Debates

WEEKLY HANSARD

SEVENTH ASSEMBLY

Legislative Assembly for the ACT

19 AUGUST 2009

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Wednesday, 19 August 2009

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The Assembly met at 10 am.

(Quorum formed.)

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

Petition

The following petition was lodged for presentation, by **Mr Hanson**, *from 45 residents*:

Canberra Hospital—petition No 100

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

This petition of certain residents of the Australian Capital Territory draws to the attention of the Assembly that the Planning Minister (at the request of the Health Minister) has used "call-in" powers to approve demolition of a 3-storey carpark at Canberra Hospital and building on that site a 9-storey carpark which would tower above the new mental health precinct.

Your petitioners therefore request that the Assembly direct the Minister for Health and the government to:

- Halt the car park demolition planned for September 2009;
- Seek the advice of the Chief Psychiatrist as to the mental health implications of building the planned car park tower overlooking the planned new acute care mental health facility, and publish that advice;
- Direct that any building located near the new mental health precinct conform to the latest version of the Australasian Health Facility Guidelines (shortly to be promulgated), especially re the location of a tall building near an acute care mental health facility;
- Release information on the traffic implications of placing a large car park tower at a crossroads within therapeutic areas;
- Urgently review the community's preferred option of an alternative site for the car park, and in particular on Yamba Drive west.
- Save the existing 3 storey Bateson Road carpark for night staff and disabled.

The Clerk having announced that the terms of the petition would be recorded in Hansard and a copy referred to the appropriate minister, the petition was received.

Courts and Tribunal (Appointments) Amendment Bill 2009

Mrs Dunne, pursuant to notice, presented the bill and its explanatory statement.

Title read by Clerk.

MRS DUNNE (Ginninderra) (10.03): I move:

> That this bill be agreed to in principle.

The Courts and Tribunal (Appointments) Amendment Bill 2009 amends the ACT Civil and Administrative Tribunal Act, the Magistrates Court Act and the Supreme Court Act. Its essence is to improve the transparency of government appointments of judicial officers in the territory.

In February last year, my colleague Mr Seselja introduced a similar bill. In his presentation speech, Mr Seselja said:

> Decisions around the appointment of judges and magistrates are amongst the most important decisions made by governments. The community invests significant trust in judicial officers, and their decisions in turn affect the community in a profound way. It is therefore crucial that we look at ways of making the process for their appointment as open and transparent as possible.

There are a number of ways in which judicial officers can be appointed. We know that in the United States it is on the nomination of the President ratified by the Senate after an interviewing process which is done in public. Judges in some states in the United States are appointed by popular election. In some European countries the judging profession is a career, pursued through the court hierarchy. In South Africa a widely based committee prepares a list of nominations from which the government chooses.

In Australia appointments to the High Court are decided by the Governor-General in Council. In practice, this would be on the recommendation of the Prime Minister and may involve the cabinet. These days, appointments of judges to the High Court require consultation with the state Attorneys-General. Appointments of judges to state-based courts generally follow a similar process to that of the commonwealth—that is, the appointments are made by the Governor in Council, usually on the advice of the Premier, who may in turn seek the input of cabinet. In the ACT the process, of course, omits the direct involvement of the Crown, with appointments made directly by the executive.

The UK probably has the most progressive, open and transparent process of all, brought into being with the establishment of the Judicial Appointments Commission under the Constitutional Reform Act 2005. Under that system, judges are appointed by the Queen on the advice of the Prime Minister and the Lord Chancellor but on the recommendation of the Judicial Appointments Commission. The selection process is a fully open competition, including a process of consultation with the Lord Chief Justice and other persons who have held that post or have relevant experience. Even twelve of the fifteen commissioners are appointed by fully open competition, with only the remaining three appointed by the Judges Council. Thus, the establishment of the commission has removed the appointment of judges from the political arena.

Each of these methods has advantages and disadvantages, which can be summarised thus: open and public processes are said by some to restrict the range of people who might consider an approach for appointment or who might consider submitting an

application. It might be said, therefore, that an open and public process might not yield the best qualified or experienced judiciary. Closed and confidential processes are said by others to politicise the process of judicial appointment, that a government will look after those of its own political persuasion and not take an impartial approach to the process of appointees. The result, it might be said, could be exactly the same as might occur in the open and public process. The difference is that there is a risk that people aspiring to the bench might find themselves needing to get in good with the government and ultimately find themselves somehow beholden to that government.

Of course, the results I have outlined are extremes. Nevertheless, the possibility is there. I would venture to suggest that the system in the UK, whilst perhaps initially having the potential to narrow the scope of potential candidates with the necessary qualifications and perhaps broaden the scope of potential candidates with insufficient qualifications, ultimately will swing to a process of healthy competition yielding the best candidates, because they will not want to miss the opportunity of the rewards that a judicial appointment might carry. So whichever way you cut it, the process of judicial appointment has its pros and cons. The bottom line is whether those appointments deliver the best possible outcomes for the people they serve.

But probably the most serious issue that any government needs is to avoid any allegation that appointments are politically motivated. Anything any jurisdiction can do to mitigate the possibility of such allegations can only be regarded as an improvement to the system. The UK has recognised this and implemented measures to address it in the most spectacular form. The US has a very public process, with the Senate holding confirmation hearings. The US and the UK are amongst the world's greatest democracies, and clearly they are leading the way in the depoliticisation of judicial appointments. Australia, another of the world's great democracies, has gone a tiny way along the track at the federal level by introducing a process of consultation with the states for appointments to the High Court. This was after recognising the importance of the decisions of the High Court—the highest court in the land—and the impact that those decisions have on our nation, regardless of the dotted lines on the map. It was recognised that a closed-shop approach to judicial appointments to the High Court does not yield the best result for the people of Australia.

My bill seeks to emulate that ideal—that is, to recognise the importance of the courts and their decisions to the ACT and, more importantly, to the people of the ACT. My bill seeks to add a simple step to the process of judicial appointments to dilute, if only a little, the risk of accusations of political appointments to these most important posts. My bill seeks to put an end to the behind-closed-door appointments that do not even appear in any kind of announcements, such as was the case earlier this year when the government appointed a third presidential member to ACAT without any fanfare and almost without announcement.

My bill seeks to add a layer of openness and accountability to the process, something about which the Stanhope-Gallagher government is willing to talk the talk, but not walk the walk. Indeed, in answering a question in the estimates hearings earlier this year about whether the Attorney-General would consult with the justice committee in relation to forthcoming appointments to the Magistrates Court, including the position of Chief Magistrate, the Attorney-General responded thus:

> There is not a role for the standing committees of the Assembly in relation to the appointments of judges or magistrates.

While I acknowledge that the Attorney-General did advise the committee the vacancies would be publicly advertised and that he would consult with the Law Society, the Bar Association and the sitting Chief Magistrate, this is an entirely informal process and it is done behind closed doors. My bill seeks to open those doors, at least a little.

My bill will require the executive to consult with an appropriate Assembly committee on proposed appointments of presidential members of ACAT, magistrates and special magistrates of the Magistrates Court and resident judges and the Master of the Supreme Court. The committee may be nominated by the Speaker and, if not, then the standing committee dealing with legal matters—currently the Standing Committee on Justice and Community Safety—will consider the proposed appointments. The committee will be given 30 days to consider the proposed appointments and may make recommendations to the executive. The executive will not be permitted to make the appointments until either the committee has made its recommendations or 30 days have elapsed, whichever occurs first. The executive, in making the appointments, must have regard to the committee's recommendations but it does not have to follow them.

There are precedents for this approach. In the ACT all appointments to government boards, committees and tribunals are referred to committees for consideration. Well, that is almost the case. I note in passing that the Standing Committee for Justice and Community Safety had the opportunity to comment on all the appointments to ACAT except those of the presidential members, which were made by the executive solely.

Nationally, there is a process of consultation with the state Attorneys-General for judicial appointments to the High Court. In the US there is a very public process. In the UK, there is an arm's-length process undertaken by the independent Judicial Appointments Commission. Whilst my bill does not go as far as some of these examples, it does provide a level of scrutiny by the elected representatives of the people of the ACT, not just those in cabinet and not just behind closed doors with professional representative bodies.

What about the criticisms of an approach such as my bill espouses? First, there is the criticism regarding the risk of politicising the judiciary. Assembly committees generally are made up of members from across all political parties, thus representing the broad cross-section of the people of Canberra. By that alone, at least some of the potential for political appointments is ameliorated. Secondly, there is the criticism of the risk of loss of confidentiality. The deliberations of the appropriate Legislative Assembly committee would be conducted in accordance with the Assembly's standing and temporary orders. Whilst those orders provide flexibility as to whether a committee's deliberations are conducted in public or private session—therefore, in the latter case, confidential—the usual practice of committees in considering proposed appointments to government boards and committees et cetera is to undertake those deliberations in private session. It is anticipated that a committee in considering proposed appointments under this bill would follow that usual practice.

Finally, a question that the Greens have raised with me relates to the process as it might apply to a sitting judge who the government proposes to appoint to a position in another capacity, for example, a resident judge in the Supreme Court being appointed to the position of Chief Justice.

Any appointment, regardless of whether or not it is proposed that a sitting officer be appointed to another role, is regarded by this legislation for the relevant court and tribunal as a new appointment. There is no provision for what might be termed promotions. Accordingly, the executive would consult with the relevant committee on these proposed appointments in the same way as if the proposed appointment were for a non-sitting officer.

This bill ensures that, as my colleague Mr Seselja said in February last year:

> … the public have the fullest confidence possible in the appointment of judges and magistrates and that the process is as open and as transparent as possible. By taking on board the advice from the legal affairs committee, it will provide another check and balance in the process and will allow greater public involvement in the procedure. By adding another layer of scrutiny, it provides another avenue of information to be provided to the government so that when it makes its decisions it is in the full knowledge that it has all the relevant information available and that no detail has been overlooked.

I commend the bill to the house.

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

Financial Management (Board Composition) Amendment Bill 2009

Mr Smyth, pursuant to notice, presented the bill and its explanatory statement.

Title read by Clerk.

MR SMYTH (Brindabella) (10.15): I move:

> That this bill be agreed to in principle.

This bill has three main purposes: one, to place a ceiling on the maximum number of people who can be appointed to boards of the territory governed by the Financial Management Act as public servants; two, to preclude the appointment of a public servant as either the chair or the deputy chair of any such board; and three, to repeal the decision by the Minister for Tourism, Sport and Recreation to appoint four public servants to the board of the Exhibition Park Corporation, which I will subsequently refer to as the corporation.

First, I need to provide some background to this bill. We all recall that the Minister for Tourism, Sport and Recreation has been attempting for some time to bring all possible activities under his control. His actions concerning the board of the corporation are the most recent display of his arrogance in this vain, actions that he claimed were made in the name of microeconomic reform.

