefit—that is the rationale for the call in. My statements in relation to politically motivated and frivolous objections were around risk elimination. That is a judgement I have got to make as Minister for Planning. Since I have been planning minister, I have had more than 40 requests to use the call-in powers—for and against applications—by members of the opposition, by the Greens, by developers, by members of the community.

Mr Hanson: What made this one special, Andrew?

MR BARR: What made this one special? The significant public benefit associated with this development. That is the rationale for the call in. The risk elimination in this call in is that now that I have called it in there is no way that frivolous or politically motivated objections can stall the development. That is the important outcome; that is the issue of substance in this debate.

Again I remind those opposite that if they are really, genuinely concerned about investment in public health—it would appear that behind all of this is their fundamental philosophical objection to investment in public health. That is what this is really about. That is what all of this political hyperbole, all of these stunts and all of these "it is desperately urgent but it must wait until after question time and after the media have gone" statements are all about. This is nothing more than base politics. This is almost a rite of passage in minority government: how many censures can you move against ministers? That is all this is about.

I stand by the letter I wrote back to Mr Seselja—my rationale for not appearing midway through a process that is outlined and dictated by the act and that has its own accountability mechanisms. What I want to know is how many times Mr Smyth, the call-in king—

Mr Hanson: It is $45 million—49. It goes up every week, doesn't it?

Ms Gallagher: I appeared for that, Jeremy. Get it? Minister for Health—the project sits under me.

MR BARR: How many times did Mr Smyth appear before committees to justify each one of his call ins? How many times did Mr Smyth appear?

Ms Gallagher: The appropriation bill, an application of the planning laws? No. Indeed, I said that to you that morning.

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

MR BARR: Thank you, Mr Speaker. I repeat: if we want to put in place a process that requires the minister of the day to appear before a committee before making any decisions on call ins, let us put that in the legislation. Frankly, that would make my life easier as planning minister, because then I could deflect all responsibility for decision making back to the Assembly. I could deflect every single request that I get for a call in—from the development lobby, from opposition members, from the Greens, from everyone—back to an amorphous committee who could maybe take three or four months to make a decision and make a recommendation.

That is one way we could deal with this. But in the Planning and Development Act we have put in place this mechanism to deal with just these sorts of issues—substantive matters where there is substantive public benefit. It is not dual occupancies like Mr Smyth called in. It is not a range of minor development applications. This is a $45 million rebuild of car parking at the public hospital that will then lead to a massive investment in public health. This is the starting point. I am sure that in an alternative scenario where someone had appealed, where this piece of capital works was held up for six months—

Ms Gallagher: Eighty jobs.

MR BARR: With 80 jobs being delayed—we would have had the opposition come into this place and accuse us of not doing enough to deliver on our capital works agenda. That would be the alternative argument, Mr Speaker. That is where the hypocrisy of the Liberal Party on this matter comes to the fore. Seriously, take a position on this issue of substance. But no; little Zdenko is running away from the issue of substance and is making this series of impossible hurdles. There is nothing I could have said that would satisfy you, Mr Seselja.

Mr Seselja: Better than a letter to the editor.

MR BARR: There is nothing. The letter to the editor is not the reason for the call in; the letter from the health minister is the reason for the call in.

The risk elimination is that now no-one can appeal and delay this development. That is the result of a call in. It is in the legislation. It is a power that this Assembly has

given to the planning minister of the day. If the opposition want that to be the decision of a committee, let them amend the act to that effect. If you want that power to vest in the planning minister, subject to the criteria and subject to the accountability mechanisms that you have not even given me the benefit—

Mr Seselja: Ridiculous arguments. You are better off when you are just reading cliches, Andrew.

MR BARR: Mr Speaker, they have not even given me the benefit of being able to make that statement before bringing on this pathetic, politically motivated censure motion. That is what it is all about. It is just about going after an individual. They do not like me very much, Mr Speaker. I know that. I am not in this place to make friends. I am not in this place to make friends with the Liberal Party. In fact, if my actions—my firm, decisive actions in this matter—upset the Liberal Party, I have done a good job.

I note that the Liberal Party are still to disagree with the call in. They are yet to say that they do not believe that the matter should have been called in.

Mr Seselja: I made a very clear statement, Andrew; I do not think you read it.

MR BARR: No, you have not.

Mr Seselja: I do not think you read it.

MR BARR: You have obfuscated; you have done everything you possibly can to avoid making a statement.

Mr Seselja: I gave you the benefit of the doubt and then they told me that you based it on a letter to the editor. I said, "My goodness. My goodness, a letter to the editor." That is your rationale?

MR BARR: You have avoided making any statement on the substance of the issue. It is entirely appropriate that this matter was called in. It is entirely appropriate.

Mr Seselja: But you pointed out to us all the frivolous and politically motivated ones. You pointed us to them. You said there were none.

MR BARR: It is entirely appropriate that these development applications—

Ms Gallagher: You have done all your homework, have you? You have read all the objections?

MR SPEAKER: Order, members!

Mr Seselja: You said there were none.

Ms Gallagher: That should help you.

MR SPEAKER: Ms Gallagher, you are drowning out your own colleague.

Ms Gallagher: My apologies.

MR BARR: Mr Speaker, it was entirely appropriate for these development applications to be called in in accordance with the provisions of the act. I have acted entirely in accordance with the provisions of the act. There is an accountability mechanism. I am not even being given the benefit of that accountability mechanism, because the Liberal opposition are determined to chalk up a political scalp, to chalk up a little black mark against me. That is what this is all about. It is nothing more than that. It should be treated with the derision it deserves.

The Liberal Party should have the courage of their convictions and indicate to the people of Canberra, one way or the other, whether they support an investment in public health, whether they support the provisions of the Planning and Development Act and whether they believe that the accountability mechanisms in that act and the requirement for the minister, having made those decisions, to present material to the Assembly are appropriate. If they do not, let us have a conversation about amending them.

This is going to come up every time. As I say, I have had more than 40 requests to use the call-in powers. It will come up every time; it will not matter what the issue is. Maybe this is something positive that could come out of this entire waste of the Assembly's time with this censure motion. It may be that we might want to have a discussion in relation to those elements. If, every time I am asked to use my call-in powers, I am going to have to appear before a committee—

Mr Seselja: That is ridiculous.

MR BARR: or if it is only when it occurs during the window of estimates that there is a requirement—

Ms Gallagher: Which is now a caretaker period as well. It is really odd.

MR BARR: If that is going to be the requirement, then, again, let us put that in the legislation. But let us not try and make up the process on the run for purely political purposes.

MS LE COUTEUR (Molonglo) (3.13): The first thing I would like to say is that, although Mr Barr said this debate was about investment in public health, it is about a lot of things but it is not about investment in public health. The Greens certainly support investment in public health and I am pretty confident our colleagues on the other side also support investment in public health. Public health is not what this debate is about.

What this debate is in fact about is the behaviour of the minister. It is about the behaviour of the Minister for Planning who, in the opinion, I think, of the people moving this motion and us, acted in contempt of the Assembly by not appearing before the estimates committee last week, on 9 June, when he was asked to do so. I can understand that Mr Barr did not want to come before the committee. I appreciate

this and I appreciate he is busy. We are all busy but I really cannot see why he could not have found half an hour if only to come and tell us the reasons he felt there was nothing to say to us.

To not do that is plainly rude to the committee and, by being rude to the committee, he is being rude to the Assembly. Not appearing before the committee is a breach of the standing orders of the Assembly. Standing order 277(m)(i) is about refusing to appear before a committee when ordered to do so, and this is the standing order that the minister did not adhere to.

You have already got my amendment in front of you but I formally foreshadow that I will be moving it.

Mr Barr: Are you going to move it?

MS LE COUTEUR: No, I am only foreshadowing it; I am not moving it. I will move it at the end of my speech.

Mr Coe: The member was in contempt.

MS LE COUTEUR: Yes. We have discussed for a while what the appropriate thing to say to Mr Barr is. I did think about "slap on the wrist". We looked carefully through the standing orders and we actually could not find "slap on the wrist" in the standing orders.

Mr Barr: Public flogging, no?

MS LE COUTEUR: Okay, it would be good if we could amend standing orders. Maybe "slap on the wrist with a copy of standing orders". We looked at things and we thought that, as "admonish" is meant to warn or caution, at this stage admonishing was pretty much the official standing order version of a slap on the wrist. So this is what we are trying to say. It is a serious slap on the wrist. We actually think this is a serious problem.

The problem here is the lack of respect for the Assembly and its processes. The reason we do not support the word "censure" is only that "censure" says clearly that the minister has gone against the wishes or directions of the Assembly. In this case I think probably he has not actually gone that far; he is just being completely and utterly uncooperative.

How a parliament or an assembly works on a day-to-day level underpins its effectiveness as an instrument of democracy. If the Assembly cannot work, then we are failing in our duty to the people who elected us and the integrity of the whole government comes into question. The government gets its integrity because of the Assembly. We get our integrity because the people of Canberra voted for us all and, if the Assembly's processes are called into contempt, then this weakens the Assembly. But even more than that, it weakens the government. It weakens our democracy. But the Assembly is the fountain, as it were, the beginning of democracy.

Mr Barr is treating the people of Canberra with disrespect by not following the standing orders, by not following how this place is organised. It is about taking the precedent and the policies of the standing orders of this place seriously. This is what we expect everyone to do here. All of us have different policy ideas; all of us have different ambitions; all of us have different personalities. But this is what we were elected to do: follow the rules and attempt to ensure good government for the people of the ACT, as each morning, when we come to this place, we reflect.

It is obvious that a censure vote can be done in this place at any time that the Liberals and the Greens do not agree with the government but we have not felt at this stage it was the appropriate thing to do. We do not think it is appropriate to say "censured" every time a minister chooses to be disrespectful. We do not want to spend all our time doing censure motions.

Mr Seselja: Do one; do it early and maybe you will not have to do another.

MS LE COUTEUR: I think you are being an optimist there, I am afraid. We look more at this as a graduated approach at its start. As teachers would say, "You start low and you move up."

I will move on a bit more actually to what Mr Barr seems to think is the substantive issue, that is, the call-in powers, which I think is an illustrative rather than a substantive issue. But in terms of the call-in powers, the Greens have always felt that the call-in powers are inherently politically and have always felt that they should be a disallowable instrument because of their political nature, as Mr Barr has highlighted.

For the record, we did not ask Mr Barr to call in the Telopea Park development. We asked a question because we had been told by other people that they had asked him and they had not received any response.

Mr Barr: So you asked on behalf of someone?

MS LE COUTEUR: Yes, we asked on behalf of people who had asked and who were unable to find out from the minister what in fact was going to happen to their question.

Getting back again to the issue in question, which is recalling ministers to the estimates process, I would have to say that Ms Gallagher did cooperate with the committee; she was being entirely reasonable. She came and discussed items of budget expenditure. She told us, and we accepted, that the car park was the linchpin of Canberra hospital's capital works plans. My understanding is that over a period of years we are talking in the order of $1 billion. This is something that the estimates committee ought to be concerned with.

Ms Gallagher was very helpful. She answered a lot of questions, as did her staff, but Ms Gallagher's knowledge of the planning process is limited. Ms Gallagher was not ever going to be the person who called this development in. Ms Gallagher was never

going to be the person who decided whether or not the risk, whatever the risk was of this going possibly to appeal, was actually taken by the government. Mr Barr was the person who was going to make that decision; so it was relevant for the estimates committee to ask Mr Barr.

It was a valid concern that Mr Barr chose to politicise the whole process by saying it is just a political process and therefore we should not be concerned about it. Ms Gallagher said the objections were reasonable. It is really unclear to me and, I think, my colleagues why the reasonable process was not followed at least by the minister coming in and talking to us about it.

Finally, I think Mr Barr was being contemptuous of the committee process by not coming when we called. Bearing that in mind, I would like to move the amendment to Mr Seselja's motion which has been circulated in my name. I move:

> Omit all words after "That the Assembly", substitute: "admonishes the Minister for Planning for his contempt shown to the Assembly by his refusal to appear before the Estimates Committee, thereby limiting Assembly scrutiny of his decisions in relation to the ACT 2009-2010 Budget.".

MR STANHOPE (Ginninderra—Chief Minister, Minister for Transport, Minister for Territory and Municipal Services, Minister for Business and Economic Development, Minister for Indigenous Affairs and Minister for the Arts and Heritage) (3.22): This is a derisory motion and a derisory amendment. I think members do need to understand some of the incidents that govern government responsibility and statutory responsibilities and the need for the Assembly, for the parliament, to be able to distinguish itself from executive responsibility and executive roles.

Mr Barr was faced with a possibility of calling in, under a statutory power or pursuant to a statutory power, a development consistent with his statutory responsibility, and the committee placed into its mind, in relation to that exercise of the statutory power, the need to call and examine a minister in relation to that potential exercise. I think it is quite unreasonable. Particularly in the context of a committee with terms of reference established explicitly to review a bill, an appropriation bill, to question the exercise by a minister of a statutory power in relation to a matter that is not subject, in relation to his administrative responsibilities, to an appropriation is probably beyond the capacity of the committee. I think it is reasonable to assume that the request by the committee exceeded its terms of reference and its capacity.

The responsible minister was the Minister for Health. The appropriation item was an appropriation item within the ambit or the purview of the Minister for Health, not the Minister for Planning. The Minister for Planning had been invited, requested, by the Minister for Health to consider a call-in of a project in exercise of a statutory power pursuant to his responsibilities as a member of the executive, and you want to examine, you want to cross-examine, him in relation to the exercise by him of his statutory powers. That is inappropriate. It is not appropriate.

I think you need to understand the separation between the executive and the parliament—an executive responsibility and an executive role—and you need to

understand that your terms of reference as a committee extended to an examination of a specific bill: the appropriation bill. The minister with responsibility for infrastructure at the Canberra hospital is the Minister for Health. The Minister for Health agreed to attend to answer your further questions, further questions which I understand occupied as long as 40 minutes, such was the nature and extent of your interest in this particular matter.

It was discussed amongst ministers that it was appropriate for the Minister for Health only and alone to attend. The Minister for Planning did advise me of his intention. I supported him fully at the time and I support him fully now. If we could actually transport ourselves back two weeks, I would advise him to do again precisely what he did: advise the committee, in the polite and extensive terms that he did, that he did not believe it appropriate at this time to adjudicate or to agitate before a committee of the Assembly a matter that he was giving consideration to as a minister—a very reasonable position, an appropriate position, a position of integrity which you seek to undermine.

The relevant and responsible minister to respond to the committee on infrastructure at the Canberra hospital is, was and remains the Minister for Health. The committee was, without doubt, seeking to extend its terms of reference into an area to which they did not extend. This is a political exercise—brutal, plain, shallow and blatant and nothing more. That is all it is. That is what it will be seen by the people of Canberra to be.

This came on top of an executive business day yesterday during which, for the first time in my time in this Assembly, we did not get to executive business. An entire day was consumed yesterday by the Liberal Party and by the Greens in political stunts. In my 12 years in this place, I have never before endured an executive business day where executive business was not called on. This was because of the stunts, the cheap political stunts, engineered by the Greens and the Liberals. And today we see it again: the Liberals and the Greens combining again. But now, of course, today is private members' day. We see today, again, private members' day, being consumed by another, further political stunt.

In the two weeks of sitting put aside essentially to agitate the most important bill of the year, the appropriation bill, we are just about through the second day, we have had no executive business and we are just about to conclude a private members' day exhausted by another Green-Liberal shallow political stunt—a stunt, through the speeches, the presentations, that we have heard today, which exhibits absolutely no understanding of the nature and responsibilities of government and the role and responsibilities of the Assembly and the parliament.

I guess what concerns me the most, through the tortuous debates of yesterday and today, the puerile debates, is the lack of understanding of the responsibilities of government and the responsibilities of a parliament or an assembly. We have heard some muttering and some puffing about Westminster. What we saw yesterday and see again today is a complete lack of understanding of the incidence of Westminster and of responsible government—a clear lack of understanding of responsible government as exercised under the Westminster system. This is predictable, regrettable, fairly sad, extremely and completely excruciating, exhortative political posturing by the Liberal

Party and the crossbench in this place. It really is a joke and you are essentially embarrassing yourselves with your absurdities.

MR SMYTH (Brindabella) (3.29): Mr Speaker, it is the standard tactic of the Chief Minister when he does not have a substantive argument to twist it into another issue. The other issue that he seeks to make this today is whether or not the Minister for Planning has complied with the planning act. Unfortunately for the Minister for Planning, as was so eloquently pointed out by Ms Le Couteur, this is not about the planning act. This is about the primacy of the Assembly. In fact, this is about Westminster. This is about accountability, and it is about understanding that the Assembly elects you as Chief Minister and the executive is ultimately responsible to the people of the ACT through this place. It is about accountability.

We now have 25 minutes almost from the Labor Party, and they are yet to discuss the motion itself. We have had a discourse on the planning act. Thank you. It is not about the planning act. It is about your ego or your cowardice and your inability to return to answer for your decisions. The Minister for Health is to be complimented. She came back and answered the questions. You answered your part of it. The Minister for Health, when she returned, quite made the point. Let me read this from paragraph 6.71 of the report:

> The Minister for Health was asked if she agreed with the statement made by Mr Barr, had she ever communicated these opinions to the Minister for Planning, and to what effect she thought the objections to be 'politically motivated or frivolous'. The Minister advised that she had not communicated these sentiments to Mr Barr.

It is not about political; it is not about frivolous. We have learnt the details on that. But this is about a minister being held accountable and coming back to the Assembly. Give the Chief Minister his due, when he was called back last year, he returned and answered the questions. So what is it about the Minister for Planning that he is above this process? A Chief Minister and a Deputy Chief Minister will come back. They obviously had some respect for the institution of the Assembly.

It is interesting that section 2 of the ministerial code of conduct with respect to the law and the system of government—this is the document that these ministers all signed up to—states:

> Ministers will act with respect towards the institution of the Legislative Assembly …

Part of that intuition of the Assembly is its committee system. The Chief Minister is willing to return when called, the Minister for Health will return when she is called, but the Minister for Planning is above it. It does come back to being answerable for your decisions.

The discourse on the planning system was interesting, minister. What you did not make was a case as to why you are so special. It is easy to dismiss your arguments. You are not being held accountable for what may or may not happen under the planning act. You are actually being held accountable for the standing orders of the Assembly. The minister, in one of his standard tricks, says, "But you all voted for the

planning act." Yes, we did. But we also all voted for the standing orders, and standing order 258 states:

> If a committee desires the attendance of a Member as a witness, the Chair of the committee shall, in writing, request that Member to attend …

Done.

> … should the Member refuse to come, or to give evidence or information as a witness to the committee, the committee shall advise the Assembly …

Done. What we are doing today following the standing orders is holding this minister to account. This debate is about the behaviour of the minister, not a debate about the planning act. This debate is about whether or not he has respect for the institutions of the Assembly. The answer is clearly no. He holds himself above the standing orders. What we now find out is that the whole cabinet felt the same way. "Do not go, mate. You do not have to." This is a serious issue. This has not happened in 20 years of the Assembly, and my concern with the amendment as moved by the Greens is, as Ms Le Couteur said, that it is a slap on the wrist. We are going to give the minister a slap on the wrist. Ms Le Couteur said, it is about disrespect. Yes, you are right, and I quote the ministerial code of conduct again:

> Ministers will act with respect towards the institution of the Legislative Assembly …

Part of that institution is the committee system, which represents the Assembly. We are there as part of a vote of the committee system. We now know why he did not want to return. He had no justification for this call in. What he should have just said is "we are calling it in to stop all objections". Instead, he invented this nonsense, this confection that there were political issues, there were frivolous issues here. As the committee got to it when it talked to the minister, the minister did not hold with that case.

It is interesting that the minister said there was also an appendix to her document, which has not yet been tabled. I asked that that be sent through, because it would be interesting to have the full detail from your side of the case. Then we can make a proper judgement on the actions of the minister in regard to the planning act.

That may be something that has to be done later, but today is about whether or not the Stanhope-Gallagher government, and the ministers of that government, who are all aware of the ministerial code of conduct, who are all aware of the standing orders of this place, have the courage to live up to their commitment.

The answer is that Mr Barr does not. His cowardice will mark him in this place as the first minister to refuse to come and give evidence, to be recalled. He is the first minister to disobey the standing orders, the first minister to show disrespect to that particular institution of the Assembly of the ACT. That is shameful.

Mr Speaker, what he said was, "I took firm and decisive action." Well, why could you not be firm and decisive and come back to the committee and tell them why? Why

could you not do that? It is interesting in the ministerial code of conduct that it does talk about informing the Assembly. But yet again, we do not have a minister who is willing to do that. Under "Respect for Persons" in section 3, it says:

> Ministers will treat other Members of the Legislative Assembly, members of the public and other officials honestly and fairly, with proper regard for their personal dignity, rights, entitlements, duties and obligations, and should at all times act responsively—

it says "responsively"—

> in the performance of their public duties.

He was asked to come back to the committee and respond to things that he had said, and he chose not to do that. A second breach of the ministerial code of conduct, and we are going to dismiss this as an admonishment. I am not sure why this bar is being set so low. It is certainly not a standard that is adhered to in other places, and it is very, very important that we send a signal that this sort of behaviour will not be tolerated. Until this estimates committee, it was not tolerated. Until this estimates committee, very senior ministers—the Deputy Chief Minister and a Chief Minister—understood their obligation.

Westminster is about responsibility to the parliament, responding to the parliament. This select committee, set up by the unanimous vote of the Assembly, was the tool of the Assembly to scrutinise this bill.

Ms Gallagher: But it is not in it.

MR SMYTH: The car park is in the bill. So there is no appropriation for the planning? There is no appropriation for ACTPLA? It is an interesting standard that we get to, Mr Speaker. Go back to the conventions. Go back to the House of Representatives. Look at the practice of the House of Representatives. Faulkner and Ray—two Labor senators—have turned this into a fine art to get to the bottom of matters, to inquire, to find out.

What this minister says, through his cowardice, through to his inability to return, through his failure to return, is, "I can thumb my nose at the Assembly and its institutions, because I know I will get away with it." He will get away with it today. The standard is now set. You do not have to come back, because all that you are going to get is a slap on the wrist. It is an admonishment—just an admonishment.

Who cares? The minister did not care. The minister knows he is getting away with it. That is the problem when we set the bar too low. These are fundamental issues. The sins that are unforgivable in many cases are: misleading the Assembly, lying to the Assembly and not showing respect for the Assembly. But we have just got rid of one of those today, because if you choose not to respond to the committee system, all you get is admonished. That is a shame.

Ms Gallagher talked yesterday about new lows in the Assembly. An admonishment for this sets the lowest standard in this country, probably under Westminster systems

around the world for accountability. That is a shame, because we are going to debate later in the day that after 20 years of self-government we are capable of governing our own affairs. We will look at it.

The question is: why is this minister bigger than the Assembly and its committees? The question is: was it ego that said, "I do not have to return," or was it cowardice, or was it both? The minister needs to go and the Chief Minister needs to go away and re-read the ministerial code of conduct of which at least two sections have been breached by this minister. The code of conduct says that if you cannot live by the code of conduct, then you should resign. The Westminster system says you are responsible to the parliament.

MS GALLAGHER (Molonglo—Treasurer, Minister for Health, Minister for Community Services and Minister for Women) (3.39): When you turn to the Select Committee on Estimates and the resolution of the appointment, the Assembly resolved on 2 April to establish a Select Committee on Estimates to examine the expenditure proposal contained in the Appropriation Bill 2009-2010 and the revenue estimates proposed by the government in the 2009-10 budget. It then goes on to specify membership of that committee and a reporting date, but nowhere in this does it have, through its resolution of appointment, the ability to scrutinise decisions made in accordance with the Planning and Development Act 2007, which is what you were recalling Minister Barr to consider.

I went to that committee in the recall. I am perusing the *Hansard* and I said there that I disagreed with the committee's request to recall me. I did not think I should have been recalled on this matter. However, I did take the view that the car park was appropriated in the previous budget. Therefore, there was a link for me as the Minister for Health with the capital asset development program as part of an ongoing capital works program. There was a link and a responsibility for me to attend. But I go on to say that I am very comfortable with Andrew's view that use or non-use of his ministerial calling, as it was then, is not subject to scrutiny by the estimates committee.

What the estimates committee got was the minister with responsibility for the car park, for the capital works and, indeed, the minister responsible for writing the letter requesting the planning minister to consider using his call-in powers. In fact, in my letter, which members have, it is stated:

> The basis of our request for use of your call-in powers is to avoid potential delays to this major project that could arise from a possible appeal in the ACAT by one or more of the objectors to the DAs.

It then goes on to explain what impact that delay would have on the overall development of the hospital rebuild on the Canberra Hospital site. It then also goes to the fact that the issues raised through the community consultation period, and let us remember there was a pre-DA community consultation period here, were relatively minor and they were either able to be addressed in full by ACT Health or, indeed, they were not going to be addressed at all.

These are the issues that the opposition say they cannot make their minds up on. They have not got enough information about whether or not the call in is actually something

that they would support. All the objections to the DA, as I understand it, are publicly available. My letter has been made available to the committee. I spent 40 minutes on this issue and, indeed, the committee struggled to keep me there for 40 minutes on this issue. They did just manage to get over the half an hour break to ask questions on this. That was done and dusted. You have a view on it perhaps. You have got the objections; you have got the letter; you have had it explained to you why we did it. Also you understood, and certainly I put the case, that I have responsibility for this project; so questions should be directed to me, which they were. I answered those.

There is not even any other matter the committee decides to inquire into. That is not part of the resolution of appointment. The resolution of appointment states:

> … a Select Committee on Estimates 2009–2010 be appointed to examine the expenditure proposals contained in Appropriation Bill 2009–2010 and the revenue estimates proposed by the Government …

How, in that resolution of appointment, can the Minister for Planning call in or not call in a project that fits under my portfolio and fits in with the resolution of appointment? The government was very comfortable with the view that I attend to assist the committee as much as I could, and we did that. On behalf of the government, I appeared in relation to project. We answered questions about that. We struggled to fill the hour that had been allocated for that. We did so in a fulsome way to assist the committee in their deliberations.

The committee, of course, still has not formed a view about whether or not this was the right thing to do but all the information that the Minister for Planning has made his decision on, all the information that I made my decision on has been made available in one form or another for the committee.

It was entirely appropriate that I appear, although reluctantly, for a recall on this matter and it is entirely appropriate that the Minister for Planning did not. It did not fit in with the ambit of the Select Committee on Estimates and their job to scrutinise the Appropriation Bill. The scrutiny of the car park remains in my portfolio, that is where it has always sat; that is where it will remain. But the line that the estimates committee was running, and this is the line that I ran in the recall as well, was that any decision taken by government whilst an estimates committee is formed should either be volunteered as information to the estimates committee or we should return and answer further questions about decisions that might have been taken.

What would you be saying if there was no estimates committee in place and the correspondence between myself and Minister Barr continued? You have various ways to scrutinise decisions of ministers. Indeed, in the planning act itself there is a whole range of accountability measures which the Minister for Planning has just outlined for the benefit of members. That is the process that allows for proper scrutiny of ministerial decision-making. This was not about scrutiny of ministerial decision-making. This was about political point scoring and not having a view on matters of major importance, of projects of major importance to the territory. What a surprise! No view on Calvary; no view on the bush healing farm; no view on the car park.

Mr Hanson: No, we have told you about the bush healing farm. We support it.

MS GALLAGHER: No, no view on the car park, no view on the bush healing farm—well, not where it currently sits anyway.

Mr Hanson: No, no we support where it sits.

MS GALLAGHER: Absolutely no view on any of these matters and this is what you wanted the Minister for Planning to return for when you had access to the Deputy Chief Minister, the Minister for Health, the minister responsible for the capital asset development plan and the minister responsible for writing the letter seeking the Minister for Planning's use of his call-in power.

You had that opportunity. We, as a government, complied with the committee's request to return and answer further questions and to be as helpful as we could. The matter that the Minister for Planning was considering during that time, quite appropriately, remained out of the committee. The scrutiny of that call in is there for all to see. Additional reasons behind the Minister for Planning's decisions will be tabled in this place. We wait with baited breath for the Liberals to have a view on something. Do they support the call in of the hospital car park? Do they support the rebuild at Canberra Hospital? Do they support the fact that car park remains the great enabler and do they—

Mr Hanson: The great enabler?

MS GALLAGHER: It is. It is the great enabler for the rest of the project.

Mr Hanson: Ha! The great enabler?

MS GALLAGHER: Well, you might laugh, Mr Hanson, but unless this car park is built, nothing else will get built on that site, okay?

Mr Hanson: I understand it is getting built.

MS GALLAGHER: Okay. If the car park does not go ahead, and this is a pretty easy concept to get your mind around, but I can see you are struggling with it, nothing gets built until that car park is finished. Do you agree that the car park enables the rest of the development? Do you agree that the risk of not having this project go ahead is in the interests of the ACT economy? Do you believe 80 construction jobs starting in September and going through the next 12 months is good for the ACT economy? These are the challenges that the opposition has to stand up and have a view on. Do you have a view on this—jobs, development, hospital rebuild? It is pretty easy, Mr Hanson. It is pretty easy. You have got plenty of opportunity in this debate to stand up as the opposition spokesperson on health and say what you actually think.

MRS DUNNE (Ginninderra) (3.49): Mr Speaker, you can see that the government has spent some of the time while the members here have been working in estimates to huddle together and come up with a new narrative. The new narrative is that every

time the opposition asks a question about something, they turn it around and say, "Okay, you are opposed to that," and, "When will you come on board with"—insert the name of project here.

But the debate today is not about any of those things. It is not about the government's narrative about the Liberal Party. This is not a motion about the project—the desirability or undesirability of a car park at the hospital. This is not about the planning act. This is not even about the Minister for Planning's decision to call in a project. This is not about the government's billion-dollar health infrastructure project. It is not about any of those things. It is not about any of the things that the Chief Minister or the Deputy Chief Minister spoke about. It is about a member who refused to respond to the summons of a duly constituted committee of this place.

A committee of the Legislative Assembly, when it is acting, acts on behalf of the Legislative Assembly. The standing orders are very simple. They state:

> If a committee desires the attendance of a Member as a witness, the Chair of the committee shall, in writing, request that Member to attend; should the Member refuse to come, or to give evidence or information as a witness to the committee, the committee shall advise the Assembly, and not again request the Member to attend …

The committee did everything by the book. I was not a member of the committee, but having read the discussion, it is clear that they decided that it was necessary to call back two ministers to ask questions. The committee decided this. All the members present participated in that decision making. Nowhere does it say that a majority of the committee decided or anything like that. This is a decision of the committee and there is a recommendation of the committee that accompanies the decision of this committee as a result of what happened in the committee process. This is about a member's failure to comply with the request of a duly constituted committee of this place. It is about nothing more than that, and certainly nothing less. It is not about any of the other things that these ministers want to talk about.

What happened was that the minister refused to attend when he was asked by the chairman of the committee in accordance with the standing orders. The committee has drawn this to the attention of the Assembly, as set out in the standing orders, and it is now for this Assembly to decide whether or not the member who failed to comply with the request should be punished in some way, shape or form.

The Liberal opposition has put forward a proposal that this member should be censured. There are a range of options open to the Assembly, and possibly the lowest one is censure. It seems to be pitched at about the right level because if this matter had gone through a privileges process, which is probably one of the other options, you would end up in the same situation where it is clear that the member has held the committee in contempt. The committee has said this itself in its narrative and it has asked the Assembly to take the matter further.

The Liberal opposition believes that this member should be censured because that is the standard form of the house. It is the standard form of practice in the House of Representatives and in other parliaments on which we model ourselves. I think that it

is unfortunate, but not entirely surprising that the Greens would want to downgrade this censure to something less and I think that it reflects a lack of experience with the forms of the house. I think that the idea of admonishing, whilst it is a quaint, recherche sort of word, does not actually do anything substantive and it is not one of the forms of the house. Therefore, I think it is unfortunate that Ms Le Couteur has brought forward this amendment.

I assume that there would have been discussions in the committee that Ms Le Couteur would have been privy to about the implications for the committee system. I hope there were discussions about the implications of the committee system if members steadfastly refused to attend when asked to do so by a chairman of the committee. It is unusual, Mr Speaker, for this to happen, that a chairman of the committee has to request a member to come, and it is highly unusual, I think unprecedented, that a member has refused to do so.

I think that, because this is the first occasion when a minister has refused to do so, we should take reasonably strong steps so that we actually set a reasonable standard for ourselves that we all have to live up to. I am concerned that the watering down of the censure motion to a motion of admonition—I am not quite sure where that terminology comes from—does not set a very high standard and means that it will be easier for members in this place to duck out of hearings when they are summoned in the future. I think that this is unfortunate.

I was most interested to hear some of the rhetoric from the Chief Minister and the Deputy Chief Minister and also some of the interjections from the manager of government business, who has not covered himself in glory this week, who said that it is for the government to decide who represents it at committees.

Mr Corbell: According to Vicki Dunne.

MRS DUNNE: I am sorry. It is not actually for the government to decide who attends; it is for the committee. The committee does not ask the chairman to write to the government and say, "Could you send somebody along?" Under the standing orders the committee asks the chairman, and the chairman writes to a member. It is not for the government to decide whether or not that member may attend. It is not for the cabinet to decide. It is not for them to sit in a huddle around the tea table and decide who shall answer the summons of a committee of this place. It is for the member to decide of his own volition. If he refuses to come then he has to face this chamber.

That is what he is doing today. He is facing this chamber for his failure to follow a directive from the chairman of the committee. He may have had a whole lot of perfectly good reasons why he did not want to do it, but it does not matter. It is not about his ego. It does not matter what his views were. It was his job to come to the committee and put forward, perhaps, that he could not answer a particular question because of a set of circumstances. But he did not do that. He just refused to come.

Mr Barr said before that there was nothing that he could do or say that would sway this Assembly not to take some steps against him today. Actually there are things that

he could have said and done, and even now could have said and done. One of them would be to sincerely apologise to the Assembly for the contempt in which he held the committee, to sincerely apologise to the members of the committee and, through the members of the committee, to the Assembly and the people of the ACT because he holds them in contempt. He is here because he held people in contempt. That is why Mr Seselja's motion should be supported. I am very disappointed to see the amendment brought by Ms Le Couteur because it substantially waters down this matter.

MS HUNTER (Ginninderra—Parliamentary Convenor, ACT Greens) (3.58): I would just like to reiterate some words said earlier by Ms Le Couteur when she moved her amendment. The Assembly cannot do its work if those who are elected to serve it fail to do so, and the integrity of the government which depends on the Assembly for its legitimacy comes into question.

The Greens take the processes and privileges of parliament very seriously and the decision taken by Minister Barr not to appear before his colleagues at the estimates committee hearing causes the Greens a good deal of concern. Minister Barr does his government and the people of Canberra a grave disservice by treating the committees of this place with less than the level of respect they deserve.

The history of procedure and precedent is that when members of the committee recall a fellow colleague, the member in question show the Assembly, its members and the ACT community the respect of appearing to help or answer questions, where possible. Invited, recalled or ordered are all derived with the same clear sentiment, and that is the requirement of the committee and the Assembly for assistance with the matter that is critical and important to the residents of the ACT that we are here to serve. The action of refusal was disrespectful.

We understand that Minister Barr is bound by section 158 of the Planning and Development Act 2007. However, he could not pre-empt the exact questions of the committee. There may have been questions that he could have answered to help the committee in their scrutiny process that would not have compromised his decision process. He could have chosen to attend as a measure of respect and explained in person to the committee that when asked questions—and I quote from his letter of 4 June 2009 to the estimates committee—"that would inevitably anticipate the issues presently before me" he could not answer them.

For Mrs Dunne's information and Mr Seselja's information and for the information of the Liberals, Ms Le Couteur's amendment on behalf of the Greens to admonish Minister Barr is intended to reprimand firmly. In fact, on advice provided to us by the Clerk's office, it has been used in practice. It is a strong signal that respect for the procedures and requests of the Assembly are vital if we are to deliver accountable governance for the ACT.