Unfortunately for the minister, the Assembly disagreed with this approach and in May this year the Assembly rejected a bill that would have achieved this outcome. The machinations of this minister concerning the board of the corporation then become very murky. I will return to this aspect in a moment.

At this point, however, it is important to have some background and some consideration of principles that underlie this proposal. There are only a small number of territory authorities that have been established to support the ACT government by providing a management structure that falls outside the ACT government bureaucracy. These are the ACT Gambling and Racing Commission, ACTTAB, the Public Cemeteries Authority, the Cultural Facilities Corporation, Exhibition Park Corporation, the Land Development Agency and Rhodium Asset Solutions.

Putting Rhodium aside for one moment, each of these boards has between five and nine members. Apart from the board of the corporation, none of these boards has a public servant appointed as a public servant. I should note that the Gambling and Racing Commission has a federal public servant as a member but this person is on that board in his capacity as an expert in gambling addiction matters.

Of course, since 1 July 2009, the board of Exhibition Park Corporation has had four public servants. I need to distinguish the case of Rhodium, where the board consists entirely of, in this case, three public servants. They have been appointed in special circumstances, that is, to oversee the wind-up of that entity.

There is, in addition, one other board that should be mentioned for completeness and that is the board of the Actew Corporation. It should not be considered further because this is an unlisted public corporation established under the national corporation legislation. Nonetheless, I would note that it has a board of seven members, none of whom is a public servant.

How does my bill fit into this situation? As I noted, this bill has three purposes. The first of these is to require that no board of a territory authority shall have more than 20 per cent of its members appointed as public servants. I have proposed this for one fundamental reason: territory authorities generally have been established in situations where there is a commercial imperative to the activities of that entity, as is the case with the Gambling and Racing Commission, ACTTAB, the Public Cemeteries Authority, Exhibition Park Corporation and the Land Development Agency. In some situations, there may be a benefit for the community in establishing such a territory authority, as with the Cultural Facilities Corporation.

So the principle is quite straightforward. The government of the day has to determine whether a particular function warrants being managed from outside the confines of the bureaucracy. If the answer to that question is yes, an autonomous territory authority will be established. If the answer is that the function can be performed by the public service operating as a public service, there is no reason to establish a separate authority.

Clearly, if the government wants a board to have the benefits of particular expertise from within the bureaucracy, there will be merit in appointing a public servant to that

board or a very small number of public servants in cases of larger boards. I instance here the structure of the Corporations Board prior to 1 July 2009. In that context, that was a very sensible and worthwhile decision. On the other hand, there is no argument in favour of appointing a large number of public servants to this board. It is self-evident that such a course is in direct conflict with the purpose for which the separate entity has been established; hence the first purpose with my bill.

The second purpose is to require that no public servant who is appointed to a board shall be either the chair or the deputy chair of that board. This follows directly from the consideration of the role of public servants on the board. They will be appointed in situations where appropriate and where direct links between the bureaucracy and the entity are beneficial. They will not be appointed on the same basis as are the other members of the board.

These other members will be selected because they bring a skill in one or more areas, whether that is in the area of interest of the entity, the management of organisations, financial matters, legal matters, particular commercial matters or other relevant skills. Clearly, therefore, the selection of the board members from outside the bureaucracy will encompass consideration of people who bring skills in managing at a broad level.

Let me emphasise this principle. If the government has made a decision to establish a separate entity to manage a particular function, the logical extension of that argument is that people from outside the bureaucracy should be appointed to manage that entity.

This brings us to the antics of the Minister for Tourism, Sport and Recreation with respect to the board of the Exhibition Park Corporation. The minister clearly wants to build the empire that is under his direct control; hence he devised the spurious argument that certain entities should be brought together in the name of microeconomic reform. He even claimed that his proposal would save $50,000 each year.

It almost defies description to see how the activities undertaken at EPIC can be considered to be equivalent of, or even similar to, those conducted at Canberra stadium, Manuka oval or Stromlo forest park. Nevertheless, that was the objective being pursued by this minister.

The bill he introduced in March this year to achieve this set out his arguments. To any reasonable person, they were, at best, very weak arguments but that is his responsibility as he seeks to build the base from which he can launch his leadership bid for the Labor Party in this Assembly

When this bill was debated on budget day in May, the opposition argued against it, not, as the Minister claimed, for opposition's sake but for very sound reasons: the functions of the corporation continue to warrant being performed by a territory authority; the current arrangements had served the ACT and region extremely well; and the current board had been performing a sterling and very successful job while dealing with a government that could not make a decent decision about the future of EPIC.

As well, the Greens also opposed this bill, again for very sound reasons. The Assembly duly rejected the bill. This decision caught the government off guard as the abolition of the board had been built into the 2009-10 budget, which of course was very presumptuous on behalf of the government, and they clearly had time to debate the bill before the budget was finalised. This minister clearly did not like this decision and he set about putting in place a strategy to circumvent the intention of the Assembly decision.

Indeed, the deviousness of this minister started to become evident in questioning during the 2009 estimates hearings. The minister did not provide straight answers to questioning about what his intentions were about the board of the corporation. His comments in response to the Assembly's decision to reject his bill included:

> I am obviously taking advice in relation to what the Assembly vote means in terms of the future of the organisation.

He then said:

> We will, of course, adhere to all of the requirements under the Exhibition Park Act … We will continue to have a board.

However, he made no explicit mention of his intention that we saw, subsequently, in his announcement of 29 June 2009. On 29 June, his intentions became evident. The minister provided his answer to the Assembly's decision. He flouted that decision by promulgating an instrument that appointed four public servants to the corporation's board and appointed one of those as chair and another as deputy chair.

Also, we know that the only reason there would be a prospective saving of $50,000 a year was that the minister intended to stop paying board members for their work. What we did not know then was that the payment for the board members is made from the corporation's own revenues.

So there was no reform and there was no financial saving, only this minister's devious agenda. What a joke! What a reformist!

We also know that the former board of the corporation had prepared a master plan for EPIC and that part of this plan apparently called for the development of low and medium-cost accommodation. Subsequently, the Stanhope-Gallagher government denied the board the opportunity to develop their concept of affordable accommodation and then pinched the idea as their own. And this is so typical of the Stanhope-Gallagher government. Others come up with the good ideas, the Stanhope-Gallagher government appropriates those ideas and, in the case of the corporation, denies it the potential to generate more revenue to underpin the activities of the corporation.

I must finally respond to the war that the minister has waged against at least some members of the former board. In the estimates hearing on 27 May 2009, the minister could not bring himself to speak favourably about the board. He said:

> I offer no comment in relation to the performance of the previous board.

How disgraceful! Of course he then tried to back away from that judgement but these comments on the board remain.

The minister treated the former chairman, Mr Brian Acworth, and the former deputy chairman, Mr Mark Love, disgracefully. After first denying on ABC radio that he had asked these two board members not to reapply, he admitted that he had asked both these members not to reapply.

I also cannot let a further matter pass. In the estimates hearing on 27 May 2009, the minister claimed that the former board of the EPIC Corporation had accumulated reserves that had largely been from government appropriations. This is an unsubstantiated slur on the former board and, of course, the former board has not been given the opportunity to respond to this allegation.

The recent history of the Stanhope-Gallagher government's treatment of the board of the Exhibition Park Corporation is appalling. And this was capped off by the government-orchestrated public service takeover of the board as from 1 July. Canberra, and indeed the region, deserves much better than this for such a significant community asset.

The Assembly recognised the value of the corporation in managing the strategy for and activities at Exhibition Park and rejected the abolition of the board of the corporation. This bill ensures that the intention of this Assembly cannot be circumvented by the government. I commend the bill to the Assembly.

Debate (on motion by **Ms Gallagher**) adjourned to the next sitting.

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

Debate resumed from 17 June 2009, on motion by **Ms Le Couteur**:

> That this bill be agreed to in principle.

MR BARR (Molonglo—Minister for Education and Training, Minister for Children and Young People, Minister for Planning and Minister for Tourism, Sport and Recreation) (10.28): Before I speak on the substance of the bill, I would like to register my surprise and disappointment at the appallingly poor process that the Greens have chosen to work through in the formation of this bill.

Not only have they not sought any input from industry bodies that represent those who build houses, but there has been no considered process for community input into this bill. Where were the community meetings? Where were the workshops with interested individuals and businesses? Where was the consultation with the actual people who will be affected by this bill? Where is the regulatory impact statement? Where is the social impact statement? Indeed, is there any evidence that anyone other than Ms Le Couteur and the Parliamentary Counsel have had any input to this bill?

Let me give you a snapshot, Madam Assistant Speaker, of some of the concerns that industry have expressed. The Master Builders Association told my office today that

the MBA consider the bill "draconian." They went on to say that they were "appalled that the bill was put forward without consultation with industry".

I would like to quote correspondence from the Executive Director of the Housing Industry Association for the ACT. He wrote to my office, saying:

> I also note there has not been any industry consultation, at least not with the HIA, on these proposed changes, nor has the HIA seen a cost-benefit analysis. This is important at a time when housing affordability is a key objective of the government.
>
> It also seems premature to propose these changes when there is a national debate on a move to 6 star energy efficiency ratings with these requirements to be embodied under the BCA. I would also suggest there may be other initiatives outside of housing that could achieve good environmental outcomes including water conservation.
>
> In addition, I would like to know whether any rebate or incentive scheme has been considered by the Greens to offset these costs to the consumer. The government is currently operating a commercial retrofit program on a voluntary basis that encourages good practice and perhaps this type of model should be investigated further for housing.

Madam Assistant Speaker, I am advised that the Property Council has a similar view. So how could a responsible government support a bill built on such weak foundations? I have sat in this place for three and a bit years. I, like many others, have listened over time to some sanctimonious pontificating from the crossbench about consultation processes. In a way that only the non-politician crossbench types can do, they seem to have perfected that art—

Mr Rattenbury: On a point of order, Madam Assistant Speaker: under standing order 214 I would like the minister to table the documents he has just referred to.

MADAM ASSISTANT SPEAKER (Mrs Dunne): You can move that motion at the conclusion of the speech, Mr Rattenbury.

Mr Rattenbury: Thank you, Madam Assistant Speaker.

MR BARR: We have all sat through those sorts of speeches time after time after time. I do find it quite odd that in bringing forward this piece of legislation none of the social impact or regulatory impacts—all of the various processes that apparently are a requirement for everybody else in this place before bringing forward legislation—has been followed.

But there is no doubt that this very poor process is one reason why the substance of the bill is so poor. Let me state categorically that the government supports the goal of phasing out carbon-intensive appliances in the ACT and introducing standards for energy efficiency where they are not already in place. As usual, though, the Greens party just does not get the big picture. It is an isolated nice idea but with no substance to support it, no connection to the wider environmental, social and economic context for the territory.

So what is the big picture? The government has announced ambitious aims for the territory in relation to reducing its greenhouse gas emissions. Gradual removal of the most carbon-intensive water heaters from residences will assist in achieving a reduction in carbon emissions from individual households and reduce operational costs.

However, Madam Assistant Speaker, mandating alternative technologies runs the risk of not necessarily delivering the environmental or financial benefits if the regulation does not contain provisions to optimise the functioning of these technologies and ensure their effectiveness in the ACT climate. While this bill is a significant improvement on the original bill the Greens introduced into the Assembly, there are still a number of issues with the initiative that will require further attention before any legislation of this nature is passed.

I do not intend to comment on all of the provisions in the bill but there are some of notable concerns. These include the treatment of temporary systems, the lack of consideration regarding households with on-site renewables that provide a residence's entire energy usage, the apparent preclusion of other suitable technologies such as ground-source heat pumps and small electric instantaneous water heaters and the lack of installation requirements for solar collectors, which I understand ACTPLA is currently investigating. The bill also continues to confuse the climate zones applicable under the Building Code of Australia with those used to calculate renewable energy certificates.

Madam Assistant Speaker, this policy area has been the subject of a concerted national policy approach which the ACT government has been heavily engaged with. On 12 December 2008 the Ministerial Council on Energy agreed to an initial three-year implementation plan of the national hot water strategic framework for the period 2008-09 to 2010-11, including key actions and time frames. The strategic framework involves the phase-out of conventional electric resistance water heaters, except in regions where the emissions intensity factor of the public electricity supply is low.

It initially covers from 2010 all new houses and established houses in gas reticulated areas; from 2012 all new flats and apartments in gas reticulated areas and established houses in gas non-reticulated areas; minimum energy performance standards for the types of water heaters, such as gas, solar, heat pump and small electric systems that will continue to be available, subject to a regulatory impact statement; and supporting measures including harmonisation, information, education, compliance and innovation support.

The initiative, which goes significantly further than what is being proposed through the Greens party bill, is also incorporated in its entirety into the national strategy on energy efficiency, which was agreed to by COAG on 2 July 2009. What is especially important to note about this process is that it will not only introduce technical provisions for water heaters. Instead, the national process will entail specific consultation with national regulatory bodies, training organisations, practitioner associations, manufacturers, suppliers and retailers, and consumer groups. It will also produce an analysis of the regulatory impact on ACT citizens, including the costs and

benefits, provide support and education for plumbing practitioners, and allow a reasonable transition period for suppliers and manufacturers of water heaters.

To date there has been little mention by the Greens of these facets in introducing this legislation. Therefore, it would be irresponsible for the government to support this bill without these issues having been addressed. The proposed commencement dates in the bill are 1 October 2009 for installations in new class 1 buildings, detached houses and townhouses, and 1 January 2010 for replacement water heaters in existing class 1 residences.

No regulatory impact analysis has been tabled with this bill. As I have said, it is not clear to me what level of consultation with stakeholders was undertaken in deciding on these dates; 1 October 2009 is six weeks away, Madam Assistant Speaker. This will leave little time for necessary legislative changes to be undertaken. For example, how would the Greens party ensure effective interaction between the proposed legislation, the Building Code of Australia and plumbing regulations? How would they communicate changes to consumers and industry?

The government is concerned about the social impact of these changes. Yes, much good environmental policy must involve pricing-in environmental externalities. Yes, that sometimes means that people pay more. But the smart, progressive policy approach must bring together fairness and good environmental outcomes. We need to ensure that the impact on low income earners is minimised and low income households that are already efficient users of energy must not be unfairly disadvantaged by this initiative.

Similarly, the expected environmental benefits have not been assessed against the current penetrations of each type of water heater, the expected uptake of solar, heat pump and gas units and the effectiveness of each type of technology in the ACT climate. The government understands the environmental imperative. That is why work is being done collaboratively between all jurisdictions on the training, product supply and technical issues that need to be addressed before commencement of legislation for water heater installations.

As part of COAG-agreed measures to increase energy efficiency requirements for new residential buildings to six stars or equivalent in the 2010 update of the Building Code of Australia, draft provisions for water heaters in new buildings were released in June for public comment and additional consultation on these measures will be concluded later this year. I would like to take this opportunity to reconfirm the ACT's commitment to pursuing the introduction of higher energy performance standards for new houses and apartments through the national strategy for energy efficiency and the Building Code of Australia processes.

Whilst it is crucial to note that the COAG agreement recognised there are a number of transitional periods for legislative changes specific to each jurisdiction, which is why the outer date for implementation of the measures has been set at May 2011, this does not mean that the ACT is in any way required to delay the introduction of these measures to align with any other jurisdiction. It is also possible that the ACT can introduce more stringent criteria if it is appropriate.

The ACT retains the capacity to bring forward the implementation date prior to any national commencement date if undue delays are being experienced at a national level. While there are notable similarities between some provisions in the Greens' bill and the publicly released Building Council of Australia proposals, due to time constraints in meeting COAG deadlines, key regulators and other government stakeholders were not able to view the draft before it was released. Therefore, there are policy and technical issues regarding the draft that will need to be addressed before these provisions are finalised.

In addition, the Building Code of Australia provisions are still being assessed for their suitability for the ACT climate and their cohesion with broader plumbing regulations. Provisions for existing houses will be developed in collaboration with jurisdictional plumbing regulators through both the national plumbing regulators forum and the relevant national implementation committee. I can advise the Assembly that ACTPLA is actively involved on both of these committees and will be attending a series of national meetings to be held this week with other jurisdictional representatives, regulators and training bodies to progress development of these provisions.

While there are some advantages to pursuing the introduction of legislation for water heaters independently, to form an effective regulation the ACT would need to allocate significant resources to undertake research, refine proposed legislation, adequately consult on proposals and assess regulatory impact. This would be additional to the resources that would be required to remain active at the national level to ensure consistency where possible and that national outcomes do not adversely affect the ACT.

Opting to pursue this measure independently does not negate the need for the ACT to remain involved in the national processes being undertaken. As national standards and training will continue to be developed, the ACT will be obliged to remain consistent where possible. Therefore, it would be counter-productive for the ACT to remove itself from the process through which the required actions are already being undertaken.

Therefore, the government opposes this bill and seeks the Assembly's support instead for the practical and progressive approach I have outlined today. I recommend that the ACT continues to support the implementation of measures for regulating installation of greenhouse-intensive water heaters through the agreed Ministerial Council on Energy process.

In recognition of the environmental imperative and the government's climate change strategy, however, I make the commitment that regardless of any national implementation date or timing for introduction into national codes or standards, the ACT will introduce appropriate legislation for new and replacement water heaters in class 1 buildings by 1 May 2010, to be effective no later than 1 July 2010. This sets a realistic time frame to address the issues I have outlined and should satisfy the need to send a clear signal of the government's intent to industry and householders.

Once again, Madam Assistant Speaker, I can see the Greens' intentions on this important issue, but regret their blatant disregard for the bigger picture, their failed consultation processes and their inability to engage in a national reform process.

MR SESELJA (Molonglo—Leader of the Opposition) (10.43): We look forward to the contribution of the environment minister to this very important debate as well. We will be supporting the bill in principle but there are a number of parts of the bill that we will not be supporting. I have to say, in response to part of what Mr Barr has had to say, that I disagree with the entirety of the policy in that there are some aspects of this policy we simply cannot agree with. That is particularly so in the replacement area.

But in our dealings with the Greens, versus our dealings with the planning minister's office, even though we do not agree with them on everything, we have found them far more forthcoming with information. The discussion and dialogue we have been able to have to get a picture of what they want from this bill and what they are prepared to put forward have been very useful, on the one hand.

Requests to the planning minister's office for information have not been met with the same courtesy. In fact, very few, if any, of these arguments that Mr Barr has just made in the chamber have been put to us. And we have asked on a number of occasions for this to be done so that we could look at it in the most informed way possible. We want the government to put forward their ideas and their concerns but it seems Mr Barr and his office would prefer simply to continue to play politics with these issues rather than actually seek a good outcome.

If Mr Barr wants to move sensible amendments, we would look at them but to date we have seen nothing. He has come out with this proposal at the end of his speech that actually it is a really good policy but it will be put in place in May or June. Where was this dialogue earlier? Where were the amendments circulated to us, delaying the start-up date, raising these concerns? We have not seen any of them and it really does not reflect very well on the planning minister and his processes when he puts it through in this manner.

We have considered the bill as it applies to new developments and existing developments and, given that the bill in relation to new developments is essentially an adoption of the Canberra Liberals' election policy, although not absolutely, we of course welcome the endorsement from the Greens. We will be supporting the components of the bill as they reflect our election policy in relation to new developments. We do have a slight difference of approach in new developments in that we believe that five-star electricity should be part of that mix.

The aim of the bill, as outlined by Ms Le Couteur, is to reduce the environmental and financial impact as it relates to hot-water systems used in the ACT. There is certainly no doubting the environmental gain from the use of low-energy hot-water equipment. The financial gain is evident also in the sense that, as with many issues, if one has the capital start-up, significant savings can be achieved over the life of the equipment.

However, it is important to me and important to the Canberra Liberals that we consider the reality facing many, if not most, working families that the start-up cost is often too great in many circumstances. I am referring particularly to the issue of replacements.

Regarding the Greens' proposal in relation to new homes in greenfields, as stated earlier, we support the bill insofar as we support the use of low-energy systems in new developments. We acknowledge that electric hot-water systems are the commonly used systems and account for up to 23 per cent of the total greenhouse energy emissions from a home.

Importantly, we believe that there is a stark difference financially for families between the initial, planned purchasing of a home versus the unexpected and sometimes emergency replacement of an existing system. We have all experienced that from time to time. In fact, when we purchased our home, it turned out something was not disclosed when we were buying, and that was that the hot-water system did not work. We got a home, not a brand-new home, and the electric hot-water system did not work at all. So we needed an urgent replacement, moving in with kids, for bathing and all that sort of thing. For us, putting in the gas-boosted energy efficient system was able to be done and we took that approach.

For other families in that situation, they simply often do not have the cash flow. Our concern is that we impose too much of a burden on those families in those circumstances where it is already a burden and we are simply making a greater burden. That is our significant difference of opinion and our significant issue. That is why we have a number of concerns about the mandatory replacement elements of the bill, not least of which is the financial impost on families that are forced to unexpectedly pay out thousands more as a result of this bill, should it be passed.

The financial analysis completed by the Greens—and again I thank them for putting forward some detail—is simple and broadly acceptable in that the case study ended up, after using all subsidies available and an interest-free loan, producing a reasonable outcome for the consumer. However, this is contingent on the continuation of the federal subsidy.