MR CORBELL (Molonglo—Attorney-General, Minister for the Environment, Climate Change and Water, Minister for Energy and Minister for Police and Emergency Services) (4.01): Mr Speaker, this censure motion is fundamentally misplaced. It is misplaced and misconceived because it fails to properly appreciate the

different roles performed by the executive and the Assembly in our system of government.

What is the argument that is being put forward by those who seek to censure or in some way admonish the Minister for Planning? The argument seems to be that you should have shown up to tell us about a decision that you had not taken so that we could scrutinise the nature of a decision you had not yet taken.

The role of the Assembly is to scrutinise decisions made by the executive. The role of the executive is to make the decisions, responsibility for which is given to the executive under the self-government act. The minister, at the time of being called, had not made any decision in relation to that development application. The only course of action he had taken was to ask the planning authority to provide him with the documentation so he could determine whether or not he should exercise his powers and determine the application himself. It is so fundamentally misconceived that this minister should be criticised because he refused to allow a scrutiny of a decision that he had not yet taken. What an absurd proposition! But that is exactly the proposition that is being put by those opposite and those on the crossbench today. It is so fundamentally flawed.

It is entirely legitimate for the minister to indicate to the committee that he believes it would be inappropriate for him to attend and to answer questions about a matter that is before him for a potential decision. It would anticipate the matters that are given to him, and to him alone, under the planning act to determine. How could he feasibly and fully answer questions about a decision to consider calling in a proposal without potentially pre-empting his own statutory decision-making processes?

All that would have been served by the minister attending the committee would have been for the minister to be put in a position where he would have to say, "I cannot answer that question because it would pre-empt my decision." If the committee feels that they were going to get some other information, what could it conceivably have been—about how a call-in process works? Well, for heaven's sake, read the Planning and Development Act. It is quite clear how a call-in process works. So it could not have been that.

It could not have been "how does a call-in operate?" because that is clearly spelt out in the act. You do not need to call a minister to understand that. It could not have been about the details of the project or the amount of money that the government was spending on the project that was before the minister for a potential decision because the Minister for Health is responsible for that. So what would the questions have been about? The questions would have been: what factors, what issues, what matters are you going to bring to consideration of potential call-in of this project? It would be a complete pre-empting of the minister's responsibilities to make these decisions under the act.

This is where we see the Assembly trying to inject itself into the executive decision-making processes. It is not for the Assembly and its committee to try and pre-empt or second guess or even direct a minister in the exercise of his statutory functions. It is the role of the Assembly to scrutinise those decisions after the decision

is made. It is the role of the Assembly to say to the minister, "Why did or did you not take account of certain factors in reaching this decision?" That is why, under the planning act, the minister is obliged to give reasons for his decision and table all the papers in this place. That is why the act is structured in that way. That is why there is the opportunity given to the Assembly to scrutinise these matters.

But the scrutiny occurs when the decision is made, not in anticipation of a decision, because the Assembly can have no idea of what the decision will be and on what grounds it will be made. So the process and the suggestion that scrutiny should occur ahead of the decision is entirely speculative, pre-emptive and an attempt to potentially prejudice the minister's decision making before he has even fully contemplated and considered the matters before him.

Mr Seselja: No, it's not—political and frivolous.

MR CORBELL: It is a fundamentally misplaced argument, and we can see how seriously the Leader of the Opposition takes this censure motion. We can see how seriously he takes it.

First of all, the matter was raised in the estimates committee report yesterday. Did he move immediately to protect the privileges and the rights of the Assembly as he sees them? No. Did he move even immediately yesterday? No. Did he move at the first opportunity this morning? No. Did he move immediately at the commencement of question time? No. He decided: "It's not that important. We will do it after question time." Now he is not even here. He has not been here for the majority of the debate.

How serious is this bloke when it comes to this censure? He is not serious at all. It is a derisory argument. It is a misplaced and misconceived attack to suggest that what the minister has done is inappropriate. It was entirely appropriate for the minister to draw to the attention of the committee the fact that for him to be called on that matter would pre-empt and prejudice his responsibilities under the planning act.

It is disappointing that the committee, instead of engaging further with the minister on that matter and trying to seek a further understanding of the minister's reasoning if the committee did not agree with it, simply said: "Right, beauty, got him. We'll go for a censure motion." This was a conceived and contrived political tactic—pure and simple. That is all it was.

At the end of the day ministers have responsibilities to make decisions and the Assembly, in one of its roles, scrutinises those decisions. But you cannot scrutinise a decision that has not been made. You cannot inquire into matters that are yet to be determined by a minister but which are being actively determined by the minister. You cannot do those things. It is misconceived to suggest that scrutiny of a non-decision is so fundamental to the operations of the estimates committee. It is misplaced, it is misconceived and the government clearly will not be supporting this motion today.

MR HANSON (Molonglo) (4.10): Madam Assistant Speaker, I was not actually going to speak to this motion today, but, having heard the utterances from those

opposite, I do feel somewhat compelled. Firstly, I can turn to the allegations which were made by the health minister that the Liberal Party—I think there was a slur on the Greens as well—by raising this motion today and inquiring into things like hospital car parks and other developments, are somehow against public health. That is verging on the bizarre. The role of the opposition, as I was quoting from Mr Stanhope this morning, is about scrutiny. It is about looking to what the government does, and that is our role. We would be criticised very strongly by Mr Stanhope, and rightly so, if we were not to do that. To criticise us for doing what is essentially our job—to inquire, to question and to scrutinise—and to suggest that that means we are against spending money on health is disappointing.

The facts are though that we want to see our health dollars spent in the most prudent fashion. We know that we have a reasonably reliable health system. At the moment, although we are getting some of the worst outcomes in our statistics in terms of the number of GPs, emergency departments, elective surgery and so on, we are spending the second highest amount per capita in Australia. Before we spend $49 million—is it $45 million or $49 million; it goes up each time we see it—we certainly should not be rushing that process through. We should examine the process by which such a decision will be made, and that is our job.

The debate is not about that issue. The debate is not about planning and it is not about health; it is about whether Mr Barr should have turned up to the estimates committee when he was recalled by that committee. That is the subject of this debate today, and attempts by the government to spin it towards a claim that we are against health are erroneous. Let us get back to the subject matter at hand. Standing order 258 makes it very clear that if a committee desires the attendance of a member, that member should attend. By not doing so, Mr Barr was in contempt of the Assembly.

Mr Stanhope: Where does 258 say that?

MR HANSON: It says:

> If a committee desires the attendance of a Member as a witness, the Chair of the committee shall, in writing, request that Member to attend; should the Member refuse to come, or to give evidence or information as a witness to the committee, the committee shall advise the Assembly …

Mr Stanhope: It does not say anything about his response—

MR HANSON: I think it is quite clear, Mr Stanhope, that—

Mr Stanhope: It says no such thing.

MADAM ASSISTANT SPEAKER (Mrs Dunne): Do not interject, Chief Minister.

MR HANSON: If a member is requested by a committee chair and he refuses to do so without justifiable reason—

Mr Stanhope: What? Are Liberals allowed to interject, Madam Assistant Speaker?

MADAM ASSISTANT SPEAKER: I have given you a direction, Chief Minister, not to interject.

MR HANSON: then it is contempt of the Assembly. That is the matter we—

Mr Stanhope: On a point of order, Madam Assistant Speaker, would you give the same order that you just gave me then in relation to members of the opposition when they interject?

MADAM ASSISTANT SPEAKER: I have already asked Mr Smyth not to interject, Chief Minister. Can you sit down, please.

Mr Stanhope: Will you do that?

MADAM ASSISTANT SPEAKER: Sit down, please.

Mr Stanhope: You will be even-handed, will you, Madam Assistant Speaker?

MADAM ASSISTANT SPEAKER: Sit down, please.

Mr Seselja: On a point of order. Madam Assistant Speaker, the Chief Minister's comment querying whether you will be even-handed is a reflection on the chair, and I would ask you to make a ruling on that.

MADAM ASSISTANT SPEAKER: I think that the chair—

Mr Stanhope: On the point of order, Madam Assistant Speaker, I was simply asking you a question which you declined to answer. I think it was a legitimate question—

MADAM ASSISTANT SPEAKER: Chief Minister, sit down. I am about to speak, and I am in control.

Mr Stanhope: Well, on the point of order—

MADAM ASSISTANT SPEAKER: Sit down, Chief Minister!

Mr Stanhope: You will be even-handed then, Madam Assistant Speaker?

MADAM ASSISTANT SPEAKER: Sit down! Chief Minister, you were behaving in an unparliamentary way. I asked you to cease interjecting. You were the only person who was interjecting at the time, and I asked you to cease interjecting. I have asked members of the opposition to cease interjecting. I will continue to exercise the powers of the chair as appropriate, and I do not need advice from you on how to do so. Mr Hanson.

MR HANSON: In relation to that matter, Mr Stanhope, you are correct, in that what I was saying is that the standing order is the subject of what we are inquiring into today and Mr Barr's failure to attend the committee, and this is what has led to the matter of

contempt. It relates to that standing order, and if that point of clarification helps, I am happy to make it.

Mr Stanhope: I raise a point of order, Madam Assistant Speaker.

MADAM ASSISTANT SPEAKER: Could you stop the clock please, Clerk. What is the point of order?

Mr Stanhope: I just wonder whether you would give the Assembly the benefit of your advice on whether or not the interpretation by the member in relation to standing order 258 is actually correct. Standing order 258, in the view of the member speaking now, directs that when a minister is called by a committee, he must attend. I just wonder whether you could confirm that that is the meaning of standing order 258.

Mr Seselja: On the point of the order, Madam Assistant Speaker, there is no point of order. It is not up to you to be ruling on a debating point. It is essentially a debating point, and the Chief Minister has no point of order.

MADAM ASSISTANT SPEAKER: There is no point of order. Mr Hanson is making a point in his speech. If you, Chief Minister, want to take issue with that, there are the forms of the house to do so.

Mr Stanhope: Well, if I might, on the point of order—

MADAM ASSISTANT SPEAKER: Do you have a point of order, Chief Minister?

Mr Stanhope: I do. I am just seeking your assistance. I just wonder whether it is possible for members of the Assembly to seek rulings from the Speaker in relation to the interpretation. I am asking now. That is what I sought to do. I was not seeking to actually comment on it—

MADAM ASSISTANT SPEAKER: Thank you, Chief Minister. Can you sit down, please.

Mr Stanhope: I wanted to know if I can ask you to make a ruling on a standing order. Is that part of the function of the Speaker?

MADAM ASSISTANT SPEAKER: Sit down, Chief Minister, and I will answer your question.

Mr Stanhope: Thank you.

MADAM ASSISTANT SPEAKER: If there is a matter of standing orders before the house, it is appropriate for the presiding officer to make a ruling on that standing order. What Mr Hanson is doing now is giving his view of another standing order, which is not how we are ruling our affairs today, but how the committees rule themselves. It is not appropriate for me to give my interpretation of Mr Hanson's views on that standing order, because that does not relate to the way we govern ourselves at this moment in this place.

Mr Stanhope: But, on the point of order—

MADAM ASSISTANT SPEAKER: Chief Minister, sit down. I have heard you enough, and you are delaying the matter.

Mr Stanhope: No, I am asking for your interpretation of standing—

MADAM ASSISTANT SPEAKER: Chief Minister, sit down!

Mr Stanhope: Well, the Clerk just nodded that you can give your interpretation of standing order 258.

MADAM ASSISTANT SPEAKER: Chief Minister, sit down. I have given my ruling on this. Sit down.

MR HANSON: To clarify the issue, what I was referring to was the fact that standing orders are the subject of the matter here—that is, the refusal of Mr Barr to attend the committee and the fact that that is the subject of standing order 258. That has led to this debate, so I will move on. The Chief Minister is obviously in a somewhat objectionable mood today.

The next matter is the fact that Mr Barr refused to attend a committee after the committee chair asked him to do so and he is, therefore, in contempt of the Assembly. What is the appropriate approach now? I think the opposition and the Greens have demonstrated that he is in contempt of the Assembly. The government is conducting this debate by the sort of questioning we have just seen from the Chief Minister or the defence of the planning process or Katy Gallagher claiming that we are against spending money on public health. I think it is fair to say that we need to send a very strong and clear message that this is unacceptable. If we simply give the minister in this case a slap on the wrist and we do not deal with the matter appropriately, I think we will be encouraging the government in future cases to treat the Assembly and committees with contempt.

I encourage the members here to consider that. I certainly do believe that Mr Barr has been in contempt of the Assembly. Maybe if he had his time again he may have acted otherwise. Based on the debate we have had today, I consider that the appropriate action for us to take is to censure the minister, because that will provide a clearer direction to this government and its ministers on how they should respond.

MS BRESNAN (Brindabella) (4.20): I would like to first off remind the Chief Minister that any matters relating to expenditure relate to the budget. The car park at the Canberra Hospital was a health and planning matter and, therefore, it was more than appropriate to ask questions of the ministers responsible for those portfolios about a matter which had direct relevance to the expenditure funding in the budget. The Chief Minister himself today said that the appropriation bill is the most important bill of the year and, therefore, the analysis and examination of any matters relating to it are important. Mr Stanhope's entire speech today showed his attitude towards the estimates process.

As has also been pointed out, no ministers today have addressed the substance of the motion before us. This is about the accountability of the executive to the parliament. Is Mr Barr saying through his actions that the government is above the parliament? I refer the Assembly to the Latimer House principles we have adopted, most importantly 2(g)(i), which states that parliamentary procedures should provide adequate mechanisms to enforce the accountability of the executive to the parliament. That is why we have committees and that is why we have estimates.

Under standing order 277(l)(i) a witness before a committee could refuse to answer a question if they had reasonable excuse. Therefore, Mr Barr could have appeared before the committee and answered the questions he could and not answered those questions for which he had a reasonable excuse not to answer. So he could have appeared and then not answered those questions he thought were inappropriate.

I would also just like to point out that admonishment is a formal proceeding of the Assembly and has been used on a number of occasions in the past. I would just like to draw members' attention to the fact that the very first such motion in the Assembly was, in fact, an admonishment. The Greens believe the most appropriate response in considering the actions of Mr Barr is admonishment. "Admonishment" is defined as being "to warn or to caution". I therefore commend Ms Le Couteur's amended motion to the Assembly.

MR COE (Ginninderra) (4.22): It is a shame that I rise to speak today on this issue. It would have been much easier had the minister done his job as per the standing orders, as per the people of Canberra elected him to do, and fulfilled his Assembly duties by turning up to the committee as requested.

It is a very simple process. Our previous speakers have outlined just how simple and straightforward that process is. Yet this minister, through complete arrogance, has said, "No, I am above that committee; I am above those five members; I am above those five members that were delegated by this Assembly to carry out that task." This minister has said, "No, I am above them." He has in effect said, "I am above the Assembly"—in effect, that he is above the people of Canberra; he is not answerable to the people of Canberra. That is what his actions describe. His actions describe that he does not need to give the people of Canberra an answer when their elected representatives seek one; he just does not need to do it.

What I found interesting about the debate earlier was when the health minister came up and in effect strengthened our case when she said, "I did not agree with it either but I turned up. I did not agree with it but I turned up." Here you have it. You have Mr Barr and Ms Gallagher in the same situation where they both disagree with being called up, yet only one of them actually does as the standing orders stipulate. You have Mr Barr doing one thing and you have Ms Gallagher doing another.

Mr Stanhope: What is the standing order?

MR COE: On the broader issue of standing orders, as Mr Stanhope has reminded me, I find it very interesting that the Labor Party are very good at selectively using the

standing orders to suit them. When the standing orders are very clear in saying that Mr Barr should go back, he does not do it. Yet you have Mr Corbell popping up time and time again, every single day, pointing out certain standing orders that we are not complying with or that should be imprinted by the Speaker.

I find it very interesting and a bit rich that the Labor Party should have these double standards when it comes to standing orders. If standing orders are to have any effect, if they are to have any credibility and integrity whatsoever, they have to be enforced all the time and have to be respected all the time. It is a great disappointment when a minister comes in here and tells the people of Canberra that he does not think he needs to give an answer.

Even if the standing order did not stipulate that he had to go back—even if that did not happen—why did he not go back anyway out of courtesy, out of respect for those five members, out of respect for the Assembly, out of respect for the 345,000 people that live in Canberra? Do they not deserve to have the answers? No; according to Mr Barr, they do not. I find it very disappointing. I think it is a shame that this motion has to go ahead today. I very much support Mr Hanson's motion to try and bring some integrity back into the Assembly.

MS LE COUTEUR (Molonglo) (4.26), by leave: This has been a very interesting debate. The most interesting thing I have found or heard, or probably the most depressing thing I heard, was an interjection from Mr Barr. Mr Barr interjected to say that the lesson learnt is: don't use call-in powers during estimates.

Mr Stanhope: Yes. That's the lesson.

MS LE COUTEUR: That is not the lesson that we are trying to talk about here, Mr Barr.

MADAM ASSISTANT SPEAKER: Chief Minister, do not interject.

Ms Bresnan: Point of order.

Mr Hanson: I think we have learned lots of lessons about you, Mr Stanhope. We keep learning about your character.

Mr Stanhope: On a point of order, Madam Assistant Speaker: he is interjecting.

Ms Bresnan: On a point of order: Ms Le Couteur has the floor.

MADAM ASSISTANT SPEAKER: Yes.

Mr Stanhope: Madam Assistant Speaker—

MADAM ASSISTANT SPEAKER: Sit down, Chief Minister. You are trying my patience and I am sure you are trying to try my patience. I ask members not to interject. I was just about to say that when Ms Bresnan rose to her feet. I ask members not to interject and to listen to Ms Le Couteur.

MS LE COUTEUR: Thank you, Madam Assistant Speaker. The lesson out of this is that we all need to be respectful of the processes of this place. As many people have said, we have standing orders. We have standing orders for a reason, and when—

Mr Barr: Amend the Planning and Development Act in the—

MADAM ASSISTANT SPEAKER: Mr Barr, I have asked you not to interject. I have asked all members not to interject. Ms Le Couteur will be heard in silence.