Unfortunately, as we have already seen, this federal Labor government has form when it comes to the withdrawal of programs and subsidies in this area. Ironically, it was the withdrawal of the solar panel assistance that first alerted us to this problem. We believe that not legislating this issue and depending on federal Labor for financial security is a mistake on several levels, not least of which is the environment.

Last term, the Canberra Liberals released our environment and planning policies that included a requirement for the installation of solar or other low-energy hot-water systems in all new dwellings—gas, solar or five-star electricity. Our policy also took the issue further, with a policy proposal to commission the Canberra Climate Change Taskforce to introduce low-energy hot water into multi-unit complexes in cooperation with energy service companies which may enter the ACT market. The Canberra Climate Change Taskforce will be tasked to provide advice to building owners and managers on the savings that can be achieved in both public and private multi-unit complexes.

Energy service companies in other states have achieved considerable energy savings at multi-unit complexes, such as aged-care homes. The investment can be fully privately sourced, with the repayments coming from savings in water bills. This is

a critical element of our approach as we recognise that the best policy outcomes are produced without increased cost to the taxpayer.

Unfortunately yet again, the Labor Party will be dragged kicking and screaming to the table and we have heard every excuse under the sun. It is no doubt a source of considerable embarrassment to the minister for climate change, Minister Corbell. There is obviously another difference of opinion on this issue. As I said earlier, we look forward to the environment minister speaking to us about his views on this bill and perhaps bringing to light some of the differences of opinion.

In relation to the Labor Party, the Labor Party policy, quoted in the media this week, was to encourage the phasing out of electric hot-water systems. They agree with the principle but it appears that they will not agree to it in principle. Primarily from Mr Barr, I think it is about the fact that it is not his idea. We happen to believe that, if there is a good idea on the table, we will support it. We do not agree with all aspects and that is why we will move amendments later in the day and seek to make this bill fairer and better. If the government, through the planning minister, actually has any sensible amendments—

Mr Corbell: Have you circulated your amendments?

MR SESELJA: We have made clear our policy approach. We have not had the same from the planning minister in the lead-up. We said we would honour our election policy and that was for new dwellings.

Mr Corbell: Where are your amendments? Put your amendments on the table.

MR SESELJA: Our amendments will reflect that. There will be no substitution.

MADAM ASSISTANT SPEAKER (Mrs Dunne): Be quiet, Mr Corbell.

MR SESELJA: That is what they will reflect and we have been very clear on that. We have had nothing from the minister. He has raised concerns about the start-up date. If he wants to come to us with a sensible suggestion for a later start-up date, we will look at it but we have not even heard from the planning minister's office in relation to what their approach will be, what their rationale will be, what their concerns will be. He has simply come out and had a spray here in the Assembly, without having actually engaged in the dialogue.

It is poor policy development from this minister when we see a complete unwillingness to engage in any reasonable dialogue. It will eventually lead to poor outcomes if we see this complete lack of dialogue from this minister. This minister has easily the worst record in this new Assembly in relation to reasonable dialogue between offices and members of the Assembly. It will be unhelpful in the development of policy and it is unfortunate that we are able to get more information out of the Greens than we are out of the planning minister, who has access to a department, who can produce a lot of the information that will help us make informed judgements.

As it stands, we will support the bill in principle. We will be seeking that this debate be adjourned at the detail stage so that we can discuss some of these amendments. But our amendments will be to honour our election policy and ensure that we do not place an unreasonable cost burden on those Canberra families who can least afford it.

We need to move forward in a sensible manner on this issue. We need to do it in a way that does not unduly burden low income families, in particular, but the principle of new dwellings having low-energy hot-water systems is one we support and therefore we will support the bill in principle.

MR CORBELL (Molonglo—Attorney-General, Minister for the Environment, Climate Change and Water, Minister for Energy and Minister for Police and Emergency Services) (10.53): I do not think there is any disagreement in this place that the phase-out of high emissions intensity hot-water systems is an absolutely necessary policy step. There is no disagreement on that from the government's perspective and it does not sound like there is disagreement from any side of the Assembly. The issue, of course, is how it is done and the issue, of course, is to make sure that industry, consumers and users of these hot-water systems are prepared for the transition.

Contrary to the assertions made by the Greens and Mr Seselja in this debate, this has actually been an issue that has been worked on by this government and by governments around the country for over the last 12 months. A very detailed process of engagement with industry has been occurring at a national level, primarily through the officials group that supports the Ministerial Council on Energy, of which I am the ACT's representative.

At the Ministerial Council on Energy's meeting on 12 December last year, well before the Greens introduced this bill, the national hot-water strategic framework was agreed. That included the following measures: from 2010, to phase out the use of conventional electric resistance water heaters from all new homes and established homes in gas-reticulated areas; from 2012, all new flats and apartments in gas-reticulated areas and established houses in non-gas-reticulated areas; a number of other measures, including minimum energy performance standards for the types of water heaters such as gas, solar, heat pump and small electric systems that will continue to be available; and finally, measures to ensure harmonisation, information, education that would support the introduction of these measures.

That was the decision taken by all jurisdictions in December last year, including the ACT. Since that time, detailed work has commenced on a detailed regulatory impact statement to be approved by the Office of Best Practice Regulation in the commonwealth government that will support a national and uniform move to phase out these systems.

I think what is particularly disappointing about this debate is the lack of recognition from the mover of this bill that this work has actually been going on for some time and there is a clear time frame agreed by all governments. In many respects, what this bill represents is simply, unfortunately, a case of me-too-ism, a case of "we know you are doing it but we are just going to do it a little bit earlier". At the end of the day, that is what this debate is about.

This is going to happen. It is going to happen on a national basis and it is going to happen in detailed consultation with the industry, with the manufacturers, with the distributors, with the retailers, with the purchasers and with the end users. And there is a uniform national process for that to occur.

At the end of the day, what is this debate about? It is not about achieving the outcome. It is about the Greens trying to say, "We are going to get brownie points for doing it three or four months ahead of the nationally agreed time frame." That is what it is about.

Mr Rattenbury: That is their usual basis.

Mr Barr: That is your track record.

Ms Bresnan: Even though you want to do it, no—

MADAM ASSISTANT SPEAKER: Order, members! Mr Corbell will be heard in silence.

MR CORBELL: And it is unfortunate that the Greens feel they need to circumvent a process that has been in place and has been progressing for the last 12 months or so. They just want to get in at the end and get the credit but they do not actually acknowledge the fact that this is going to happen; there is an agreed process for it to happen; and there is a process that engages all the stakeholders.

The question then before the government is: what does this bill achieve ahead of that nationally agreed process? Is there any compelling policy reason that, instead of the phase-out of electric hot-water systems in new dwellings occurring on 1 May next year, it should occur on 1 October this year? What is the compelling argument for that difference of about six months? What is the argument?

We know that the Greens have not gone out and talked to the retailers of these products in the ACT or the distributors. Where has been the consultation with the firms that spend hundreds of thousands of dollars purchasing product and supplying the local building industry? Where has been that consultation?

Where has been the consultation with the practitioners who install this equipment, the plumbers who purchase the stock and then sell it to their customers when they install the product, whether it is new homes or existing homes? Where has been the consultation with the plumbers who are spending hundreds of thousands of dollars every year purchasing these products and on-selling them? Where has been the consultation with the builders who build the homes, who purchase the products and make decisions about ordering these products well in advance of the six weeks which is suggested by Ms Le Couteur in her bill for the commencement for new dwellings?

This is the failure of the Greens' approach. The intent is right. There is no disagreement here. There is no disagreement on the part of any side of this Assembly. The problem is: where has been their commitment to engage the people who have to make it happen on the ground, especially when there is a detailed consultation and

regulatory assessment process happening right now to deal with those issues? That is the failure of their approach in relation to this bill.

The Minister for Planning has outlined a broad range of technical issues that are still required to be resolved, and they include issues such as how the technology is deployed to make sure it is effective and does achieve the outcomes that are needed. There will need to be measures in regulation, not just to deal with mandating certain types of hot-water systems but indeed making sure that they are performing in particular ways, as they are meant to perform. Those are all issues that ACTPLA, as the technical regulator, is working through and making sure it is in a position to implement.

At the end of the day, the argument really is: it is a difference between 1 October this year for new dwellings, that is what the Greens want, less than six weeks time, or 1 May next year, which will make sure that all industry is familiar with and ready for the change and has been properly consulted on it. It is really up to the Greens, and up to the Liberal Party, to say why they think a lack of consultation with those industry groups is acceptable. Why does Mr Seselja think it is acceptable to impose this change on retailers, on distributors, on plumbers, on builders and to say, "In less than six weeks time, this is what is going to happen"?

What is going to happen to people who have already purchased hot-water systems that are currently compliant? They might have spent tens or hundreds of thousands of dollars on systems or on orders. What are they going to do, Mr Seselja? What are they going to do, Ms Le Couteur? Where was your consultation? Where is your commitment to working with people to make sure that they can make the transition?

That is the failure of this bill and that is why the government does not support it. The time frames are unrealistic and they are being imposed without any consultation with the people who have to make it work on the ground: the plumbers, the builders, the retailers, the distributors. That is the issue. It is all very well to impose a time frame but what about actually making it work on the ground?

This is the criticism that has been made of the government every day in this place from those opposite and those on the crossbench. Where is your consultation? Where is your willingness to work through the issues with the people on the ground? The boot is on the other foot. They are obliged to demonstrate how they have done something, and they have failed to do so.

I note that the Liberal Party are proposing that this bill will be supported in principle by them and that they have amendments. We are about to conclude the in-principle debate and there are no amendments on the table from the Liberal Party. Where are their amendments? If they felt that they were ready for this change and this was a very considered issue on their part, where are their amendments? Where are their amendments? They have no amendments. This is a disappointing response from the Liberal Party.

What we expect, what we want, from the Liberal Party is a bit of consistency. And what we want from them is a demonstration that they are engaging seriously on this issue by putting amendments on the table, when this bill has been around for some

time and they should have been ready to have the debate today. Why are they not ready to have the debate today? This bill has been on the table for months. Why are they not ready to have the debate today?

The Liberals do not know what they are doing. This is an opportunistic response from a party that is not serious about climate change, that flip-flops all over the place on climate change policy, on energy policy and a range of other issues.

The government's approach on this matter is consistent. We have signed up to a national strategy. I will repeat it, for the sake of Mr Hanson, who has obviously missed that part of the debate. We have committed to a national strategy that will deliver the phase-out of greenhouse gas intensive hot-water systems by 1 May next year for new homes and by later in 2010 for existing detached homes. That is what we have signed up to, and we signed up to it in December last year, well before there were any proposals from any other party in this place on that matter. That is the bottom line.