MS LE COUTEUR: Thank you, Madam Assistant Speaker. I really have little more to say. This is not about health or planning; this is about respect for the Assembly, and in particular respect for the estimates committee. "Admonish" is the word we thought appropriate, as at this stage we are warning and cautioning the minister that this is not acceptable behaviour. I commend my amendment to the Assembly.

MR SESELJA (Molonglo—Leader of the Opposition) (4.28): I thank members for their contributions. We are somewhat disappointed that the Greens have sought to downgrade the motion, but we believe that there needs to be some statement. We believe that censure is the appropriate statement. When we have such blatant contempt for the Assembly, we should have a strong statement; we believe that censure is at the right level. We disagree with the Greens on this, but in the end it is better that we have some statement by the Assembly condemning these actions rather than none. Whilst admonishment is far from ideal, it is probably what we will accept.

Ms Le Couteur made some good points in her comments just now. The minister does not get it. He does not appear to get it that the lesson is that now he will have to play better avoidance tactics than he did this time. That is not the lesson. The lesson needs to be that the Assembly is making a statement here. The Assembly is making a statement that it is unacceptable for a minister to simply thumb their nose at committees and to thumb their nose at the Assembly. They are answerable to the Assembly and, through us—through all of us, all 17 of us—to the people who elected us. That is why we have these processes, that is the way parliament is established and that is why it is so important.

We saw a fundamental misunderstanding. The manager of government business, when he spoke in this debate, showed a fundamental misunderstanding. He seemed to be suggesting that we should have just ignored the standing orders. He does not get it that 258 makes it very clear what the procedure is. The procedure is not, as Mr Corbell suggested, that once the minister comes back we go back to him and we say, "Well, what about this and what about that?" It is very clear. Standing order 258 makes it crystal clear. It says:

> If a committee desires the attendance of a Member as a witness, the Chair of the committee shall, in writing, request that Member to attend …

We did that. It says:

> … should the Member refuse to come—

which he did—

> or to give evidence or information as a witness to the committee, the committee shall advise the Assembly, and not again request the Member to attend the committee.

Standing orders were followed. We have seen Mr Stanhope's obsession with the standing orders. He rarely understands them. He does not quite understand them when he gets the opportunity to debate them. He tries to use frivolous points of order to try and get his point across because he is not quite sure of it and he does not use it in debate.

But 258 is very clear, and we followed that procedure. What the manager of government business was saying was: "You should have followed a different procedure; what you have done is wrong." No. We followed the procedures put in place by this Assembly in supporting these standing orders. What we also did and what the committee also did was to recommend that action be taken. We made very strong findings saying that the minister had shown contempt for the committee. That is what has led us here today.

The other charge of the manager of opposition business, Mr Corbell, was that we did not do it soon enough. We followed a very good process. We had a report which made recommendations as a result of certain things happening. We gave the government the opportunity to read that. We did not hear anything from Mr Barr yesterday. We then gave him notice that we would be moving it.

We all recall—I recall—Mr Corbell moving a censure motion. We may have found out about it about five minutes before he moved it if we were lucky. There has not been that same courtesy shown. Apparently what Mr Corbell is arguing is that we should have shown Mr Barr the same lack of courtesy that Mr Corbell has, in the past, shown members on this side. We believe that it is reasonable, if you are going to move a censure motion against a member, that some notice be given, that they have the opportunity to consider it and to prepare their case. If the argument from the Labor Party now is that we should not do that in the future, we will have to reconsider that, but we believe it is reasonable. We would expect that courtesy, although it has been rarely granted by the Labor Party, particularly when they had the majority government. They did not give that courtesy but we do believe in that basic courtesy.

The fundamental issue here, though, is that he thumbed his nose at the Assembly and at the committee. Let us just get back to the heart of that. There are a lot of standing orders about powers to send for papers and people, summoning of witnesses and procedure when we summon a member. If Mr Stanhope is saying that they do not have to attend and there is no sanction for that, the whole basis of our committee system falls down. Following that to its logical conclusion, all ministers could say: "We don't want to talk about the budget this year; we will not be showing up. You can read the budget papers; you can make your own recommendations. We will come back to it. We do not want to talk about anything else that a committee wants to talk about in its committee inquiry."

It is a ridiculous assertion. Perhaps the standing orders will have to be amended to make more specific and more clear what everyone would have thought was a matter of longstanding convention. A longstanding convention is that, when a minister or a member is required to attend by a committee, they attend. If there is a breakdown in such basic courtesies and such basic conventions in this place, it will be very difficult indeed for us to do business. In fact, we will have to come up with all sorts of draconian standing orders that enforce that happening quite directly.

This is the first that I have seen of it. I have not had anyone in this debate bring to my attention another example of it. If it has happened in the past, it is obviously so rare that no-one can remember. It is the first that I am aware of. It is a serious thing and it should not be belittled as being meaningless.

This is a government that has shown itself to have contempt for the Assembly. It did that before; it was able to get away with it when it had a majority. We are moving to a point where it will not be able to get away with it, notwithstanding the fact that we disagree with the ultimate sanction here today. The committee, I believe, will make a decision to condemn these actions by the minister. I think that is right. We will certainly debate the strength of that response. We have put on record our concerns about that.

We as an Assembly simply need to draw a line and say that this is unacceptable, this is not good enough and this will not be tolerated. Certainly, we in the opposition do not tolerate it. We condemn the minister for his actions. We believe he deserves the condemnation of the Assembly. I commend the motion to the Assembly.

Amendment agreed to.

Motion, as amended, agreed to.

Non-profit sector

Mr Seselja: Who was it that didn't want a vote?

MADAM ASSISTANT SPEAKER (Mrs Dunne): Mr Seselja!

Mr Stanhope: Why didn't you vote against the amendment? Didn't have any confidence, did you?

MADAM ASSISTANT SPEAKER: Mr Stanhope, I have already spoken to you about interjections. I have spoken to members about interjections. I would like Ms Porter to be heard in silence.

MS PORTER (Ginninderra) (4:37): I move:

> That this Assembly:
>
> (1) supports the Federal Government's compact with the non profit sector and acknowledges the proactive participation of the ACT Government in the consultation process; and

(2) acknowledges the ACT Government's own compact with the non profit sector in the ACT and recognises the mutual benefits that the Federal compact will have in strengthening partnerships with the non profit sector.

I am happy to move this motion today in support of the federal government's consultation with the not-for-profit sector in relation to the development of a national compact.

When we think about the not-for-profit sector, the organisations that mostly come to mind are those who provide community services, such as Meals on Wheels, home visiting and volunteer transport services. However, this sector should not just be seen to be encompassing community services alone. It is made up of organisations that play a wide variety of roles, from emergency services through to arts and cultural organisations, sporting and environmental organisations, and education and support organisations.

Before considering the relevance of a compact between the sector and the federal government, understanding the diversity and size of the sector is important. The sector is made up of numerous clubs and organisations, large and small, with diverse purposes and objectives. At the dawn of the new millennium, the ABS counted over 700,000 non-profit organisations across the country. Over eight per cent of Australia's workforce can be found in the not-for-profit sector—a sector that currently turns over $75 billion per annum.

Organisations that work with volunteers are a key component of the sector. Presently, more than five million Australians volunteer their time each year, contributing an estimated $42 billion to the economy each year. As the Chief Minister said at the launch of the Volunteer of the Year award ceremony this year, this yearly contribution is the same size as the recent federal government stimulus package.

The $75 billion that is turned over by the sector each year is not insubstantial and is roughly equivalent to the contribution of Australia's agricultural industry. Due consideration should also be given to the significant proportion of the nation's workforce that is employed in this sector.

On 17 March this year, the Deputy Prime Minister and the parliamentary secretary for social inclusion and the voluntary sector made a joint announcement that the Productivity Commission will examine the contribution of the not-for-profit sector. The Productivity Commission will examine the contribution of the sector in order to assess how its contribution to Australian society is currently measured and how these measures can be improved. I feel certain that this report will also confirm the importance of the sector to Australian society and the economy. The commission will also provide a final report by the end of the year.

As I said, the not-for-profit sector contributes eight per cent of Australia's workforce, let alone the huge number of volunteer staff. Of course, the social contribution of the sector in providing support and building social cohesion and wellbeing is invaluable. It is the social glue that holds our society together. A survey conducted by the NRMA

in the ACT once found that, when asked what was the most important aspect of their lives, people in the ACT responded firstly by nominating family and secondly by nominating community.

Throughout the duration of my role as the CEO of Volunteering ACT, I was intimately aware of the not-for-profit sector's many faces and the breadth and variety of its work. As I said, environmental groups, sporting clubs and community associations are all examples of the not-for-profit organisations that are numerous in this city. They all increase our sense of community and social responsibility, and help us build networks and develop skills. The impact that these clubs and organisations have, in terms of their positive social outcomes for the community in general and for volunteers as individuals, is well documented.

Of course, it is also important to define what is meant by the term "compact". Last year's consultations between the federal government and the not-for-profit sector revealed that this term was not widely understood. What is a compact? A compact is an agreement between two parties. In this case it is one between the federal government and the not-for-profit sector. It outlines how both parties will work together to improve and strengthen their relationship now and into the future for the benefit of the whole community.

A strong relationship between the federal government and the not-for-profit sector is vital to ensure that government policy is informed by the views of the sector, as it is the sector that works at the coalface of service delivery in our communities. The proposed compact is intended to provide a vehicle through which the sector can engage with the federal government on its reform agendas, such as the carbon reduction pollution scheme, industrial relations and taxation reforms and many other areas of policy.

The not-for-profit sector has developed leadership structures that reflect the diversity of the sector, such as Volunteering Australia and ACOSS. I have been involved in both of these organisations, which also have their own state and territory instruments. These organisations will be key to developing and promoting the compact nationally. The aim is also to increase the level of collaboration and communication between government and the not-for-profit sector and to strengthen the sector's capacity to give efficient and effective service. Consultation will be aimed at promoting and achieving the social inclusion priorities that lie at the core of Labor values.

I was recently at a dinner hosted by a well-known service club in the ACT, International Lions, and officials of the club spoke on that evening about their role in this consultation process. Sometimes, as I said, we forget the breadth of this sector and the important work that it does.

As members of this Assembly would be aware, a compact already exists between the ACT government and the ACT not-for-profit sector. In fact, until recently, New South Wales and South Australia were the only other states and territories with such a compact. But I am happy to say that, last November, the Queensland compact was launched. The ACT social compact, together with the ACT social plan and the community sector funding policy, marks a significant shift away from a

purchaser/provider model to a true partnership, when they were first introduced. This was a result of a great deal of work by the joint community and government reference group at the time. I was a member of the joint community and government reference group representing Volunteering ACT at the time, and I clearly remember the many months of work undertaken by both the not-for-profit sector officials and the government at that time.

The ACT will be able to use the emergence of a national compact to strengthen our social compact, to build on the positive elements and the positive aspects of the relationship and to use the development of a national agreement to enhance our earlier model here in the ACT. Whilst the federal government plays a leading role in policy development, the states and territories such as the ACT have, in the past, been responsible for the provision of the vast bulk of social services, particularly through the not-for-profit sector, and also of course through government agencies on the ground. This experience will be invaluable in forming the national process, I believe.

Australia's "new federalism" has had a real impact on the relationship between the not-for-profit sector and the federal government, as well as the dynamic between the sector and the states and territories. The current Rudd Labor government has demonstrated a commitment towards reforming the state and federal relationships and this new federalism has and will continue to influence what happens in the ACT. The product of this new way of working together can be seen in the national reform agenda which will restructure service delivery at the federal, state and territory levels.

We can look at similar initiatives in Canada and Great Britain that provide some interesting perspectives on the commonwealth initiative. Indeed, I was first introduced to the idea and value of the compact through my contact with and visit to the Home Office in the United Kingdom in the formative years of the British compact.

Perhaps of greater relevance to the ACT's role regarding our compact is the Canadian experience. It took seven years to establish an accord that was not dissimilar to the compact that the Rudd government is proposing. Although the Australian system of government is obviously not a direct replica of the Canadian system, it is worth considering the excessive time taken by the Canadian government to reach an agreement with the community services sector, which was largely as a result of a breakdown between the states and provinces, responsible for funding the community services sector, and the Canadian government. When one considers the nature of the federalism that is being expressed through the proposed commonwealth initiative—that is, a national compact—it seems important to learn from this example.

One of the challenges of this initiative is to make a national compact work in the context of Australia's unique but evolving federalism. During the consultation process the not-for-profit organisations identified an increase in cooperation between governments as one of the four priority areas that need to be addressed in the compact.

Cooperation between the ACT, the federal government and the not-for-profit sector to reduce red tape and facilitate more streamlined processes is another area identified as critical during the consultation process. At each forum, participants raised the need for accountability mechanisms and reporting systems for the sector to be simplified and

applied consistently across the commonwealth, state and territory governments and their departments. The fact that the role of the ACT may be adjusted as a result of this trend, as well as the ACT government's experience in providing these services, are reasons why the ACT government should play a strong part in the processes leading up to this compact.

The Department of Families, Housing, Community Services and Indigenous Affairs consulted with representatives of ACT Health and the Department of Disability, Housing, and Community Services on 2 December 2008 to obtain the ACT's view on the national compact and to learn from the ACT's experience of working under our social compact. Ongoing participation in the consultation process will enable the ACT government to play an active and appropriate role that will strengthen the sector within the territory and, as a consequence, contribute towards positive, socially inclusive outcomes and strengthening of our community. This is, of course, what the compact has been designed to champion.

A national compact should be used to strengthen the compact that this government has with the not-for-profit sector in the ACT. The ACT government should support this national compact. Promotion and education of the value of the existing social compact would be an invaluable support for the emerging national compact.

The ongoing active participation of the ACT government in the consultation process will be vital. As one of only three states and territories which have a compact between state and territory government and the not-for-profit sector, we can bring our valuable experience to the process. Obviously, therefore, it is important that we share our experience with the commonwealth.

Finally, it is important that we use the national compact to benefit the ACT government's compact with the sector. By ensuring that there are synergies between the ACT and the national compact, the ACT government will maximise the advantages which are to be found in both.

MRS DUNNE (Ginninderra) (4.49): I thank Ms Porter for bringing forward the issue of the compact and, more importantly, bringing to prominence, as is appropriate, the good work, the outstanding work, of the not-for-profit sector and the important work that the not-for-profit sector performs in our community. The diversity of organisations that encompass the not-for-profit sector show just how diverse our community is, as well as the breadth of interest and the breadth of need in our community.

I suppose, coming from a Liberal tradition, I am not a great one for grandiose government statements in support of things because quite often what we end up with is the dead hand of government making it harder for community organisations to do what they set out to do.

I have been reflecting on that as I go through some of the recommendations of the estimates committee inquiry into the budget and the impact that many government decisions and budget decisions have on the not-for-profit sector. Government intervention is not always a great thing. I am minded of the government's proposed

intervention in arts organisations and their imposition of changes in governance structures that the ACT government intends or hopes to impose on ACT arts organisations. I think that is not a great example of helping not-for-profit organisations to make their way in the community. Often, the best thing that the government can do, to paraphrase something that Mr Barr has said repeatedly in this place, is to get out of their way.

There are many things that the government can do and there are things that we should be working to do, in government and in this Assembly, to make the lives of people who provide services through not-for-profit agencies better. That does not necessarily require one big, all-encompassing document; it requires careful listening to the needs of individual sectors and ensuring that we are attentive to the needs of people in a range of sectors rather than having a one-size-fits-all approach. I am concerned that a compact such as the one championed by Ms Porter will not necessarily have the great outcomes that she anticipates. But that may be just a different approach coming from a different tradition.

There is no doubt that members in this place truly value the work and the contribution of the not-for-profit sector in this community and across the country, and we should be resolving to be listening to those communities—because it is more than one community; it is not an amorphous whole. There are a number of components that reflect the broad diversity of our community. We should be listening to that broad diversity, we should be responding to that broad diversity and ensuring that people who go out and do good work for the community on a voluntary basis, or often on a low-paid basis, are not hindered by government but in fact are aided by government. We should be intervening where it is necessary to make their lives better and we should be looking constantly at ways of improving and limiting our intervention where it is unnecessary.

One of the things that people in the community sector often say to me is that they are so reliant on government funding and the level of accountability for government funding means that they spend a great amount of their time chasing and acquitting grants and accounting for their spending—all of which is important. I do not want to be interpreted as saying I do not think it is important that when government money is spent by community organisations it should not be acquitted and accounted for. But sometimes what we ask them to do is so onerous that they spend too much of their time talking to the government about the money that the government gave them and not enough time providing services to the community that was funded by the government. These are vitally important issues.

I welcome Ms Porter's bringing to our attention this matter of the vitality and importance of the not-for-profit sector. I have an open mind about the effectiveness and efficaciousness of a compact. But putting that aside, I do not resile from supporting the general thrust of Ms Porter's motion because it is important that we recognise the great contribution of the not-for-profit sector to this community and to the wider nation.

MS HUNTER (Ginninderra—Parliamentary Convenor, ACT Greens) (4.55): I would like to thank Ms Porter for bringing this motion to the Assembly. The organisations in

the not-for-profit sector, nationally and in the ACT, do invaluable work to assist our communities. They help families find a home, support young people with difficulties by facilitating educational and employment opportunities and assist the frail and aged by providing meals and relief from the isolation that many experience. But most importantly, it must be understood that their primary objective is to fight for services and entitlements for those most disadvantaged in our community.

We are all aware that the demands on the resources of the community sector are increasing. The global financial crisis means that more and more people are seeking assistance from community services, and it is important that we recognise the impact this increase will have on an already stretched non-profit sector.

Compacts between governments and the community sector aim to recognise and promote the necessary partnership between these agencies. They seek to keep communication lines open between the government and the not-for-profit organisations and call for a consistent and respectful approach to the interaction between the government and community organisations as a constructive means of working together.

The federal government's national compact with the not-for-profit sector is a part of its broader social inclusion agenda. The ACT government has also given a commitment to community inclusion with its social compact. However, as Ms Roslyn Dundas from the ACT Council of Social Service noted in this year's estimates hearings, community inclusion cannot happen on goodwill alone. In the executive summary of the national compact consultation report from the Australian Council of Social Service, it is noted that "both parties need to improve their collaboration skills in order to realise the full intent of a compact, that real cultural change will be necessary, and that the development and implementation of a compact will require ongoing commitment, energy and resources".

The social compact in the ACT was developed in 2004 and is an active document. It is still referenced and the undertakings listed are still pursued. However, as I stated in 2004, I was, in fact, one of several community and government representatives on the writing group for the first compact that was developed under the previous Liberal government and then part of the review process for the social compact that came in in 2004 under the Labor government. In the front of the summary, there were several statements that were put in by the directors or CEOs of a variety of community peak agencies. I said at that time:

> It is vital that the Social Compact is championed to ensure that it remains relevant and useful.

To guarantee these types of documents are used and built upon and actually achieve their aims, resources need to be provided to all community sector organisations to ensure that the compact is embedded into the way that the community sector and government work together.

The Australian Council of Social Service's national compact consultation report noted that a "2007 survey in the ACT found that while there was a moderate level of

awareness of the existence of the compact, there was little awareness of its detail and almost no explicit utilisation of the document". The consultation undertaken in the ACT for the national compact "identified that a national compact needs: a commitment to a disputes mechanism; ongoing sector and community awareness, particularly in light of staff turnover; and clear oversight mechanisms".

We have seen in this year's ACT budget that, while there have been no cuts to previous community sector funding levels, funds have not been increased in recognition of the increasing demand placed upon these organisations. Funding has not been increased despite the ACT government's commitment to community inclusion and its commitment to working with the federal government on their social inclusion agenda to improve relationships with the sector and to ensure that those who need services receive them.

As mentioned in the ACTCOSS estimates hearing, the ACT community sector organisations are required to meet gender auditing requirements, human rights requirements, social compact requirements, as well as running their own programs. And these requirements come through their contracts. They also come through documents such as *Raising the standard*, which is about quality standards in the community sector. This is also included in funding contracts. But the organisations receive limited recognition from the government of the additional resources that are required. Nor is there recognition of additional resources to ensure the effective use of the social compact.

Returning to the specific issues that Ms Porter raises in this motion, I do acknowledge that the ACT government has worked with the federal government on their compact and I do acknowledge that the federal government is, and I quote from the government's social inclusion website, "committed to the next phase of developing a national compact which will be progressed during 2009". I look forward to seeing the plans for further consultation on this matter and to seeing the compact completed and rolled out across the country.

I hope that the federal government's national compact with the not-for-profit sector, in conjunction with the ACT social compact, does strengthen partnerships with the not-for-profit sector but I also hope that both the federal and ACT governments realise that simply having a document calling for increased collaboration and respect is not sufficient in itself to maintain those partnerships. It takes resources, effort and ongoing commitment.

The ACT Greens will be supporting Ms Porter's motion.

MR DOSZPOT (Brindabella) (5.02): I also rise in support of Ms Porter's motion and I thank her for bringing on yet another motion. Looking again at the initiative by federal Labor, I always welcome the opportunity to discuss issues relating to social inclusion and the non-profit sector, and I thank Ms Porter for raising this issue. I also acknowledge the meeting held with the Australian non-profit sector at Parliament House in Canberra that discussed mechanisms for effective national representation of the nation's 700,000 non-profit organisations.

I also acknowledge the difficulty that this diverse range of organisations has in finding common ground but there is an obvious need for this to happen and to be encouraged and supported. I also acknowledge that any compact that the ACT government has initiated with the non-profit sector in the ACT recognises the mutual benefits that the federal compact will have in strengthening these partnerships with the non-profit sector. That is important and is to be encouraged.

But from a local point of view, I have had a look at the FaHCSIA website and the report on the national compact, and one glaring factor remains: how will the compact be delivered and implemented in the ACT? Expectations will be high and the challenge will be to follow through. Real cultural change and commitment will be necessary for the ongoing development of the compact in the short, medium and long term.

Will it suffer the fate of the Gallop report into disability services and vanish into oblivion? I note with alarm that there is no reference at all on the DHCS website to the Gallop report. Again, great intentions with little outcome when you speak to those on the receiving end of disability service delivery.

I note in the consultation paper on the FaHCSIA website relative to the ACT compact that the following was noted:

- A 2007 survey in the ACT had found that while there was a moderate level of awareness of the existence of the compact, there was little awareness of its detail and almost no explicit utilisation of the document.

- Participants said that it had been difficult to maintain a 'compact relationship' with the ACT Government due to departmental staff turnover, low community sector staff morale and a loss of trust.

- A positive of the ACT Social Compact raised was that by identifying a number of functions which the community sector fulfilled, those functions had been kept alive. The compact was also credited with helping to foster a more long-term approach to planning in the ACT.

- A key lesson from the ACT Social Compact had been the need for a disputes resolution mechanism.

In its absence, we have a social compact that means well, that articulates excellent principles, but ultimately has no teeth. The consultation from the ACT identified that a national compact needs commitments to a disputes mechanism; ongoing sector and government awareness, particularly in light of staff turnover; and clear oversight mechanisms. Again, the imperative is to ensure that the good intentions are acted upon and any issues that are identified are communicated and followed through well into the future.

I echo the sentiments expressed by Ms Hunter. We welcome and support the initiative as enunciated by Ms Porter but we also recognise the need to have a look at how the ACT can continue into the future in a meaningful and effective way the initiatives that have been suggested.

MR STANHOPE (Ginninderra—Chief Minister, Minister for Transport, Minister for Territory and Municipal Services, Minister for Business and Economic Development, Minister for Indigenous Affairs and Minister for the Arts and Heritage) (5.06): The ACT government supports the Australian government's development of a national compact as a framework for guiding government and community sector relations. The ACT community and ACT government have been active participants in consultations on that compact. We bring our collective experience of implementing the ACT social compact which provides a framework for strengthening the relationship between the government and the community sector in the ACT.

I understand that, through the consultations on the national compact, there has been strong interest expressed across the Australian community in working to enhance the relationship with government and the community sector.

The ACT supports the Australian government in its aims to improve social inclusion in Australia, recognising the independence and value of the not-for-profit sector and improving communication between governments and the community sector.

The Legislative Assembly acknowledges the proactive approach that the Australian government has undertaken with its genuine engagement with the states and territories, which has been evident with the 2020 summit and the various forms of consultation that have followed on from this event. The continuous improvement of the consultation process is very high on the agenda of the ACT government.

The government supports a national compact which will be a lever for transparency and accountability. The government looks forward to participating in further consultation on a draft national compact. Our support for such an agreement was expressed by the Community and Disability Services Ministers Conference which was held a little earlier this year.

I understand that consultations have identified five priority areas which are to be considered by the Australian government in developing a national compact. These areas include: sector viability, including new models of funding, workforce development for staff retention, and regulatory reform; reducing red tape by simplifying accountability and reporting systems and applying this consistently across the commonwealth, state and territory governments; increasing cooperation and consistency across and between governments; increasing the inclusion of the people affected by policies in the work of the sector and the government; and supporting volunteering.

These priority areas are very much at the fore of the ACT government's philosophy and in guiding our work, particularly in relation to how we better support a sustainable community sector. For example, in the 2008-09 ACT budget we announced a commitment to implement a portable long service leave scheme for the community services sector. The scheme will support the community sector to retain a skilled workforce and foster a more sustainable community service sector here in the ACT.

The ACT Government has also allocated $500,000 to review the adequacy of wages and conditions provided by community service organisations and develop policy options that work towards a more sustainable sector. This funding will also be used to provide an improved industrial relations environment for non-government organisations in the territory. The ACT government has three-year funding cycles for the community sector in order to provide them with security and the ability to plan into the future. The government will continue to work together with the community sector to address issues of sector sustainability within the dialogue model articulated in the social compact.

I congratulate my colleague Ms Mary Porter for her continuing deep and abiding interest in, and indeed her lifelong association with, the community sector—an association which continues here in the Assembly and represents a particular commitment to the Canberra community.

MS BURCH (Brindabella) (5.09): I thank Ms Porter for bringing this motion to the Assembly. This motion not only recognises the benefits of the ACT social compact but also supports the federal government in developing and implementing a national social compact.

The ACT social compact came into effect in 2004 and it was driven by the vision of this government of the ACT being a place where all people reach their potential, make a contribution and share the benefits of our community. The ACT social compact recognises that the best way to achieve such a community is for the government and the community organisations to work in partnership.

The social compact provides a framework for the community sector and the ACT government to work together through a series of principles of good communication and partnerships. Through the compact, the ACT government has been effectively managing relationships with the not-for-profit sector using the social compact as a guide to facilitate healthy relationships across the sectors. The ACT compact represents a strong and meaningful agreement between the not-for-profit sector and the government and works to deliver the best results to the wider community through enhanced understanding.

The ACT is fortunate to have a large number of committed not-for-profit community organisations, self-help groups, community associations and consumer advocacy groups. These organisations, individually and collectively, work towards a better, more inclusive community. The ACT government recognises the vital role played by the community sector and the significant contribution it makes to the quality of life that we experience here in the ACT. The ACT government's long-term vision is of an inclusive community that enables all people to participate in and lead purposeful lives; a community that is concerned with a common good as well as the rights and achievements of individuals. All people have opportunities to achieve economic security, social relationships, quality of life and a healthy environment.

The social compact does not stand alone. There are other documents that require the two sectors to work together to achieve optimal outcomes for the community. The

Canberra social plan sets out the ACT government's priorities and actions across all areas of service delivery and is a template against which government decision making can be judged over the next 10 to 15 years. The community sector funding policy reflects the ACT government's commitment to partnerships. The policy aims to enhance the effectiveness of community service provision and the viability of the community sector.

The ACT government is dedicated to fostering a city in which the community sector and the government work together to ensure that all members of the community can contribute to and share the benefits of this community. The social compact is the foundation of a robust, effective and respectful partnership. It sets out undertakings to which each sector is committed in working together for the public good. There is a strong relationship between the community sector and the government, which is demonstrated through the consultative processes, joint policy work, funding arrangements and the development of new services and community initiatives. How well these arrangements work has a strong bearing on the effectiveness of each of the sectors and the benefits and outcomes that are a result of these relationships.

In collaboration with the community sector, the ACT government established the joint community government reference group and one of the areas of focus for this group, amongst other objectives, is to monitor and guide the implementation process for the social compact. We understand that decision making is most effective when it considers and actively utilises both the collective experience and strengths of the broader community and the expertise within the public sector. This type of partnering is at the heart of the compact.

Our collaborative approach to policy development provides an opportunity to draw out the views of different groups in the community and supports shared ownership and accountability for decisions that emerge from this joint planning and policy process. The social compact provides a strong foundation to progress our government's citizen centred governance framework for the future.

Ms Porter touched on her experience in the not-for-profit sector, and I too come to this Assembly with extensive experience in working in the non-government sector, not-for-profit sector, and such work has included a number of years working in the Northern Territory, establishing general practice services in Indigenous communities, managing a rural health service that had emergency housing, family counselling and supported accommodation, plus a range of nursing and other community services. More recently, my experience of the not-for-profit sector was working across the university departments to ensure an adequate workforce for rural Australia and to work with communities around how to deliver their health services.

I think that we can all agree that the community sector is an incredibly important part of Australia and we want to help this sector to flourish by promoting partnership with the government and by promoting an understanding of this sector. The social compact states:

> The relationship between the two sectors is significant because they share many goals and values and are interdependent in many roles and functions. The

> community sector and government cannot achieve their individual goals without constructive working relations built on mutual understanding, respect and cooperation.

This can and should carry across to the federal arena. A national compact will help the government and the not-for-profit sector achieve their individual goals through better communication, a mutually respectful relationship and an enhanced sense of cooperation. The ACT government wants to encourage the same significant relationships nationwide so that the sector can work with government with a broader view for the community and so that the sectors can work together to give even more back to the community across Australia.

I support the vision for a nationwide social compact for an Australian community concerned with the common good as well as the rights and achievements of individuals; an Australian community that will demonstrate its values of a fair go for all and respect for cultural diversity and difference. Australia is indeed an amazing country, so let us build on this by promoting relationships and helping our national not-for-profit sector grow and be enhanced, just as the ACT government is helping our territory not-for-profit sector to succeed.

The national compact task force had their first meeting on 11 May of this year and they have started to bring together ideas to draft a compact between the federal government and the not-for-profit sector. I congratulate the national government for bringing this initiative together and I would also like to acknowledge the ACT government's support for and input into this process. The ACT government is proud to offer ongoing support and consultation to this process in the hope that an agreement will work as successfully nationally as it does here in the ACT.

The words of ACOSS sum up, I feel, the national compact's ideals:

> ACOSS believes the new compact is a significant opportunity to develop a collaborative approach to finding the right solutions to poverty and disadvantage in Australia.

They are commendable motives, but I think it is important here to note that the not-for-profit sector covers more than just organisations with a focus on disadvantage. I understand sporting groups are probably the second largest not-for-profit sector.

The relationship between the two sectors is significant because they share many goals and values and are interdependent in many roles and functions. The community sector and government cannot achieve their individual goals without this constructive partnership. The commonwealth through their consultative processes have identified the primary benefits of a national compact as providing a framework for building an improved relationship between the not-for-profit sector and government, based on trust and collaboration and with space for robust dialogue; improving policy making through the development of a framework document that allows strategic coordination; improving the standing of the not-for-profit sector in the community by acknowledging its contribution; and providing a framework for growth and evolution of the sector, including reforms and initiatives.

I thank Ms Porter for bringing this matter here today. I support the motion, and I hope those here do.

MS PORTER (Ginninderra) (5.19), in reply: I would like to thank all members for their contribution to this debate today. As I said during my earlier comments, this is an important move by the federal government to recognise the benefit that can be delivered from a national compact which will not only strengthen the commonwealth government and the not-for-profit sector but also lead to cooperation and collaboration in relation to development of policy not only with regard to the third sector but across the government.

I should have remembered that Ms Hunter has an intimate knowledge of the process that brought together the first compact and the subsequent social compact. It seemed a long time ago that we all sat around those tables together and deliberated for what seemed to be many months—I am not quite sure I can remember anymore how many months.

I would like to thank Mrs Dunne for her support, Mr Doszpot for his support and also Ms Burch and Mr Stanhope. I just wondered whether Mrs Dunne has the same understanding as I do of what the proposed compact is and what the ACT social compact is. It is an agreement—not something imposed on the not-for-profit sector. I made reference to the work that went on for that considerable length of time—as I said, I think for many months—to allow the sector and the government equal opportunity to have input into the final set of agreements. I recommend to anyone here that has not had a chance to read the social compact in full and in detail to take the opportunity to do that, because it makes very interesting reading and I think that it would reassure people that it is about an agreement and not about imposition.

I do want to reflect a little bit more on the breadth of the not-for-profit sector in that I believe that it is more, as Ms Burch said, than services for people who are disadvantaged, although of course that is extremely important. Sport is the second largest not-for-profit sector behind the community services sector. Emergency services are critical. I think we all agree after the recent bushfires in Victoria, our experience here in 2003 and the flood experience in Queensland and northern New South Wales recently, that they are critical. Many people are involved in protecting and maintaining the natural and built environment and our heritage, and of course not forgetting to mention the arts—we could go on with a huge list of organisations.

In the ACT, as Ms Burch said, we are dedicated to fostering a city in which the community sector and the government work together to ensure that all members of the community can contribute to and share the benefits of the community. As I said earlier, our commitment to work together is set out in the ACT's social compact, which articulates the shared understanding about the relationship between the ACT community sector and the government, outlines principles and undertakings that underpin the relationship between the two sectors and provides a framework for strengthening this relationship between the government and the community sector. I am pleased that Ms Burch reflected on the strong relationship between the community sector and the government. Of course, these arrangements need to be continually monitored to remain strong.

We know that a collaborative approach to policy development provides an opportunity to hear the views of different groups in the community and supports shared ownership and accountability for decisions that emerge from those processes. The social compact provides a strong foundation to progress our government's citizen centred governance framework for the future, and that is why I moved this motion today to call upon this Assembly to support the federal government's compact with the not-for-profit sector, and I do thank all members for their strong support.

Motion agreed to.

Remonstrance—Australian Capital Territory (Self-Government) Act 1988

Debate resumed.

MR CORBELL (Molonglo—Attorney-General, Minister for the Environment, Climate Change and Water, Minister for Energy and Minister for Police and Emergency Services) (5.23): I move:

> Omit all words after "That this Assembly", substitute:
>
> (1) recognises the tri-partisan view expressed in the ceremonial sitting for the 20th anniversary of self-government that it was time to re-visit the ACT's Self-Government Act;
>
> (2) resolves that subsection 35(2) of the *Australian Capital Territory (Self-Government) Act 1988* is an unwarranted restriction on the democratic rights of ACT citizens (noting that this power can be presently exercised by the Governor-General on advice from the Prime Minister without prior scrutiny, debate or vote in the Australian Parliament);
>
> (3) notes that in the event that section 35(2) was repealed the Commonwealth Parliament would retain the right to legislate for the ACT under section 122 of the Australian Constitution;
>
> (4) resolves that after 20 successful years of self-government a joint ACT/Commonwealth review of the Self-Government Act and related matters is needed to determine whether it continues to provide the best model for effective and democratic self-government for the ACT;
>
> (5) resolves that such review should include the following matters in its terms of reference:
>
> (a) the most appropriate way to remove the Governor-General's disallowance power contained in section 35(2);
>
> (b) the most appropriate way to lift the restriction on the Legislative Assembly determining its own size;
>
> (c) the updating of the Act to remove a range of provisions that have become redundant, such as provisions concerned with powers that have subsequently been transferred to the Territory;

(d) the removal of a range of specific provisions that are concerned with matters that are more properly the subject of Territory law; and

(e) the appropriateness of a range of existing restrictions on the legislative power of the Legislative Assembly; and

(6) calls on the Chief Minister of the ACT to present these proposed terms of reference to the Prime Minister of Australia and the Minister for Home Affairs and to report back to the Legislative Assembly on progress on these matters.