Unfortunately it is simply a case of the Greens wanting to get the brownie points by saying, "We will do it a couple of months earlier but without consulting industry in the process." That is why the government is adopting the position it is adopting. It is a sensible position and one that I think the Assembly should consider.

MR RATTENBURY (Molonglo) (11.06): I rise in support of Ms Le Couteur's bill, which I think is an excellent initiative. When she introduced her legislation in April this year, she basically sought to set a standard, an energy use standard, for new or replacement hot-water systems installed in ACT houses and townhouses. She did this to reduce the environmental impacts of the production of hot water in households—and we know that is a significant greenhouse source for every household in the ACT that does not have these systems—and also to reduce the financial costs of hot-water systems for households. So this bill delivers a two-for-one policy outcome. We get improved environmental outcomes and improved financial outcomes for households.

The response today from the government is one of the laziest acts I have seen since I arrived in this place last October. It is simply embarrassing for the government for Mr Barr to stand in this place and give the earnest, heartfelt speech that he gave and yet his officers completely refuse to engage in discussion on this legislation. Mr Barr came in here with a series of technical points—he obviously got the department to write him a speech—and he has not offered a single, not one, amendment to this piece of legislation. It is an embarrassing contribution by a minister in the government of this territory.

Both Mr Corbell and Mr Barr have sought to take some delight in their assertions that the Greens have not undertaken any consultation on this bill. They did not bother to actually check their facts before they came into the chamber today. I might read out just some of the people that the Greens have consulted in the process of putting this legislation together, and that is bearing in mind we do not have a department to actually go and do the work for us.

They include companies like Rheem, Reece and Dux. The Village Building Company, one of the builders, is installing solar hot-water systems on all their its new affordable

houses in west Macgregor. Previous speakers have waved the flag and said that householders cannot afford this. We are talking about affordable housing in west Macgregor. Every house in west Macgregor already has a solar hot-water system because the Village Building Company, one of the companies we have talked about, has a bit of vision—far more vision that the ACT government seems to be able to generate for itself.

We have also consulted a range of other stakeholders, including the ACT Master Plumbers Association. Mr Corbell has said, "You never talked to the plumbers." Actually, we have talked to the plumbers. We engaged with a bunch of people. We engaged with the ACT Council of Social Service because we also care about the social impact of these policies. We are mindful of these issues. We heard the feedback about ways to improve the bill. We accepted that there is a better mechanism, and that is why Ms Le Couteur brought forward a new version of the bill she originally tabled in April, unlike Mr Barr, who is too lazy even to come up with a single amendment. Some of those issues have been incorporated so that we can get the best possible piece of legislation in the ACT, but also deliver economic and environmental benefits.

We have also sought to engage with Mr Barr's office. We indicated that if the start-up date is not the right date, let us talk about a new date. It has taken some time to get this legislation before the chamber because we have been trying to engage Mr Barr's office, but unfortunately they were not interested in talking to us about it. We said that the start-up date is getting close now; let us talk about amendments. But, no, the government does not want to do that either. They agree with what we are trying to achieve, but they are too churlish to actually make it happen. It is simply a ploy.

If the government brought forward a piece of legislation and the Greens simply said, "Sorry, we are not interested," the government would be howling. Mr Barr would be standing up here saying, "The Greens are irresponsible. How dare they stand up in this chamber and not even engage on a piece of the government's legislation." But it is okay for Mr Barr, because it does not suit him to actually engage. He is too lazy and too churlish to say, "We acknowledge this is good policy but we are not going to pass it."

Let us talk about some of the environmental and economic benefits of this legislation. Look at the tonnes of greenhouse gas emissions generated by hot water systems per year. An electric storage off-peak system for a one or two-person household produces around 2.9 tonnes of greenhouse gas emissions per year here in the ACT. This is all based on modelling for our climate and the latitude of the ACT. A solar gas-boosted system produces 0.2 tonnes of greenhouse gases per year. Just to reinforce that, that is 0.2 tonnes compared with an electric storage off-peak system which will produce nearly 15 times as many greenhouse gas emissions per year. That is why we need to get this done, and we need to get it done now.

The government have brought out their zero emissions position for the ACT. Well, that is fine, but when are we actually going to start implementing the policies that are going to deliver that? Are they going to do it now or some time in the future when none of these ministers will even be here? We need to get on with these sorts of changes now if we are ever going to make a difference on climate change.

The other important outcome of this policy is the economic savings it will produce for households. An electric storage hot-water system costs the average household hundreds of dollars a year. It varies depending on whether it is a one or two-person household or a bigger household, but no matter what type of household it is, a solar gas-boosted system will provide hundreds of dollars worth of savings per year for a household. Yes, there are some further up-front costs, but let us sort out how to make that possible. There is a whole bunch of federal government rebates out there. Why aren't we taking advantage of those in the ACT? This is about saving money for households on an ongoing basis.

This policy will create jobs for electric hot-water efficient system installers in the ACT. This afternoon the government will bring on a motion to congratulate the government on how much they are doing for small business. Yet here is a policy that could generate additional small business here in the ACT and the government do not want to have a bar of it—because they are too damned lazy to engage; they are too churlish to say in their agreement that this is a good idea but they will not actually support it.

It makes me wonder whether Mr Barr is, in fact, a closet climate sceptic, whether he is secretly a fan of Steve Fielding. I am reminded that it was the Labor Party, with its dodgy preference deals in Victoria, that put Steve Fielding in the Senate. It does not like to admit it very often, but the Labor Party put Steve Fielding in the Senate because it was not prepared to have a Green in the Senate, and the Labor Party has to live with that every single time it gets done over by Mr Fielding in the Senate. It is ironic, isn't it? It would really be quite entertaining if it was not so serious because Mr Fielding is blocking climate action in the Senate, just as Mr Barr, his like-minded climate sceptic, is blocking progress on greenhouse actions here in the ACT.

For Mr Barr to stand up and say, "We support this policy, but we will not support it," is simply embarrassing. I actually found Mr Barr's speech somewhat confusing. He said that the substance of this bill is poor. He said the policy is fine but the substance is poor. Well, where are the amendments, Mr Barr? If you think there are flaws, let us see your amendments.

Mr Barr: Scrap it and start again, like you did the second time. If you got a third bill, you might get it right the third time. It has got to be about putting your—

MR RATTENBURY: I will remember that. The next time the government brings in a bill that has got some problems, we will say, "Scrap it and start again." No, let us actually deal with a piece of the legislation when it is on the table, because that is the purpose of this place.

Let us talk about the Liberal Party here. I do not agree with some of the things Mr Seselja is putting on the table. I think he is missing the point as well. I think it is because he is —

Mr Barr: Fielding is voting with the Greens to stop the ETS, isn't he? Yes.

MR RATTENBURY: Well, that is because your ETS is a dog's breakfast anyway. While I disagree with some of the things Mr Seselja said, at least the Liberal Party has

brought on some amendments. At least they are going to later this afternoon. The point here is that we should actually take pieces of the legislation seriously; we should debate them. If you do not agree with some of the substance, at least bring on an amendment and don't be lazy. **

We have heard a lot today that this is going to happen later. But there is no guarantee that this will happen from 1 May, and I am sure Ms Le Couteur will speak to this in some more substance in her reply. There is no guarantee that COAG will actually come up with anything. There are plenty of times when COAG says, "We are going to do this next year," and, in fact, it does not come on for another couple of years. We can cite examples all over the place.

The Greens are here to make sure this gets done, so that we deliver environmental and economic benefits for the citizens of the ACT. We are not interested in a timeframe that is not real, with some promise of doing it at some time in the future when we actually get around to it. I encourage members to support this legislation today so that we can deliver environmental and economic benefits for the citizens of the ACT.

MS BRESNAN (Brindabella) (11.16): I rise to support Ms Le Couteur's bill. I want to make a point in relation to low income families. ACTCOSS have pointed out that they think this is a good thing to do. They are actually encouraging low income people and families to install energy efficient appliances and technology, and that is because, as Mr Rattenbury has already pointed out, it will lead to significant reductions in energy costs for people on low incomes. I think that on this issue, I would be listening to ACTCOSS and not the Liberal or Labor parties.

I find Mr Barr's comments absolutely unbelievable and almost laughable. He has basically said, "We are not going to support your bill now, but we are going to do the same thing next year anyway." He is basically just embarrassed because the Greens have got there first. COAG has this on the agenda. State and territory legislation will be required. Mr Barr has also said that, regardless of the COAG timeframe, he will introduce the required legislation. Wouldn't it be good if we could do it now? Wouldn't it be nice if the ACT was the leader on this one and not the follower, as it so often is?

In response to Mr Corbell, Ms Le Couteur has consistently acknowledged the COAG process. She has also pointed out previously that Queensland, Western Australia and South Australia—all Labor states—have already done this. Presumably they have not used COAG as an excuse not to take any action.

MS LE COUTEUR (Molonglo) (11.17), in reply: I understand that I am closing the in-principle debate. There are a lot of things I would like to say, and I guess the most positive way to put it is that I am really pleased to find that all three parties here are in furious agreement that we need to do something about energy efficient hot-water services. For that I thank both sides for their contributions.

However, moving on from there, I really do not think the Greens are doing me-tooism, as the Labor Party thinks. I have to point out that COAG has form for not delivering. In fact, Mr Barr made that quite clear in his speech, and I thank Mr Barr very much for his contribution. At the conclusion of his speech Mr Barr said that the COAG

processes may well deliver things next year. He also said that if the COAG processes did not deliver energy efficient hot water services by next year, he committed the Labor Government to do so. So I thank Mr Barr very much for that contribution, although I would have liked to see him go further.

I am very pleased that Mr Barr has moved on from his earlier stance on this issue. In a letter to me about the first bill that I introduced, he said that he had a problem with the actual policy objective of the bill. He said that electric water heaters are highly efficient appliances and that the solution to the problem was to get everyone to use GreenPower. I am not trying to speak in any way against GreenPower; I am trying to speak in favour of environmentally and economically sensible outcomes, and hot water and heat pumps are both very effective ways of producing hot water. If you use GreenPower, you would want to use a heat pump or solar hot water. They are not mutually exclusive; they are complementary. I am really pleased that the government, and Mr Barr in particular, has now, it seems, realised this point.

The government has made play about the timing of this, that we really should not be too concerned about the timing of this because it will happen anyway. Well, as I said before, I am not so convinced that it will happen anyway through COAG. COAG has form. For example, in 2004 COAG committed to implement stage 1 of the national framework for energy efficiency. It said that it would do it within three years, but five years later these measures have not been implemented!