The ACT government is committed to review and reform of the ACT self-government act, the constitution of our territory. As members will be aware, the self-government act was passed by the commonwealth parliament in 1988 and created the legal foundations for self-government in the territory.

It was drafted and then passed into law at a particular point in time when there was little certainty as to the political dynamic that would exist in this place and, indeed, a real fear that anti-self-government parties could dominate. In that environment strictures and limitations were put in place that limit in a very real sense the democratic rights enjoyed by the citizens of the ACT. The size of the Assembly is limited to 17 seats, with no change possible by the Assembly, and the Governor-General retains the power, at the stroke of a pen, to disallow any law passed by the Assembly.

No state parliament faces the prospect of such a commonwealth veto. Every other parliament, including the Northern Territory's, can determine its own size. If such restrictions were ever appropriate, they are certainly not now. These restrictions are not only out of date; they are a stain on Australian democracy. They make the citizens of the territory second-class citizens and they impede the realisation of a real and complete self-government.

Of course we have different views on many of the policy issues we deal with here; indeed, the issue that provoked the Howard government to use the disallowance provision for the first time is such an issue. But one thing I am sure that we will all agree on is that the fears and possibilities borne in the mind by the original drafters of the self-government act have not been borne out.

What has evolved in the territory has been stable and efficient government, responsible and productive self-government. The government takes the view that it is important that we strictly separate the policy issues on which we disagree and the fundamental democratic principle that elected representatives must be free to do what we are elected to do—pass laws for our citizens. Those who confuse the issues, who endorse second-class democracy for territory citizens merely because of strongly held views on a particular issue, are phoney democrats. They believe in democracy as long as they get what they want. This desire to strictly separate the particular policy issue, such as civil unions, from the broader issues of principle around reform is the reason why I am proposing the amendments I have circulated and moved today.

Members will note that I am proposing that the Assembly not pursue the matter of a remonstrance, not because we believe that the overturning of the Civil Unions Act was just, because we do not believe it was just, but because that matter, first of all, occurred three years ago and it would appear and, I think, strike the commonwealth parliament as odd that after three years the Assembly had finally got around to remonstrating about the fact that the law had been disallowed. Secondly, as I have said earlier, the key issues for the Assembly must be the principles of autonomy within the constitutional arrangements and democracy when it comes to the self-government of this territory—self determination.

The disallowance of the Civil Unions Act was just a demonstration of the broader problems with the self-government act, and we need to move beyond that issue in considering these issues. Labor's amendment to the motion seeks to achieve that. We seek to demonstrate in the strongest terms to the commonwealth that this place is united on the need for a thorough and comprehensive review. Review of this act is problematic, because it is not our act. It is not an act of this place. Therefore we need to seek the agreement of the commonwealth government and, ultimately, its parliament to any change to the constitution under which we operate.

Therefore, suggestions that we should review that act ourselves, I believe, are of little use. They really delay the inevitable. They delay the need to convince the commonwealth that they must, in party with us, review the operations of the act and make decisions, hopefully on its reform and improvement, to provide for greater self-determination by the territory.

My amendment seeks to make clear, however, that we have strong and certain views on two particular issues. The first is the issue of the veto power that permits the commonwealth executive to recommend to the Governor-General that a law made by this place be disallowed. This veto power is a travesty of democracy, a repugnant, undemocratic and demeaning power that can be used to treat our citizens and us, as elected representatives, as second-class citizens.

The other matter that we need to focus on is the issue of the restriction on the ability of the Assembly to determine its own size. This restriction is stymieing the political development of the territory and the capacity of the parliament, this parliament, to serve the people in our community. But these are only two of a much broader range of matters that need to be addressed.

As I have outlined in my amendment, in the proposed terms of reference for a joint territory and commonwealth review I make it clear that a range of other issues require a view. These include our ability, or inability, to make laws regarding policing and the presence of a range of redundant provisions and prescriptive provisions on a range of matters such as conflict of interest, the judiciary, restrictions on legislative power and so forth.

A joint review between the territory and the commonwealth would need to closely consider which of these provisions should have, in effect, constitutional status and which are more properly subject to territory law. This, I think, is a constructive and

productive way forward and it is, I think, particularly important that we achieve common agreement across the Assembly today on this matter.

If the Assembly chooses to support my amendment today, I believe we are in a position to go forth to the commonwealth parliament, to the new Minister for Home Affairs, and present a clear and unambiguous position that it is the view of all parties represented in this place that the act needs review and reform and that there are elements of the act which are completely unacceptable to all sides in this place, and those elements include the executive disallowance power. Nothing less, I think, will be needed to convince the commonwealth of the need for reform. It is a matter of great disappointment to me and to the government as a whole that we are yet to convince our commonwealth colleagues to undertake a review of the self-government act.

It has not been for want of advocacy. The Chief Minister and I have made repeated representations to the home affairs minister of the day and the Chief Minister to the Prime Minister on this matter. It is always difficult to convince the commonwealth to pay attention to smaller jurisdictions in the commonwealth, let alone a very small one such as us. But that does not mean we should not continue to try, and the passage of this resolution today will give us new grounds to approach the commonwealth, hopefully with a clear and unambiguous statement of support from all sides that reform is warranted, it is needed, it is necessary and that it is beyond the particular shades of particular debates on particular policy issues. This debate is bigger than that. It is bigger than any particular policy issue. It is about the right of this place to govern itself and to make laws for the people of the territory.

There is one other matter I would like to put to bed before concluding, and that is the issue of the constitutional arrangements. The government accepts that the constitutional arrangements are clear. The constitution provides for the commonwealth to make laws for the territory and the commonwealth has chosen to delegate those powers to an executive of the ACT and to this Assembly. That is undisputed and will remain for a very long time to come. The ACT cannot become a state and the government does not believe that it should. We are not in the same position as the Northern Territory. We are the home to the seat of government of the commonwealth and that unique position means that our constitutional arrangements will also be unique.

But we should, to the greatest extent possible, seek to disengage the ability of the commonwealth to interfere arbitrarily in the affairs of this place, and that is because this place is democratically accountable to its community for the decisions that it makes and this place is best placed to reflect the will of the community. Certainly the home affairs minister cannot claim to properly represent the views of this community. The home affairs minister does not live here, the home affairs minister has no direct political accountability to this community and nor does the Prime Minister. Until such time as there is a home affairs minister that perhaps lives in and represents this place that will remain the case. But, in any event, we have an arrangement whereby this Assembly is elected through a universal democratic mandate to make laws on behalf of the territory.

So, the issue I wish to put to bed is not that the constitutional arrangements should be changed; they should not. But if the commonwealth wishes to retain the power to legislate for the territories, as it inevitably will, then that should be done through the provisions outlined in the constitution, and those provisions alone, which is that the commonwealth parliament may make laws for the territory. That is the safeguard if, indeed, there is a need for one. The safeguard is that the commonwealth parliament can make laws for the territory.

If the executive of the commonwealth or the parliament itself takes offence at decisions or laws passed in this place then that is the way for the matter to be ultimately resolved, not through the exercise of executive power without reference to any democratically elected body prior to the decision being made. That is the government's view. That is why the reform and the removal of subsection 35(2) of the self-government act are so important.

But, that aside, there are many other powers that can, and should, be repatriated to the territory where that has not already been done. That way we are more likely to achieve the level of autonomy and self-government that we deserve and should expect in a modern democratic nation such as Australia. I commend my amendment to members. I hope that we can indeed achieve a good level of unanimity on the need for reform of the current arrangements.

MR SESELJA (Molonglo—Leader of the Opposition) (5.38): At the 20-year anniversary celebrations for the Assembly, I noted that it was appropriate now to reflect on where we have been and where we wish to go. Indeed, that was a sentiment reflected by a number of others, including representatives of each of the parties in the Assembly. In making that reflection, I talked about some of the current systems and arrangements. I talked about the ability of the Governor-General to step in and dismiss the Assembly should the Governor-General deem, in his or her opinion, that the Assembly is either incapable of effectively performing its functions or is conducting its affairs in a grossly improper manner. I talked about the override powers, which have been the focus of much concern and, indeed, are the focus of Ms Hunter's original motion. I also talked about the need to review issues around the ability of the Assembly to determine its size, and I talked about this most fundamental aspect of our self-determination. The issues around what is the correct size are a matter for debate.

I also talked about how, in any move to allow the Assembly this freedom and to remove any of these provisions in the self-government act, we needed to make sure that we got the checks and balances right. One of my biggest concerns going forward which I expressed at the time, and which I repeat now, is the issue of gerrymander. We know that most states have an upper house, so in order to change electoral boundaries and the like, you normally have to go through both houses of parliament. We saw, rightly or wrongly, years ago in Queensland the issue of gerrymander being a very strong one, and we have seen the same allegations levelled in WA. Our concern going forward about a number of these provisions is that I very much believe that it is time now that we look at how we should be able to govern ourselves and at some of the anachronistic provisions that are in the self-government act. I highlighted three in particular, but I also talked about the need to have safeguards in place.

We must remember all the questions that arise when you remove one provision. For instance, we compare ourselves to the Northern Territory, and the Northern Territory has an administrator. Now that might be seen as simply a procedural thing, but there is actually a role, from time to time, for an administrator. If we remove these particular sections, do we need an administrator for the ACT? On the question of determining our own size, would we allow it to happen by simple majority? If we did, we would be asking for trouble. We would be allowing one party, potentially a majority government, through nine votes of the Assembly, potentially to lock up their electoral chances for a long time to come.

These are dangerous issues, which is why I suggested at the time that what we needed was actually a convention to look at these things. After 20 years, I believe that now is the time to look at these things. It would appear from the motion that was brought forward by Ms Hunter and, indeed, from some of the other discussions, that there is no support for that amongst the other parties. But I would point out my concerns with the original motion. I will talk to the original motion; I will then speak to Mr Corbell's amendment; and I will also speak to some of the negotiations which I think unfortunately have broken down.

Ms Hunter's motion, I think, is far too narrow. Simply focusing on section 35(2) of the self-government act does not address all the issues. This is true also of Mr Corbell's amendment. It appears that Mr Corbell has a problem with section 35(2), as do I. But he does not have a problem with other provisions which allow the Governor-General to dissolve the Assembly. If we are talking about an anti-democratic move, in the self-government act the Governor-General has the ability to actually dissolve the Assembly, and it is a pretty low bar. Under "Dissolution of the Assembly by the Governor-General", it reads:

> (1) If, in the opinion of the Governor-General, the Assembly:
>
> (a) is incapable of effectively performing its functions; or
>
> (b) is conducting its affairs in a grossly improper manner;
>
> the Governor-General may dissolve the Assembly.

Is there anyone in this place that believes that that is a reasonable provision? Yet we do not see it reflected in either the motion or the amendment. I think this is part of the problem of the original motion, which was very narrowly cast. It took what we agreed at the 20-year anniversary—that is, it is time for a review of the self-government act so that we can have fewer restrictions on the ACT—and it focused it all around one provision. I do not believe that that provision is necessary, but to simply cherry-pick that and say, "We're going to focus on that and we're going to say to the commonwealth that this is repugnant and we need to get rid of it," whilst not focusing, for instance, on the ability of the Governor-General to dissolve this Assembly—

Mr Corbell: You should suggest that, Zed. Put it in.

MR SESELJA: I believe they should look at all the issues going forward, and I think that is the fundamental difference. We are not just cherry-picking one or two issues. I

find it extraordinary that the Attorney-General of this place does not have a problem with that provision. I would have thought that provision would be equally as dangerous and equally as undemocratic as section 35(2). In fact, I would think that that is a far more serious scenario. I have got to agree with former Chief Minister Rosemary Follett, who spoke on this issue at some of the events for the 20-year anniversary. She said that if it was not needed in those crazy times in the First Assembly, it would probably never be needed.

We have a situation where the Labor Party and the Greens have said they do not like section 35(2) and that this is the way forward. I will deal with Ms Hunter's motion and then I will move in more detail on to Mr Corbell's proposed amendment and about where some of the negotiations broke down. At one point, we actually did believe we had an agreement. We came to an agreement with the Greens; we believed the Labor Party was going to support that, and then, at some point in the process, we were given Mr Corbell's amendment essentially as a fait accompli. I think that is disappointing. If there was a genuine desire to get tripartisan support, Mr Corbell did not demonstrate it. Maybe he did early on, but we actually saw that fall away, and that is unfortunate.

The point I make about section 16 is that it is the problem with both the original, very narrowly cast motion and, indeed, the amendment moved by Mr Corbell—that is, they focus on specific areas and draw judgements about section 35(2) but say nothing about section 16. Our alternative way forward—I will move an amendment to Mr Corbell's amendment circulated in my name—actually takes a different approach—

MADAM DEPUTY SPEAKER: So the question will be that Mr Seselja's amendment to Mr Corbell's proposed amendment to Ms Hunter's motion be agreed to.

MR SESELJA: Thank you, Madam Deputy Speaker. I move:

> Omit all words after the end of paragraph (1), substitute:
>
> "(2) notes that the *Australian Capital Territory (Self-Government) Act 1988* carries a number of provisions that now may be redundant or restrictive in terms of their impact on the government for and governance of the Territory;
>
> (3) resolves that the Assembly's Standing Committee on Justice and Community Safety undertake a review of the *Australian Capital Territory (Self-Government) Act 1988* and related matters to:
>
> (a) determine whether it continues to provide the best model for effective and democratic self-government for the ACT;
>
> (b) consider what recommendations might be made and presented to the Commonwealth as a way forward for amendments to the Act; and
>
> (c) report back to the Assembly by the first sitting in 2010; and

(4) calls on the Chief Minister of the ACT to inform the Prime Minister of Australia and the Minister for Home Affairs of this resolution.".

It actually takes a different approach—

Mr Corbell: Has that been circulated?

MR SESELJA: Yes, it has been circulated.

Mr Corbell: Not the amendment to my amendment.

MR SESELJA: Yes. Well, I asked for it to be circulated.

Mr Corbell: That is not amending in my motion.

MR SESELJA: I did provide it for circulation, but the one that you have is no different other than the technicalities. All the words are the same. That amendment leaves paragraph (1); it does not seek to substitute paragraph (1) with another paragraph (1). It leaves Ms Hunter's or, in this case, Mr Corbell's paragraph (1), and it goes on to note that a number of the provisions in the self-government act are redundant. It actually says that we as an Assembly should make a decision about what we want before we ask the commonwealth to do something. It is a different approach to Ms Hunter's approach, or the Greens' approach, which focuses on one aspect, which we do not believe is the appropriate way forward. It is also a different approach to Mr Corbell's, which still focuses on some aspects but not all of them, but also, before we have even decided what we want as an Assembly, we are actually going to the commonwealth.

I would have thought it is a far more logical way forward for us to say, "Okay, we started from the point of view that we all agree that there should be less commonwealth ability to veto laws and oversight and that the self-government act should be reviewed. After 20 years we should look to move to the next phase of self-government and break some of the shackles." We have all agreed on that. Should we not actually then agree to what we want from the commonwealth before we ask them to go and change the act?

By proposing the joint ACT-commonwealth review, that does not actually say who would do that. Would that be a committee process? Would members of the Assembly be involved? Would it be simply the ACT government—that is, the ACT Labor Party—talking to the federal Labor government about what we should be doing with self-government? It is a real concern to me that what we will essentially get is a deal stitched up between this government and the federal Labor government. I do not believe that is going to get us to a point where we have something which can be agreed on in the federal parliament or which would be acceptable to members of the Legislative Assembly. This is why I am particularly disappointed that, when we appeared to have agreement after some negotiations before today, we were just left with Mr Corbell's amendment. I think there are serious—

Mr Corbell: We were waiting for your amendment until 4.30 pm, and we didn't see it.

MR SESELJA: Well, no, that is not true. Mr Corbell simply circulated this. We originally believed that we had the Greens on board in terms of our approach, and we do believe it is a better approach. We have heard nothing this afternoon. If there was a desire for tripartisan agreement, unfortunately, there was not the will to actually carry that out.

In terms of my amendment, Madam Deputy Speaker, what this would do is allow the committee to look at it. We have seen how the debate has shifted even since Sunday. On Sunday afternoon we had the media calls asking us what we thought about the Greens' motion, and we saw the front page on Monday. We saw some annoyance, no doubt, from the government that this was their issue and the Greens had taken the running on it—well done to the Greens. But we have already moved. We have seen, in fact, that the Greens have moved a long way from what their original proposal was. We have seen a lot of back and forth as to what is acceptable. In that short space of time where we have seen the situation move, in their haste the government has not even indicated a concern on this.

They pick out particular provisions that they really do not like, but there are clearly provisions that I would have thought everyone would be concerned about, but nothing is said. Perhaps when other members speak again they can say what they actually think of the ability of the Governor-General, basically on a whim, to be able to dissolve this Assembly. There is nothing required other than that, in the opinion of the Governor-General, dismissal is necessary. We have not seen that included in Mr Corbell's amendment, which goes to the point that it is not comprehensive enough. We cannot just have these negotiations about a motion and put forward our wish list and then just allow this Labor government to negotiate with that Labor government to get an outcome for the people of the ACT.

We should put this to a tripartisan committee of this Assembly and say that this is what we want. I am sure that if we went down that path we would see a lot of agreement. Almost certainly we would agree on issues around section 35(2) and around the dissolution, and we would come up with what are some of the safeguards to put in place to make sure that no party can gerrymander. Instead, what is being proposed, and what appears now is going to go through, is a situation where this Labor government will negotiate with the federal Labor government and we will be delivered a fait accompli. That is not the way forward; that is not the way of bringing this Assembly forward; that is not the way of recognising the will of the people of the ACT, only a third of whom voted for the Labor Party at the last election.