Yesterday, in the debate about waste, we talked about e-waste. Mr Corbell said that COAG had agreed only, I think, a month or two ago that it was going to do something about it. What Mr Corbell did not mention in his speech was that, in fact, back in 2002 COAG made basically the same decision with respect to e-waste. COAG has form for saying good things and not doing them.

The other reason that timing is really important, in case the government has not realised this, is that we actually have a slight problem with climate change. On the basis of what we are hearing, which is business as usual, CSIRO data indicates that we should—I will not use that word—that we expect that Australia will have a temperature rise of about six degrees by 2070. Now, I admit that 2070 is probably beyond the lifespan of everybody in this room—possibly not everybody, but certainly most of us. Certainly none of the ministers present will be ministers. However, it is—

Mr Barr: Are you killing us all off by 2070?

MS LE COUTEUR: 2070, Mr Barr. If you are still a minister in 2070—

Mr Barr: Still a minister? Right. You were not killing us off?

MS LE COUTEUR: No. I really do not think you will be a minister then.

Mr Barr: I have no intention of being in this place in 2070. I will assure you of that.

MS LE COUTEUR: It is not a long period of time. We are talking about an increase of six degrees in 61 years. This is a serious, urgent problem. It is really important that we act on it now. Mr Corbell and Mr Barr spent a lot of time in their speeches talking

about how we have to do more studies and more consultation; we have to do more work on energy and the cost benefits. This work has already been done. Go and have a look at the federal environment department's website. It tells you about the cost benefits of solar heat pumps. The government already knows that these are effective. That is one reason why we would like to see this introduced sooner rather than later.

The federal government at present has some very positive subsidies to put in solar hot water systems and heat pumps and we would really like to see the people of Canberra take advantage of these rebates. People like us are really into doing these sorts of things and we know that if our hot water service dies we should say, "I do not want it replaced with an electric one." Not every person in Canberra pays as much attention to these issues as we do and some of them will just say, "My hot water has died and therefore I must replace it with exactly what I have got now," without being aware of the fact that they could get the federal government to pay for half the cost of an energy efficient hot water service. We want to see the people of Canberra take advantage of the good deal that is on offer to them, and we think the easiest way to get them to do that is for the plumber to just say to them, "Yes, this is how we do it these days. This is a way that will save you money and this is the way to do it."

Mr Barr talked about a number of technical problems that he thought that my bill had. I really would have appreciated it if Mr Barr had mentioned these to my office earlier. As we have said, this has been in place since April and there has been no cooperation from Mr Barr's office. I may have missed something because I was taking notes, but Mr Barr mentioned temporary systems. Yes, I agree that my bill does not deal with temporary systems. However, what my bill does say is that ACTPLA can make technical amendments if there is a situation where technical amendments are warranted, and possibly this could be one of them.

He said that it does not deal with anyone in Canberra who is currently using renewable energy generation for all their energy needs. I am not sure that there are a lot of these people, and I am not at all sure that any of these people are using electric storage hot water systems. In fact, I would be fairly confident, 100 per cent confident that no-one in the ACT is generating enough renewable electricity on site that they are using it to power an electric storage hot water heater.

Mr Barr made a mistake—obviously he has not actually read the bill—about instantaneous electric systems. We have allowed for smaller households to use small electric hot water systems. If Mr Barr is correct that the climate zones are wrong, and I think that he is not, I will admit to some plagiarism from the COAG bill and say that if they are wrong, then, please, Mr Barr, amend them.

On the subject of amendments, given that it sounded to me like the major problem certainly that Mr Corbell had with the bill, although possibly it was not Mr Barr's problem, was the start date. I am expecting amendments shortly from the government just to change the start date to 1 May. I would welcome discussion on that, were it to come.

There is really not a lot more to say. This is something that we, the ACT Legislative Assembly, can do that will be very good for the environment and will be very good for the people of Canberra in terms of saving them money. When

the outcomes will be positive in all directions, why don't we support it? I guess that what we are seeing here, with the dilly-dallying from the other side, is that if you actually want a green solution, vote Green. If you want greenwash, if you want words that are green but not actually doing green, then vote for one of the other parties.

Both Liberal and Labor had energy-efficient hot-water services as part of their 2008 election policies, and I am very pleased that the Liberal Party at least has said that they will support my bill insofar as it is consistent with our election policy. I thank them very much for that indication of support. I am very disappointed to find that the Labor Party does not even intend to live up to its election commitments in this regard.

I think there is probably not a lot more I can say, except to point out again that there is one thing the Legislative Assembly can do which is certain, and that is pass this bill. Relying on COAG is not certain and may or may not work. I commend the bill to the Assembly.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail stage

Clause 1.

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

Gaming—sale of Labor clubs

MR SESELJA (Molonglo—Leader of the Opposition) (11.29): I move:

> That this Assembly:
>
> (1) notes:
>
> (a) the broad understanding and acceptance of the community that the provision of poker machine licences and subsequent profits were intended to be for the benefit of community projects in the ACT; and
>
> (b) that the intent of the original grants and subsequent legislation was to ensure that profits from poker machines stay in the community;
>
> (2) raises concerns about the proposed sale of the Labor Club group which will see a potential massive windfall from what is in effect the sale of poker machines;
>
> (3) notes:
>
> (a) the potential for the proposed transaction to undermine the public acceptance and original intent of the community based gaming model; and

(b) the sections of the Gaming Machine Act 2004 that identify influential persons and prohibits clubs that operate poker machines from being under the influence of outside parties;

(4) raises concerns about reports that Labor Party representatives, and members of the current Government, may have been involved in influencing the decisions of the board of the Labor Club group; and

(5) calls on all ministers of the ACT Government to make full and frank disclosures of any involvement they, their staff or their representatives may have had in influencing the decision making process of the Labor Club board.

We bring forward this motion today for a number of reasons. We said at the beginning of this week that in the Assembly we would be seeking answers from the government on the issues surrounding the matter.

There are two significant issues—somewhat separate, though linked issues—in this motion. We said that we would be seeking answers from the government in relation to the sale of the Labor club and in relation to the role of individual ministers in relation to the sale of the Labor club. We started that process yesterday in question time. I have to say that it was not very effective in terms of openness and accountability. We had a government and government ministers doing everything they could to hide behind the standing orders in order to not have to answer questions and not give a full account of their actions in relation to the sale.

There are two aspects to this, but I will just reflect on the start that we made in question time yesterday, on openness and accountability. We said that if we could not get answers we would look to push for an inquiry. So far the record is not a good one. We had ministers squirming and doing all that they could not to answer questions on this. We need to ask why that is. Why would you not come and give a full and frank account? Then we could move on. They have refused to do that. They have hidden behind the standing orders; they did their best not to answer questions. We still see a number of unresolved questions, and they will no doubt continue.

In summary, what we saw yesterday was this. We had an answer from Ms Gallagher in the end. After a bit of debate as to whether she should answer, she said that no, there had been no influence in relation to her, her representatives or her staff in relation to this sale. We got the same answer from Mr Barr. We did not get that answer from Mr Stanhope, because he did all he could to not answer that question. We are in some ways still none the wiser. What we are looking for is answers.

There are two main aspects to this motion, which I will go through now. The first is the idea of profiting from poker machines. That is essentially what is involved in the potential sale of the Labor club. We need to go back to the idea behind community-based gaming and whether or not the community's support for community-based gaming will be undermined in any way by the idea that you can sell poker machines, you can make a massive profit and it does not have to go back into the community. That is fundamentally the first issue at stake here.

This has been the touchstone of all the arguments that have been put forward by the Labor Party—and even accepted broadly in the community, in relation to community-based gaming—from the first days of the Poker Machine Control Ordinance 1975, which specified the payment of community contributions. This was the trade-off that the community has made. There are many in our community who have concerns about the negative effects of problem gambling; I think we all share that concern. There are, unfortunately, problem gamblers in our community. Many of them are addicted to poker machines; many of them lose a lot of money—sometimes everything they have—on poker machines.

The argument behind having the model that we have is this. Let us face it: it is certainly better than that of some of the other jurisdictions; some jurisdictions have terrible models on gaming. But it is far from perfect. The idea behind the community's support is that the profits from the poker machines, with all the potential detriment that comes, are invested back in the community. We see it in our sporting groups; we see it with our charities; we see it with our community organisations. That has been the acceptance of the community. This potential sale undermines that.

Mr Quinlan backed up this. He said:

> Our position and our platform position are fairly clear, and that really swings on the fact that the government believes poker machines and the proceeds of poker machine operations should remain within the not-for-profit sector.

Mr Stanhope said:

> Those amongst our community that make the decisions—

to run the clubs—

> do it because of their commitment to the community.

This motion notes:

> … that the intent of the original grants and subsequent legislation was to ensure that profits from poker machines stay in the community …

We see it reflected in the gaming act; we see it reflected in the requirement to make community contributions. They are not designed to be private casinos; they are not designed for the purposes of massive windfall profits which are then not invested back in the club and in the community. We see it in relation to the potential windfall profit. Fundamentally, no matter how you sell it, it is about the sale of the poker machines.

I think the community has an understanding. It is not just that members of clubs have a role, that members actually own these clubs. In reality, it is only some members who own the clubs, but members who pay their $5 and put their money in the poker machines or buy a beer at the bar feel that they have some ownership of these clubs. They do not believe that they should be able to be sold—that the poker machines themselves should effectively be able to be sold to make a massive profit for one organisation.

If there is any doubt that this deal in effect sells poker machines or proposes to sell poker machines against the spirit of the original legislation, we have only to look at some of the reports in the media in recent days. On 15 August, we saw Labor club president Brian Hatch reported in the *Canberra Times* as saying:

> Cancelling the Gaming Machine Licences would make much of the clubs worthless.

So what is it that they are actually selling? Is it the clubs or is it the poker machines? If they are worthless without the poker machines, then effectively a large part of the sale price—a large part of the asset—is the poker machines themselves.

We have seen the headlines. On 25 July 2009 we saw "ALP branch sells 'river of revenue'". There was "Labor in for $20m boost on club sale". There was this:

> The national executive also made it clear in high-level talks on Thursday that the proposed $20 million sale of the party's lucrative Canberra Labor clubs to the Tradesmen's Union Club might not reflect market price.

Poker machines were not and never have been provided to enable a group to build and sell private gambling empires; yet this is what appears to be happening. This undermines the intent of the legislation; it undermines the community's support for the community-based gaming model.

We now move to the second part of the motion. It is in relation to issues around the gaming act. It raises concerns about a number of things—"reports that Labor Party representatives, and members of the current Government, may have been involved in influencing decisions of the board of the Labor Club group"—and "calls on all ministers of the ACT Government to make full and frank disclosures".