We should not pretend that this is a democratic way forward. The way forward proposed here is that even before the Assembly has expressed a clear view on the detail—what we would like removed, what safeguards we might need to put in place and what other alternative arrangements we might need to put in place—we will send it off for a joint review that will be done by the Labor government here and the Labor government federally. That is why we do not support Mr Corbell's amendment. That is why I am disappointed that, where we appeared to have agreement, it has broken down. That is where we believe it would be a far better process for the Assembly to determine first what it wants and then put that to the commonwealth. In that situation,

it would be very difficult for the commonwealth to say no, because the Assembly would have come to a view. What we are doing here is a wishy-washy way of doing it. It does allow this government to get its way along with its federal Labor colleagues. We cannot support the amendment as it is, and I commend my amendment to the Assembly.

MS HUNTER (Ginninderra—Parliamentary Convenor, ACT Greens) (5.54): In speaking on the amendment, let me say that I am disappointed that the remonstrance has been rejected by both parties, as it focused specifically on section 35(2) of the ACT self-government act. In the first instance, I would like to read this section. I think in my earlier speech I inadvertently said 34(2), but of course it is 35(2), as the motion makes clear. It reads:

> Subject to this section, the Governor-General may, by legislative instrument, disallow an enactment within 6 months after it is made.

I hope that anyone who listened to the speech earlier can adjust the record in their minds, just for the sake of clarity.

I believe that it would have been appropriate for this Assembly to take issue formally and directly with the commonwealth parliament on this point about the undemocratic overriding power that the act gives to the Prime Minister and Governor-General. That was the point of the remonstrance. There may be other avenues to pursue in the future.

Having looked at Mr Corbell's amendment, which we are going to support, I would have to say that this does broaden out from 35(2). I think there is general agreement in this Assembly that it is undemocratic and does mean that the citizens of the ACT in a sense are second-class citizens who do not enjoy the same sorts of rights as others who live in other parts of Australia—but, of course, here in the ACT, we take on the responsibilities of states. The point was to focus on the fact that this was a critical part of the self-government act that did need to be moved forward. It was one that was touched upon by parties at the 20th anniversary sitting and also, as Mr Seselja has said and as I said earlier, by former Chief Minister Rosemary Follett.

In any event, Mr Corbell's amendment does introduce proposed terms of reference for a joint government review of the ACT self-government act which the Assembly will ask the Chief Minister to progress. And it does broaden what was in the original motion. When looking at Mr Seselja's amendment, I note that he is quite concerned that the original motion was quite narrow. He has acknowledged that Mr Corbell's amendment does broaden out some aspects and he has raised a couple of issues around particularly the powers to dissolve this parliament that he believes could be ones that we would want to look at and that therefore we should be going to a committee here in the Assembly to work through all those matters. But if we are looking at Mr Corbell's amendment, I think that there is scope within what is proposed there to be looking at a number of matters in the self-government act.

My concern is that, if we had stayed here in the Assembly with a committee that had come up with a proposal to send to the federal government, it would not have had the same sort of impact that work on it with a joint committee between the ACT

Assembly and the federal parliament may have had. Working together may be able to improve or enhance the understanding from the federal parliament and federal parliamentarians or the government around the importance of what we are proposing here, the importance of the fact that the citizens of the ACT do enjoy the same democratic rights as others in Australia. So while the notion of an Assembly committee was attractive, it could only ever be a small step towards the matter getting addressed by the commonwealth.

In the end, my advice was that it probably would be more immediate and constructive if the Assembly directs its energies at the commonwealth government sooner rather than later. I note that this has been 20 years, so I think it should be sooner rather than later.

However, to look at the motion that has been amended by Mr Corbell will be a step forward in our attempts to give the Assembly the right level of accountability and authority over the matters for which it is responsible. And so—somewhat reluctantly in a way, because I would have liked that remonstrance to go through—we will be supporting this amendment. I pick up on what Mr Corbell said: this is not our act; it is a federal act. It will need the commonwealth government to come on board, and ultimately the commonwealth parliament. That was the point of the remonstrance—to be able to talk directly from this Assembly to the commonwealth.

So we will be supporting this amendment. I thank members who have been involved in the negotiations over the last few days.

That is why we are standing at this point supporting Mr Corbell's amendment with Mr Seselja's amendment. I have spoken to explain that I believe that it would have slowed matters down and that it would not have had the same impact as having this joint ACT and commonwealth group look at how we might be able to reform the act.

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

MR CORBELL (Molonglo—Attorney-General, Minister for the Environment, Climate Change and Water, Minister for Energy and Minister for Police and Emergency Services) (6.00): The government will not be supporting Mr Seselja's amendment today. It is not because the issues that Mr Seselja raises are not important; they are important and they are of concern. The circumstances in which there was an impasse in this Assembly to the extent that it would be unworkable and how that would be resolved are important constitutional questions for the territory and for this place. They are issues that need to be addressed in our constitution in the event—I hope the extremely unlikely event—that the Assembly is unworkable. Nevertheless, Mr Seselja raises important and legitimate concerns about that.

What is less legitimate is his suggestion that this approach is being engineered in such a way as to achieve an outcome that benefits one political party over another. That position is an odd and somewhat spurious conspiracy theory that Mr Seselja uses to try to walk away from some fundamental principles. The fundamental principles have

to be that we are given the responsibility of self-government, we have to enact it and implement it faithfully and we should be able to do so without the interference of the commonwealth, whilst respecting the constitutional nature of the arrangements under which we are established.

That said, the issue for me is that at the end of the day this is not our act. This is not an act of the ACT that we have direct control over. Yes, we should be closely engaged in the development of it. We should be closely consulted and have a very full and meaningful say about what it contains, because it is about our home. But unfortunately, because of the constitutional arrangements, it is not our act. It is the commonwealth parliament's act and therefore it is the responsibility of the relevant commonwealth minister to be politically responsible for that act. The reality is that you are going to need to deal with the government of the day; that is the reality.

We advanced proposals to try and reform the self-government act when the Liberal Party was in power federally and we are doing it now when the Labor Party is in power federally. We should be under no illusion that, just because there is a Labor government locally and a Labor government nationally, there will be agreement on these matters. You have already seen that there is not. There is not in relation to the civil unions act, for example. But it is not by any means clear cut that there will be agreement between the two governments simply because they are the same political affiliation. In fact, I would perhaps not hesitate to say that it is much more complex than that.

That said, the key issue and the key difference in Mr Seselja's approach is the suggestion that there be a committee of this place to review the self-government act. As I said in my previous comments, that is simply delaying the main game. The main game is to convince the commonwealth to consider the need for reform and to take steps to implement that reform. That does not mean that the review process between the territory and the commonwealth cannot involve the broader community. Indeed, it must. It should be the approach adopted by both the territory and the commonwealth that there is the opportunity for a wide-ranging discussion amongst the Canberra community about the operations of the self-government act. There should be a process for public submission; there should be a process for hearings by the review body, whoever that is or will be; and there should be the opportunity for broad public debate. There should also be the opportunity for this place to potentially express a view about particular matters, either collectively or individually as parties. It was wrong to suggest that there will not be the opportunity to express a view. There will be; there must be. I have no doubt that that is what will occur.

But our main game has to be to convince the commonwealth to even consider review, to even consider reform. At the moment, we get a bit of lip service but we do not get agreement that it should be reviewed. Without the commonwealth agreeing for it to be reviewed, we are not going to progress the matter. We can inquire all we like down here; it will mean nothing. We must convince the commonwealth that the act must be reviewed. That is where we should focus our efforts. That is why the government will not support Mr Seselja's motion—because it simply puts off that imperative: the need to convince the commonwealth. It is their act; we need to convince them to review it and to consider changes to it.

Mr Seselja introduces some real furphies into the debate. He suggests that we need some check on decision making in this place. There is plenty of experience to demonstrate that self-government in other territories has worked well with a single-chamber parliament; there is plenty of evidence to demonstrate that we do not need to go for an upper house or some other mechanism in relation to checks and balances. Indeed, the experience of self-government is that for the overwhelming majority of the period of self-government there has not been one party with an absolute majority in this place. Under the electoral arrangements, it is more likely than not that that is what will occur. There will be exceptions—we have seen there have been exceptions—but they are just that: exceptions to the rule rather than the norm.

So there are other checks and balances already in place. We as a polity have created those checks and balances ourselves. We as a community, regardless of the political views of certain parties at whatever time, have chosen electoral systems, for example, that give protections that provide for representative decision making and a representative democratic process.

If we can do that, I think we can sort out the other things. That is the point that we should make to the commonwealth—that these matters are best dealt with by this place to the greatest extent feasible. That is what we need to convince the commonwealth to do. Let us get on with the main game. Let us get on with the main game of convincing the commonwealth that we need to review this act. Let us not hold it up down here with yet another select committee that may or may not come up with a consensus position.

Mr Seselja: Have you read the amendment?

MR CORBELL: Well, whatever it is. Let us get on with the main game. Let us get on with the main game of convincing the commonwealth that the act needs to be reviewed. That must be our task, and that is what this motion is designed to achieve.

I thank the Greens for their support and their preparedness to accept amendment to their motion. That is important. I close with the comment that I have endeavoured to get some agreement from the Liberal Party on this matter as well. At lunchtime today, I discussed the matter with Mrs Dunne, along with representatives of the Greens. I have been in constant contact with her office, and my office has been in constant contact with her office on this matter throughout the day.

Mrs Dunne indicated to me at lunch-time today that the Liberals would oppose the amendment. I waited until 4 pm to receive something from the Liberal Party; I had not received anything. I thought I needed to circulate something in the chamber, because it was unclear whether anything was going to be forthcoming from the opposition. That is why I took the course of action I did. It was not for want of trying; it was not for want of trying to engage in the discussion. *(Time expired.)*

MR SESELJA (Molonglo—Leader of the Opposition) (6.11), by leave: I want to speak on a couple of those issues. It is important that we deal with these fairly comprehensively. Mr Corbell has introduced a new element into it which actually

raises further concerns. He seems to be expressing the view that once things are removed, once we potentially remove 35(2) and a lot of other powers in the self-government act, we will not replace them with any checks and balances. He seems to be—

Mr Corbell: That is not what I said at all.

MR SESELJA: Well, there was a strong implication—saying that we do not need checks and balances, that a single house in the territory does not need additional checks and balances.

Mr Corbell: No; you are misrepresenting me.

MR SESELJA: I do not think I am. You can clarify what you said, but you can check the record.

It does raise further concerns about this review. This review is going to be done by this government, and presumably Minister Corbell will have a fair bit to do with it. He has expressed scepticism about checks and balances. We can have an argument about the right checks and balances, about whether or not it is appropriate for the Governor-General to be this check. I think there is a general view that this is no longer appropriate. But to say that we will remove that and not replace it with anything? As basic as it might be, even the Northern Territory has an administrator. That might not be seen as much of a check and balance; but there are circumstances where an administrator has a role, and that provides some check. Most states—all states bar Queensland—have an upper house.

I am a big believer in checks and balances. I believe that democracy is very important. I believe that unfettered power is very dangerous and I believe that unrestricted power is very dangerous.

I suppose we need to look back for a moment. What if all of what we have in the self-government act was changed in accordance with the broad views here with nothing to replace it and we had the majority Stanhope government that we had between 2004 and 2008? If there was nothing reasonable to replace it, I would suggest that we would have seen the electoral system change. I would suggest that we would have seen the size of seats changed and the size of the Assembly changed to favour the Labor Party. I think that is what we would have seen.

That is the concern when you do not have checks and balances. We have heard the minister expressing scepticism about the need for checks and balances once some of these changes go through. That is our fundamental concern, particularly when now it is going to be very much in the gift of this government, along with the federal Labor government, to take this review forward.

I move to the point. I think fundamentally there is an undermining of the case in this approach that has been agreed to by the Labor Party and by the Greens. On the one hand, they are saying: "We are a successful parliament; we need to be able to stand on our own two feet. But we are not going to tell you exactly what we want before you

change the act. We are not going to go to the Assembly, the people's representatives, and say what we want and take it to the commonwealth. We are going to play it a bit both ways and ask them and not really be clear what we want." You cannot have it both ways. You cannot say, "We do not need this commonwealth oversight but really we are not quite sure what we want to do going forward." If the alternative from Mr Corbell is that we simply have very few checks and balances going forward, I think it is very dangerous for democracy.

There are some very concerning aspects to this amendment and in some of the comments that Mr Corbell has made. In relation to the negotiations, I am advised on this by Mrs Dunne—I did not hear Ms Hunter's speech—and this can be corrected by Mrs Dunne when she speaks if that is necessary. My understanding as of last night was that the Greens had agreed with our approach of taking it through a committee here in the Assembly. In Ms Hunter's speech—this is where Mrs Dunne can correct me if I am wrong—we then heard about this joint review. Is that correct?

Mrs Dunne: That is right.

MR SESELJA: At some point since last night, when we were told that the approach was going to be to have a committee here—we did not hear anything until there was a speech there. I do not think any of us picked it up. It was only when we made a call to the Greens office that we were belatedly told that they were no longer agreeing to the committee.

I am very concerned about how these negotiations have been conducted. There was a deal stitched up some time overnight, it would appear, and there was a bit of lip-service after that point. That is how it appears to me. If someone is able to correct that record, I will consider that, but those are the facts as I understand them.

That is a concern to me; that goes to the heart of our negotiations. We did believe that we had a deal. It appears that those deals are not worth much. We understood that the Greens were supporting our approach of taking it through a committee. We were prepared to concede some ground on certain issues in order for that approach to go forward. That has been undermined at some point between last night and, it would seem, this morning's speech. That is of great concern to me.

I would just finish by repeating that the checks and balances issue is a concern. There is the fact that not all of the issues are being considered in these terms of reference, so we are cherry-picking certain issues. The fact that it is now going to be a Labor government here and a Labor government federally that are going to stitch up the deal is of great concern to me, and I believe that it should be of concern to all of us.

We also undermine our case when we as an Assembly cannot make a decision as to exactly what we want changed before we ask the commonwealth to review. We are asking them to review without telling them what we want changed, without concluding it. It is completely the wrong way to go. I am disappointed with how the negotiations have been handled; I believe it is a very dangerous way forward. I believe the Greens have signed up to potentially giving the Labor Party a blank cheque, both here and federally. That is the danger in what we are doing.

Mr Corbell: The truth is out there, Zed.

MR SESELJA: Mr Corbell makes the snide interjections, but what is being agreed to by the Greens and the Labor Party here is a joint ACT-commonwealth review. It is not the ACT Assembly and the commonwealth parliament reviewing it; it is a joint ACT-commonwealth review. We can only assume that that is the ACT government and the federal Labor government. If anyone is going to suggest that, when those two governments get together, they are not going to in some way try and steer it in a way that favours the Labor Party, that is a ridiculous proposition. We have gone from an apparent will to have a tripartisan position to one where two parties went and did the deal but this deal favours one party: it favours the party in government here and nationally.

The outcome that we are likely to get as a result of this review will be one that, firstly, probably does not have the checks and balances we would like and, secondly, favours the ALP. They are our concerns. We believe this is the wrong approach. This is the wrong way to go; it does not make any logical sense to do it in this way.

If you are serious, the Assembly should agree to what we want. If we are a parliament that no longer needs a commonwealth, we should be able to make these decisions and say to the commonwealth, "Here it is; this is what we want." That would have a lot of force. I believe that would have a lot of force—if we, after a period of due consideration, came to a conclusion about what we want. What we are doing is a mishmash of ideas and essentially a path that allows the ALP, both here and federally, to determine the way forward for the people of the ACT. We have grave concerns about that.

MR CORBELL (Molonglo—Attorney-General, Minister for the Environment, Climate Change and Water, Minister for Energy and Minister for Police and Emergency Services) Mr Speaker, I seek leave to make a statement under standing order 46.

MR SPEAKER: Do you claim to have been misrepresented?

MR CORBELL: Yes.

MR SPEAKER: Please proceed.

MR CORBELL: In his comments Mr Seselja suggested that I had said that there was no need for checks and balances. That is not correct. What I said—and Mr Seselja has misrepresented me—was that there is a need for checks and balances, but it should be within the whim of this place and the wit of this place to determine them. I used as an example the fact that the electoral arrangements that were determined by this place and subsequently passed by a referendum of the ACT community put in place checks and balances. I used that as an example of the fact that it is completely within the wit of the ACT, as a legislature and as a community, to establish the checks and balances necessary to prevent abuses of power. At no time did I suggest that there should be a winding back or a removal of checks and balances, only that the ACT should be capable of determining those matters for itself.

MRS DUNNE (Ginninderra) (6.22): Madam Assistant Speaker, as has previously been said, after 20 years of self-government in the ACT it is time to reflect on what has gone before and to learn from the experiences and map out the future. Any organisation worth its salt would do so. It would review its reason for being, its aspirations and its modus operandi.

The Australian Capital Territory (Self-Government) Act is, in essence, the ACT's constitution. It establishes the jurisdiction of the ACT and provides the basis of governance in the territory. It was enacted by the commonwealth parliament under the Australian constitution. So any review of the ACT's constitution, which is founded under the Australian constitution, is a serious business. It is a serious business because it goes to the very foundations of government and governance in the ACT. Indeed, it is so serious that it should not be predicated on a single issue. It is so serious that it should not be done in a piecemeal fashion. It is so serious that it should not be done on a whim or in a knee-jerk reaction to something that someone thinks might create an inconvenience. It is so serious that it should not be in response to cries of political injustice, repugnance or unwarranted restrictions.

Any review of the Australian Capital Territory (Self-Government) Act is so serious that it should be undertaken in a careful, measured and considered way. It should be done in full consultation with the ACT community and with cognisance of the desires of the Australian community. A review should be above politics and sharply focused on achieving outcomes that are for the benefit of and in the best interests of the community it serves—the people of the ACT, the people who pay our salaries.

It is unfortunate that Ms Hunter's motion falls far short of the respect that a review of the ACT self-government act really deserves. It fails on every count of those elements that I outlined earlier that a review should not be. It is a piecemeal approach focusing on just one element of the act. It is predicated on a single issue. It is a knee-jerk reaction to that single issue. It makes assumptions about what the people of the ACT want and it fails to call on any kind of consultation with the community to find out the community's thinking, even on the single issue that Ms Hunter's motion seeks to address. It fails to take a holistic view of the ACT self-government act. It is not even respectful to the commonwealth parliament. Its language is not respectful, but it expects the commonwealth parliament to drop everything and turn its attention to this single issue in the ACT.

Madam Assistant Speaker, all of that said, the Canberra Liberals support the notion of a review of the self-government act. However, our approach is quite different. We want the review to be done properly, founded on the principles that I have outlined earlier about consulting with the community and taking a holistic view. One of the issues that will have to be considered in a review of the ACT self-government act, whether it is done by the Assembly or by the commonwealth and whether we like it or not, is the issue of precedence and impact on other jurisdictions.

By way of example, yesterday in this place the Attorney-General, in answering a question from Ms Porter, sought to compare the ACT's self-government act with that in the Northern Territory and, in doing so, he demonstrated his lack of knowledge of

how the law stands in the Northern Territory, thus claiming falsely that the ACT was somehow different. He said:

> We believe those provisions that provide for the executive disallowance of ACT statutes to be completely undemocratic and unacceptable. It is not even a provision that exists in the Northern Territory. In the Northern Territory, if the commonwealth are unhappy with territory law, they have to legislate. But apparently that difference is okay for us here in the ACT.

In fact, the situation for the Northern Territory is just the same as it is in the ACT. Section 9(1) of the Northern Territory Self-Government Act states:

> Subject to this section, the Governor-General may, within 6 months after the Administrator's assent to a proposed law, disallow the law or part of the law.

Section 9(4) states:

> Upon publication of notice of the disallowance of a law, or part of a law, in the *Government Gazette* of the Territory, the disallowance has, subject to subsection (5), the same effect as a repeal of the law or part of the law.

The Attorney has shown that he is simply wrong about how the law applies in other jurisdictions. It means that we cannot, with confidence, leave these issues in the hands of Mr Corbell.

I need to reflect on the very unfortunate process that we have seen in bringing forward this very important issue. It reflects very badly on the Greens that all the parties represented at the commemorative sitting spoke about the need for reform of the self-government act—to some extent the failure is ours as much as it is anyone else's—and no-one actually took the step of saying: "We all think that there should be a review of the self-government act. How about we all sit down and talk about the best way forward?" That did not happen. The Greens had a rush of blood to the head. Without telling anybody, they come up with this idea of a remonstrance about one very small aspect of the self-government act.

The Greens are very keen on the idea of the remonstrance. I think that is because it is slightly quaint and has not been done before—it sets you apart. I can understand the appeal of the mechanism, but the intent is wrong. You did not take the rest of the Assembly with you; you only looked at one very narrow aspect of that. When this issue became public, we started to negotiate. My staff and Mr Seselja's staff negotiated with members of the Greens and with staff from Mr Corbell's office over a lengthy period. As of last night, we had an agreement that is largely reflected in the amendment that Mr Seselja has moved today.

Mr Corbell: Not from the Labor Party you didn't—not from the Labor Party.

MRS DUNNE: But there was agreement from the Greens.

Mr Corbell: Not from the Labor Party.

MRS DUNNE: That may be the case, Mr Corbell, and you can stop interjecting. There was general agreement in the Liberal party room and from the Greens that we would go down the path roughly described in Mr Seselja's amendment. It was originally proposed there would be a select committee and then we said we were quite happy to have it go through a standing committee. There was to be a standing committee review so that we could advise the commonwealth on the way that we in the ACT thought this should go forward. That was how things stood yesterday afternoon. The first indication that I had that that was not the case was when Ms Hunter stood here today and said that she would look forward to putting together the terms of reference for a joint inquiry. Then calls were made and suddenly it seemed that all bets were off and we were going to go down a different path.

We have had considerable discussions about that since then and I think we have now come to a situation where there will not be agreement in the Assembly about the way forward. I think that is because no-one took the time to talk this through and it was dealt with in the heat of a very busy sitting day. All of this should have been resolved by sitting around a table beforehand and coming up with an agreed way forward. We have to be very careful about what is on the table. Mr Seselja is absolutely right to be concerned about the proposal for a joint inquiry. We have investigated a joint inquiry between us and the commonwealth before and it has proved to be very difficult. When I raised this with Mr Corbell at lunchtime today he said, "Maybe it will not happen." It seems as if this is something to do and we must do something, so therefore we must do this.

Yesterday, during negotiations with Mr Corbell's staff and the Greens staff, Mr Corbell's staff told us that they had money in JACS to do a review of the self-government act and that JACS wanted to do a review of the act. When it was put to them that if there was a committee inquiry those resources could be brought to the Assembly that was not discounted completely, but we were told that there was money in the JACS budget to do a review of the self-government act. Mr Seselja is quite correct to say that we are concerned that this review will be done behind closed doors by the Labor Party, both here and on the hill. It is something that the people of the ACT need to be concerned about. This is an important issue. I think that the handling of it by the Greens and the Labor Party has been, at best, unfortunate. We cannot support the original Green motion. I believe the proposal put forward by Mr Corbell does not go far enough in addressing the important issues.

Question put:

> That **Mr Seselja's** amendment to **Mr Corbell's** proposed amendment be agreed to.

The Assembly voted—

Ayes 4	Noes 9	
Mr Coe	Mr Barr	Ms Hunter
Mrs Dunne	Ms Bresnan	Ms Le Couteur
Mr Hanson	Ms Burch	Ms Porter
Mr Smyth	Mr Corbell	Mr Rattenbury
	Ms Gallagher	

Question so resolved in the negative.

Question put:

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

The Assembly voted—

Ayes 9		Noes 4
Mr Barr	Ms Hunter	Mr Coe
Ms Bresnan	Ms Le Couteur	Mrs Dunne
Ms Burch	Ms Porter	Mr Hanson
Mr Corbell	Mr Rattenbury	Mr Smyth
Ms Gallagher		

Question so resolved in the affirmative.

MR SPEAKER: The question is that the motion, as amended, be agreed to.

MS HUNTER (Ginninderra—Parliamentary Convenor, ACT Greens) (6.36): I think it is a good way forward for the ACT to have a review of the self-government act, one that is overdue after 20 years of self-government. We have heard a number of arguments and, I guess, agreement from all parties in the house around some of the matters that need to be reviewed and in fact some of the matters that should be changed in the self-government act. We have heard that it is an act of the commonwealth and therefore we need to be engaging with the commonwealth parliament in order to ensure that they understand the issues that are at stake and the needs of the ACT in regard to review and reform of this matter.

On Sunday I went out with this matter publicly. I clearly stated that I was looking forward to discussions with both the Labor Party and the Liberal Party. I was quite open to their suggestions or discussions and any ideas which they wanted to include. We undertook that process. We have been undertaking that process in the last couple of days. Mr Seselja has said that he is quite unhappy because he believed there was an agreement. That is not the understanding of my office. The understanding of my office is that there was a proposal put on the table as to what may be the way forward and there needed to be further discussion. Mr Seselja's office was informed this morning that we would not be going along with that proposal. We were looking at a proposal for amendments that was being put forward by the government and we felt that may be the way that we would go. I think Mr Corbell has spoken of a meeting at lunchtime between the parties on this matter.

It is important to get some momentum behind this issue. I believe that having a joint ACT-commonwealth review is the way to do that. I believe that that review should be inclusive. It needs to call for submissions and have engagement from the citizens of the ACT, political parties and other people who see themselves as stakeholders. Mrs Dunne raised the matter of some money that may be available through the justice and community safety department. That may well be able to be used to ensure that

people are able to participate in this review and to raise the issues and matters that are important to them. I look forward to this matter being progressed in a timely manner so that the citizens of the ACT will be able, hopefully in the not too distant future, to enjoy the same democratic rights as other Australian citizens.

Question put:

> That the motion, as amended, be agreed to.

The Assembly voted—

Ayes 9		Noes 4
Mr Barr	Ms Hunter	Mr Coe
Ms Bresnan	Ms Le Couteur	Mrs Dunne
Ms Burch	Ms Porter	Mr Hanson
Mr Corbell	Mr Rattenbury	Mr Smyth
Ms Gallagher		

Question so resolved in the affirmative.

ACTION bus service—concession fares

MR COE (Ginninderra) (6.43): I move:

> That this Assembly:
>
> (1) condemns the Government for changing eligibility for student bus fares to force tertiary students to use concession fares from 1 July 2009;
>
> (2) notes the resulting proposed fare increase of 49 per cent on tertiary students who use Faresaver 10 bus tickets; and
>
> (3) calls on the Government to reinstate student fares for tertiary students from 1 July 2009.

The recent territory budget has increased parking fees, parking fines, the number of parking inspectors and bus fares. All commuters have been slugged by increases in this budget. As a result of the budget, ACTION bus fares will go up by a headline average of just over 11 per cent. This is occurring at a time when ACTION bus services are deteriorating. In fact, on-time running performance has been adjusted down to 83 per cent. In effect, one in every five buses is expected to run late.

However, the story does not stop there. In actual fact, the budget papers did not reveal that the timeliness indicator as budgeted was measured in a different way than it was last year. In actual fact, the minister could not explain to us, nor could his officials, under what measure last year's recording was taken, as opposed to this year's. So it is very hard to actually make a comparison from last year to this year. The target of 99 per cent being reduced down to 83 per cent only tells the story that things are getting worse, but, as to how bad it is, it does not really say.

It is unacceptable that this level of inefficiency in Canberra's only mass public transport system is getting worse. Cash fares will go up by over 26 per cent and faresaver 10s by just over 11 per cent. Full faresaver 10 tickets will also go up by about 10 per cent.

However, hidden in this amount was a change of rules for tertiary students who will now have to pay concession fares instead of student fares. This figure was hidden on the ACTION website and not included in the budget papers. I commend my senior adviser for picking this up. Tertiary students using faresaver 10s, who now pay $8.20 and will do so for the rest of this financial year, will have to pay $12.25 from 1 July. That is an increase of 49 per cent from $8.20 to $12.25. So tertiary students are, in effect, disproportionately bearing the burden of Stanhope's tax increase on bus commuters.

Whether it is a fee, a fare, a charge or a ticket, when you get slugged an additional amount for a service that is actually not commensurate with the actual price, then the average punter calls it a tax. This is a 50 per cent tax on students. The 49 per cent is well above inflation for the period since bus fares last went up. From the September 2006 quarter to the March 2009 quarter, inflation was 6.7 per cent, according to the Reserve Bank of Australia.

This is typical Stanhope-Gallagher government mismanagement to hide the bad news behind a headline that hid the true impact on the tertiary sector. The headline was, of course, 11 per cent, the real impact is 49 per cent. The Labor Party have always claimed to be a friend of the battling student, but in this budget they have shown their true colours and have slugged students more than anyone else when it comes to transport.

When asked about this in estimates, Andrew Barr, the Minister for Children and Young People, dropped the ball on Canberra's young people. All he had to say was:

> I would say that bus fares have not gone up for a period of time … I did not look into the detail of each individual fare category… it is not unreasonable for fares to increase … look at any fare increase in the context of history.

By each of those measures, 49 per cent is not reasonable. Tertiary students, like commuters over the past couple of years, have experienced service cut backs, constant delays and bus breakdowns.

I understand the Greens will be moving an amendment to this motion. However, I believe their amendment is extremely weak. Their amendment only calls for a review. Well, guess what? The government has already reviewed it and the government has said that they will increase bus fares. It is absolutely absurd for anyone in this place actually to think that calling on a government that increases fares to review that decision will come up with anything other than the fares that are on the table from 1 July.

There is no way in the world that asking the government to review their own decision is going to return a decision other than what has been declared. It will be a 49 per cent

increase in student fares. For the Greens not to support our motion which calls for the fares to be reduced back to a reasonable level is in effect an endorsement of that fare increase. It is not at all reasonable to simply ask the government to review their own decision. I call on the government and the Greens to abandon their plan to hike tertiary student bus fares by an extraordinary amount and call on them to reinstate student bus fares for tertiary students. I commend the motion to the house.

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

Adjournment

Motion by **Mr Corbell** proposed:

> That the Assembly do now adjourn.

Labor-Greens agreement

MR SMYTH (Brindabella) (6.50): As many members would read *CityNews,* and perhaps some have missed it, there is an interesting article on page 5 that I thought that you yourself, Mr Speaker, might have an interest in, given that you may even have a mention in it. It is headed "Cracks in the Green pact" and it is an exclusive by Jorian Gardner. It reads:

> ALL is far from rosy in the post-election Labor/Greens cosy parliamentary agreement with senior officials from both parties admitting privately that the relationship has become "strained".
>
> "It's gotten really bad", a senior Labor Party official told "CityNews".
>
> "Honestly, I don't understand the games they are playing. We have nearly had enough of them.
>
> "We are really sick of them and they should pull their heads in."
>
> At the same time, a senior Green has hit back, describing the ACT Environment Minister Simon Corbell as a "goose" and "a total pain the arse" following the Minister's accusing Speaker and leading Green Shane Rattenbury of "bias" on the floor of the Assembly.
>
> The bickering comes as the Greens push for same-sex marriage laws to be re-introduced into the Assembly in a bid to test Prime Minister Kevin Rudd's resolve to apply the Federal Government's veto over the ACT legislation the Commonwealth disagrees with.
>
> Andrew Barr, an openly gay minister for Labor, has entered the fray reminding the Greens who introduced the progressive same-sex marriage legislation in the first place.
>
> "This is Labor legislation and I refuse to be wedged on this issue by the Greens," Mr Barr said.
>
> In a previous interview, Greens Leader Meredith Hunter told "CityNews": "It would … be fair to say that there are people (ministers) that are more enthusiastic than others (when dealing with the Greens)."

> At the time, it was clear she was referring to Minister Corbell and Barr. Since then, the relationship, particularly with Mr Barr, has deteriorated significantly with the Greens openly questioning his decisions on planning and education. Mr Corbell, as Environment Minister, has said previously that he has a good relationship with the Greens; however, the source added that "All he does is steal Green initiatives and try to make them his own—it is pathetic."

MR SPEAKER: Mr Smyth, even though it was in a quote and you were reading from an article, the word "arse" is still unparliamentary language.

Mr Smyth: Mr Speaker, I apologise.

Mr Corbell: No, you should withdraw.

MR SPEAKER: I would invite you actually to withdraw it, Mr Smyth.

Mr Smyth: I withdraw.

Anglicare winter pantry appeal

MR COE (Ginninderra) (6.52): I rise today to pay tribute to the great work done by the many volunteers of Anglicare Canberra and Goulburn during the 2009 Anglicare winter pantry appeal. Over 150 have assisted with this year's appeal already and collected over 3,500 non-perishable food times. The appeal could not happen without the volunteers who devote many hours and days of their time to be at Anglicare stalls at shopping centres. The appeal was launched at a highly successful winter glisten function at the Pavilion Hotel, which raised money for the appeal and awareness of the appeal.

This year the appeal is more far-reaching than it has been in the past and visited five shopping centres: the Tuggeranong Hyperdome, Westfield Belconnen, Westfield Woden, the G Gungahlin, and Woolworths Yass. I was pleased to be able to help on a Sunday at the Westfield Belconnen Shopping Centre during May.

The items donated to the appeal will be distributed to those most in need in the diocese. St John's Care, a welfare organisation that operates in Reid next to the Church of St John the Baptist, provides food as part of its service to those in the community who need help and support. Some of the food will also be provided to parishes throughout the diocese so that they too can provide this help and support.

St John's Care runs a number of programs including patch a puzzle, volunteers who repair wooden puzzles and toys for preschools; the breakfast club, providing breakfast for children at Ainslie primary school; marriage education courses; and once-a-month community lunches.

The success of this appeal to date and the continuing work of St John's Care epitomise the spirit of charity that is alive and well in the territory. Canberrans are aware that winter can be a very difficult time for those in our community in unfortunate circumstances, and very generously donate to charities to ensure that help can be provided for when it is needed most. Charities are close to the people who need

help and can help people in a much quicker and more sensitive way in these circumstances than can government agencies, with the ability to better target their assistance to individual needs.

I would like to pay tribute to the team at Anglicare Canberra and Goulburn who organised the volunteers, liaised with shopping centres and set up and packed up the stalls throughout the month-long shopping centre appeal. But the appeal is not over yet. Whilst the shopping centre component of this year's appeal is complete, the appeal continues right though until the end of July.

Through the continued support of the local community, Anglicare hopes to collect another 6,000 items. Businesses, schools and parishes will be working right up until the end of the appeal. Items can now be donated to the appeal at the Anglicare head office: ground floor, Jamieson House, 42 Constitution Avenue, Reid. The appeal is also accepting donations through regional offices on the south coast, at Goulburn, and at Wagga Wagga.

Mr Zed Seselja

MR BARR (Molonglo—Minister for Education and Training, Minister for Children and Young People, Minister for Planning and Minister for Tourism, Sport and Recreation) (6.55): Whilst the Assembly's attention has been drawn to page 5 of the *CityNews*, not to suggest that all members of the Assembly are slavish readers of the said publication, I think it is worth drawing to the Assembly's attention the article directly below the article that Mr Smyth has just read into *Hansard* entitled "Zed: the man with no new plan":

> OPPOSITION leader Zed Seselja has publicly admitted that his party has no alternative plan to bring the ACT economy back into surplus other than the policies he took to the October election—well before the global economic crisis started to bite. During a press conference Mr Seselja repeatedly attacked Treasurer Katy Gallagher for having "no credible plan to bring the ACT back into surplus" but refused to outline his own plan. Ms Gallagher has already outlined a seven-year strategy to right the economy by 2015, although she is yet to explain how she will make the $200 million in savings needed to meet the target. "We have a plan—we took it the election," Mr Seselja said. "CityNews" repeatedly asked him whether, since the global economic crisis had so dramatically affected the ACT, he had he updated the Liberal's surplus strategy?
>
> Despite prolonged filibustering—

I am sure you find that hard to believe—

> the answer was "no".
>
> Mr Seselja refused to answer further questions and left the press conference.

That is a Jorian Gardner exclusive, page 5 of *CityNews*. I suppose it pays to read all parts of the paper.

Question resolved in the affirmative.

The Assembly adjourned at 6.57 pm.