That is what we are calling for. We are asking for information. In all my public statements I have made it clear that I make no judgement as to whether anyone has breached any legislation—the gaming act or anything else. It has been the president of the Labor club who has put these issues out there as potential issues of concern. What we are saying is that there needs to be full disclosure and there needs to be independent investigation.

It is worth looking at the Gaming Machine Act and "influential persons". The act says that, to "avoid the influences of people not properly registered and scrutinised under the Gaming Machine Act", "influential person" includes "a person who, though not mentioned in paragraph (a), can exercise as much influence over the actions of the corporation as someone mentioned in that paragraph". Indeed, it says:

> An initial licence application must—
>
> (f) for a corporation—name each influential person for the corporation and the person's relationship with the corporation …

Section 14 goes through the grounds for refusing an initial licence application by a club. One of the grounds is this:

> … the club's management committee or board does not, for any reason, have complete control over the club's business or operations, or a significant aspect of the club's business or operations …

It goes on to say that licences can be lost where they continue "not to do anything that would, if the licensee were applying for a gaming machine licence, cause the licensee to be refused the licence". The club boards must have complete control.

If we look at the time line, we see "Labor Club decides to sell". These are from the headlines. They say "Labor Club decides to sell assets to the Tradies Club"—26 June. There is "Federal executive intervenes to cancel ACT Labor annual general meeting"—19 July 2009. There is "National Executive intervenes to stop the sale of clubs"—25 July. There is "Labor Club board defies national order"—30 July. There is "Sale of Labor Club stopped"—1 August 2009. There is "Revelations of possible legal breaches in preceding actions revealed"—15 August.

And let us look at the issue of control. Let us look at just what has been reported in the *Canberra Times* and in the media generally. On 25 July the *Weekend Australian* said:

> The national executive has intervened to stall the sale of four profitable—

highly profitable—

> Labor clubs.

Let me quote again:

> National executive sources told the *Weekend Australian* there could be full national intervention in the ACT branch if it continued to refuse to provide information about how it valued the four Canberra Labor clubs and their rivers of poker machine revenue and what it intended to do with the proceeds of the sale.

It goes on:

> Acting Canberra Labor Party secretary Ted Quinlan has warned it could take months to sell the party's licensed clubs, with "all options … on the table following federal intervention".

On 29 July the *Canberra Times* said:

> Intervention by Labor's national executive stalled the process.

There is "Local sources have described the intervention as a grubby cash grab". Let me quote again:

> ACT Labor's administration committee and the board of the Canberra Labor clubs met last night to discuss the sale …

There is "Defiant Labor Club board faces sack". Let me quote:

> The Canberra Labor Club board will be sacked if it does not comply with ACT Labor's orders to halt the $25 million sale of its gambling assets to the Tradies Clubs.

Let me quote again:

> … in an extraordinary move, the board of the clubs, which are owned by the ACT Labor Party, convened immediately and voted to reject the order to halt the sale.

That obviously changed. We see the Chief Minister and the direct influence. On 29 July he said in the *Canberra Times*:

> It would be bizarre in the extreme if the Labor Party as the owner of an asset says we no longer wish to sell this asset but a group, albeit members of the Labor Party and directors of the board, says well we are going to sell the asset anyway. That's just untenable …

And again, in the end, the sale was halted. Let me quote:

> Tradies withdraw $25m bid for Labor Club
>
> The move comes just days after the Labor Club's board vowed to push on with the deal, despite being ordered by ACT's … administration committee to halt the sale.
>
> Chief Minister Jon Stanhope and ACT … Labor Party Secretary Ted Quinlan delivered a thinly veiled threat to the club's board …
>
> … local … sources have strongly criticised the pressure brought to bear on the Canberra Labor Club board to halt the sale, suggesting pressure from Labor's national executive had forced the sale to be suspended.

And then we see the board break. The questions we are examining were not raised by us; these were raised by the president of the ACT—of the Labor club. The president of the Labor club raised this.

Ms Gallagher: The Labor club board, I think you mean, Mr Seselja.

MR SESELJA: The president of the Labor club and national executive—

Ms Gallagher: Not the Labor Party.

MR SESELJA: I did not say "Labor Party". Let me quote:

> A national executive directive relayed by then ACT party secretary David Tansey, obtained by the *Canberra Times*, reveals senior figures in the ALP ordered the ACT wing to do "everything in its power" to block the sale of its four clubs.

> … Chief Minister Jon Stanhope warned the local Labor Club board could face the sack unless the sale was aborted.

This is the public record. These are the issues that have been put forward by the president of the Labor club in relation to these issues. They are issues that need to be closely examined. They go towards who controls the Labor club; they go towards compliance with the gaming act; they go towards, in Mr Hatch's opinion, compliance or the impact in relation to a number of other pieces of legislation, including the Corporations Law and tax law. These have been raised by the president of the Labor club.

As I have said, we simply do not know whether Mr Hatch's concerns are correct or not, but they need to be taken seriously. Someone in that senior role needs to be taken seriously when they make these claims.

There are a number of conflicts in this area. The party charged with regulating the gaming industry is a major player in that industry. The body charged with investigating the industry breaches reports to a minister who has a vested interest in the outcome of that investigation.

Ms Gallagher: So the Gambling and Racing Commission is not independent then?

MR SESELJA: The CEO, who is charged with running an investigation—

Ms Gallagher: So they are not independent? They do not have your support then, Mr Seselja?

MR SESELJA: She does not want to hear this. The CEO, who is charged with running the investigation, is appointed by and can be removed by the minister who has a vested interest in the outcome of the investigation.

Ms Gallagher: And then what?

MR SESELJA: They want to investigate a conflict of interest by creating another potential conflict of interest. They want to put a public servant in an impossible position. They want to put a public servant in a position where he is investigating his own government. We see the amendments that have been circulated. That is why they are desperate for this to happen.

There is desperation on the part of the Labor Party to see the public service investigating the government. That is not an independent process. It is not the same as the Auditor-General; it is not the same as a genuinely independent individual who is not a public servant. There is no reflection on the individual public servant, but we do not get the head of TAMS or the head of another department to come and investigate the ministers, because they are not at arm's length.

There are conflicts of interest all over the place. What we want is a full explanation. If we do not get a proper, full investigation—an independent investigation—to look at these very serious claims that have been made by senior influential figures— *(Time expired.)*

MS GALLAGHER (Molonglo—Treasurer, Minister for Health, Minister for Community Services and Minister for Women) (11.45): The government will not be supporting this motion. It is quite clear from the Leader of the Opposition's speech that it is driven purely by a political agenda. They are our opponents; they have woken up from the winter hibernation. That group over there have picked up the first copy of the *Canberra Times* after their seven week break and they have said, "Thank goodness, there's a little strategy for us." I think everyone in this place can see it for what it is. Perhaps some merit could be laid on the opposition leader's concerns in the first part of his motion on the establishment of clubs for community benefit. If he had held those same concerns on the proposed sale of the club for all the other clubs that have been sold recently—for example, the West Belconnen Leagues Club, West's Rugby Union Club, the RSL club and the soccer club—there would be some merit to it. If these same concerns are genuine, then presumably they hold for all clubs.

The clubs that have gaming machine licences are, by definition, not-for-profit entities that are established for the benefit of their members. A licensed club must have eligible objects that state the purpose for which the club was established. A club must conduct its operations in order to achieve this goal, and such objects as outlined in section 145 of the Gaming Machine Act may include recreational, social, religious, political, literary, scientific, artistic, sporting or athletic purposes. The Gaming Machine Act requires a minimum of seven per cent of net gaming machine revenue of clubs to be allocated as community contributions. Eligible contributions are grouped under the following broad categories: charitable and social welfare, problem gambling assistance, sport and recreation, non-profit activities and community infrastructure.

In 2007-08, clubs contributed $14.6 million in eligible community contributions, an increase of 14.1 per cent on the $12.8 million contributed in 2006-07. A club's community contributions are verified each year by the Gambling and Racing Commission to ensure that each licensee meets the required minimum of seven per cent and to provide a publicly available report on the contributions made by each licensee. The report is required to be tabled each year by the minister.

The proposed sale of the Labor Club Group, if it proceeds, could only be to another gaming machine licensee in the territory. Thus, the future returns of the machines would stay in the territory for the benefit of the community. The surplus from any sale of the Labor Club Group would be a matter for the members of the club to determine, as reflected in the club's constitution. This is entirely appropriate and consistent with the Gaming Machine Act, as the funds of the club are for the benefit and purposes of its members.

The so-called community-based gaming law is not undermined in any way, as the sale of any club is a democratic matter for a particular club's members to decide under the provisions of the relevant club constitution. Of relevance here is that a club's constitution has been approved by the members at a general meeting and, accordingly, can be changed if the members consider it necessary or desirable. This is fair and equitable and entirely consistent with the operation of a community-based club.

The Gaming Machine Act provides that a club gaming machine licensee must identify its influential persons as defined in the act who must undergo suitability checks

undertaken by the Gambling and Racing Commission. Influential persons are defined in the act to include an executive officer of the corporation, a related corporation and executive officer of a related corporation, or an influential owner, who is further defined to mean a person that can control five per cent of the votes at an annual general meeting or can control the appointment of directors of the corporation.

In addition, it is a requirement of the act that a club's management committee or board must have complete control over the club's business or operations or any significant aspect of the club's business or operations. This requirement relates to the way a club makes management decisions about its activities, and it deals with the question of who makes the decision and, therefore, who is in control. In interpreting the application of this requirement under the act—section 14(1)(h)—consideration must be given to the normal business practice that a board or management committee may seek or receive advice from a range of persons who may offer differing opinions or views about a subject matter under consideration by the board, for example, seeking members' views or obtaining expert legal or financial opinion.

Any corporate board is the subject of suggestions or lobbying on a regular basis, irrespective of whether the opinions they provided have been sought or are welcome. Some opinions or views are accepted, some are not. This is a matter of judgement for the relevant board. Equally, just because someone provides an opinion to a board does not necessarily mean that they have control over a business.

In relation to Mr Seselja's claim for investigation, I think I am the only person in this place, as a representative of the government, that has forwarded the information that has been aired publicly. Mr Seselja seems to have a fairly good dossier of all of that, and I notice that he has done nothing with it other than to pontificate. I forwarded the letter that I was copied in from the chair of the board of directors of the Canberra Labor club—I first saw a copy of it on Monday—to the ACT Gambling and Racing Commission, and I have asked them to review the concerns raised in the letter.

In relation to Mr Seselja's comments that the commission is unable to do its job properly, I take offence at that.

Mr Seselja: I did not say that.

MS GALLAGHER: The commission is an independent regulator. You did say that. You said that it was unable to investigate—

Mr Seselja: I said the CEO is not independent of you, and that's true.

MS GALLAGHER: No, you said the commission was unable to investigate this because—

Mr Seselja: Can you sack the CEO? Can you sack the CEO? You could sack him tomorrow.

MS GALLAGHER: Right. I take up Mr Seselja's point that I potentially could sack a CEO on whatever grounds. Then what, Mr Seselja? Another CEO is appointed and then I sack him, and then another CEO is appointment and then I sack him? What a joke!

Mr Seselja has raised concerns in this place about the commission's ability to do its job independently. I think it is important that the Assembly reaffirm their support of the commission and the job that it does as the independent regulator of the gaming law in the ACT. It is the proper authority to investigate any allegations pertaining to any matter on gaming in the ACT. If there has been a breach of the Gaming Machine Act, then the commission will reveal it. That is where the matter should rest.

MS HUNTER (Ginninderra—Parliamentary Convenor, ACT Greens) (11.52): I move:

> Omit paragraphs (2) to (5), substitute:
>
> "(2) requests the ACT Gambling and Racing Commission:
>
> (a) investigate claims made in The Canberra Times and The Australian newspapers regarding a possible breach of the Gaming Machine Act 2004 in relation to the proposed sale of assets by Canberra Labor Club Limited;
>
> (b) have tabled in the Assembly the full findings of an investigation into the claims, should an investigation be pursued and completed; and
>
> (c) provide to the Assembly reasons why it may decide it does not have sufficient grounds to conduct an investigation into the claims, if it finds that to be so.".

The Greens believe that the concerns raised in the *Canberra Times* and the *Australian* newspapers with regard to possible breaches of the Gaming Machine Act 2004 need to be investigated first through the established formal body of the ACT Gambling and Racing Commission. The commission exists to regulate gambling and racing activities in accordance with ACT gaming laws and ensure that persons and organisations conducting gambling and racing activities in the ACT are suitable to conduct these activities.

The Greens are very concerned about the allegations raised in the media with regard to a possible sale of assets by the Canberra Labor Club Ltd and whether the decision process regarding a possible sale may have been influenced by outside sources. With such serious concerns raised by two large reputable media agencies, the Greens believe that there needs to be a further investigation into these matters.

The Greens acknowledge several parts of the Liberal Party's motion: that there is a broad understanding and acceptance that the provision of gaming machine licences and subsequent profits are intended to be for the benefit of the community and that the intent of gaming licences and legislation governing gaming machine licences is to ensure that profits from gaming machines stay with the community.

We also acknowledge that sections of the Gaming Machine Act 2004 prohibit clubs that operate gaming machines being under the influence of outside parties. However, aspects of the motion refer to unsubstantiated claims that are yet to be investigated. As I stated earlier in the week, the Greens are looking to the ACT Gambling and Racing

Commission as a regulatory body with regard to the issuing and monitoring of gaming machine licences to investigate all aspects of the proposed sale of assets by Canberra Labor Club Ltd and if Canberra Labor Club Ltd is complying with all aspects of the Gaming Machine Act 2004.

The Greens also acknowledge that the ACT Gambling and Racing Commission is an independent body with responsibility for investigating and conducting inquiries into the activities of persons in relation to gaming and racing. I understand that the Treasurer informed the Assembly on 18 August 2009 that she referred correspondence received by her regarding the proposed sale of property held by the Canberra Labor Club Ltd to the Gambling and Racing Commission. However, the Greens feel very strongly that there needs to be a more robust request to the commission to investigate any possible breaches of the Gaming Machine Act, and my amendment reflects this.

The issues raised in the *Canberra Times* and the *Australian* newspapers are extremely serious, and the Greens will be watching this issue very closely until we have some resolution of the claims.

MR SMYTH (Brindabella) (11.56): This is a very important motion, because it talks about the separation of powers. We have had debate, for those that were not here in the last couple of Assemblies, about standing order 156 where it talks about conflict of interest. We have had in this place before, much to my dismay, debates where beneficiaries of the outcome of those debates in regard to poker machines sit opposite. We know that the Labor club funds Labor Party campaigns. It has a direct interest in this, and yet unlike Paul Osborne, who always stood aside when issues of poker machines were raised, because he worked for a club as a coach—

Mr Corbell: Point of order, Mr Speaker.

MR SESELJA: Can we stop the clock, Mr Speaker?

MR SPEAKER: Yes, stop the clock.

Mr Corbell: Mr Speaker, the accusation of a conflict of interest is really something that I think has been discussed in this place for some time. Previous Speakers have ruled that, if members of this place believe that members have a conflict of interest, they cannot simply assert it; they need to move it by some form of substantive motion. If Mr Smyth believes that is the case, he should move a motion to that effect rather than simply make an assertion. It is, in effect, an imputation on me and all the other members of the government, of the Labor Party, and it is disorderly in that respect.

MR SPEAKER: Thank you, Mr Corbell. I acknowledge the point that you are making. Mr Smyth, I am sure you can continue your speech in a suitable manner.

MR SMYTH: I certainly will. In fact, I was just going over the history of it, but I note the touchiness. If we have any doubt about it, the Chief Minister himself said so in the *Canberra Times* on 30 July when he said words including:

> It would be bizarre in the extreme if the Labor Party, as the owner of an asset …

Apparently, the club is not owned by the members of the Labor Club; apparently it is owned by the Labor Party. That in itself, if it were true, would be a breach of the act. That is what we talk about when we talk about conflict of interest here:

> It would be bizarre in the extreme if the Labor Party, as the owner of an asset …

That is what we are talking about here. It is bizarre in the extreme that we are having this debate at all. I would have thought everyone here would be very much interested in making sure that this was done in the clear light of day and that this was done according to the ministerial code of conduct. It is interesting that section 2 of the government's own ministerial code of conduct headed, "Respect for the law and system of government", says:

> Ministers will uphold the laws of the Australian Capital Territory and Australia, and will not be a party to their breach, evasion, or subversion.

What is it that the head of the Labor club is saying? He is saying that, because of the influence of external bodies, perhaps there has been a breach, evasion or subversion. So it is an important matter, but it is also relevant that those opposite have an interest in this.

It is interesting that Ms Hunter mentioned that the minister had referred the letter to the Gambling and Racing Commission. That is not quite true. The exact words yesterday were:

> I received a copy of that letter yesterday and I forwarded it to the Gambling and Racing Commission for their information.

It was an FYI letter. It was not, "Here, have a look at this." If the minister knows her act and if people look at the act, there are at least two sections of the act where the commission can conduct an inquiry. The commission of its own volition can conduct an inquiry and the minister can also trigger an inquiry. There is another section of the act where, if a complaint is received, the commission can have an investigation. None of that has been started yet. The letter was sent FYI. It is the appearance of keeping people informed and that the government is above board. It is not actually, "We have sent this off." If the minister had genuine concerns, the minister would have sent that immediately to the commission and demanded an investigation, authorised an investigation, under the power that she has. She has a power to instigate an investigation, but the minister chose not to, and you have to ask the question why.

She has dropped the Chief Minister in it, because the Chief Minister got the same letter. She dropped Mr Barr in it, because Mr Barr got the same letter. And neither of those gentlemen sent their copies of the letter to the commission. Neither of those gentlemen, as ministers of the ACT government who will have respect for the law and the system of government, wrote to the commission under the act saying, "Here's something that we're worried about. Would you please investigate." No. In fact, nobody from the government wrote to the commission seeking an investigation. The letter was simply forwarded for their information, and that is the problem.

As Mr Seselja said so well, you do not resolve a conflict of interest by starting another conflict of interest. The problem for the commission is that never in their wildest dreams would the authors of the gambling legislation have thought that the commission would end up investigating the government, and that is what this will be. This will be an investigation of the government, because we have got a Chief Minister who sits on the executive saying that they have got a role to play here. Indeed, they own it, thereby they are a "person of influence". He is not authorised under the act to be a person of influence. Therefore you have got outside control occurring, and that is the problem with this.

I note the Greens' amendment. It is interesting that the Greens leave in paragraph (1) of Mr Seselja's motion. So at least we are going to all agree that the broad understanding is that the profits should stay in the community. That is what the intention of the legislation was—that the profits go to the community. The legislation actually rules out any individual or corporation taking a windfall gain from the sale of the poker machines, and yet that is what is being proposed. The Labor Party will get a windfall gain on the sale of poker machine licences. Have no doubt about it; that is what they are selling. If you look at the net value of the buildings and the fit-out et cetera, that would be $8 million to $10 million, at a guess. What they are selling is the cash flow, and that cash low is predicated on having poker machine licences. If those licences are not there, then you do not have that cash flow. That fundamentally affects the value of the sale.

I make it abundantly clear that we are making no judgement here on the breach of the law. The allegations have been raised by the president of the Labor club. They have been raised because he feels he is being influenced by people who should not be exerting that influence on him, in direct breach of several laws. It is not just our gaming legislation; taxation legislation, a federal law, is also quoted, as is the corporations law. So this is an enormous problem for the way that we look at gaming in the territory. Others better than I, I am sure, will judge whether there is a breach of the law or not.

What we need is answers from those opposite. Perhaps the minister, in her open and forthright manner, would table the letter that she sent to the commission for the interest of all members of this place so that we can make an informed judgement here. Minister, would you like to able that letter? We would certainly give you leave to table that letter.

Ms Gallagher: I do not have it on me.

MR SMYTH: But could you get it and table the letter?

Ms Gallagher: I will have a look.

MR SMYTH: You will have a look? The minister will have a look. This is openness and accountability, "We'll have a look. We've sent the letter to the commission." I could actually FOI the letter, I guess. I could write to the commission and FOI any correspondence I could get in that way. But if the minister was truly interested in openness to show that this was all above board, the minister—indeed, all the

ministers—would table the copy of the letter. Perhaps the other two ministers who have not spoken—Mr Corbell and Mr Hargreaves—could tell us whether or not they got letters or whether only three ministers were singled out. Then you ask, "Why were only three ministers singled out?"

Mr Hanson: Left, right and centre!

MR SMYTH: Left, right and the guy with influence, the guy on the national executive. At the heart of this is the left-right conflict that is tearing the Labor Party apart. The left want to sell this and secure the booty; the right do not want that to occur, because it gives the left inordinate power. The people of the ACT are the victims, as they always are.

Mrs Dunne: Vicious and stupid didn't get a look in.

MR SMYTH: Vicious and stupid; it may well be vicious and stupid. It is interesting that the Greens have moved to amend out paragraphs (2), (3), (4) and (5) of Mr Seselja's motion. In a way they agree with paragraph (2), that the issue raises concerns about the proposed sale of the Labor Club Group which will see a potential massive windfall from what is, in effect, the sale of poker machines. I think that we all agree on that; I think it is a statement of fact. Why you would get rid of that, I am not sure. Paragraph (3)(a) says that the Assembly notes:

> the potential for the proposed transaction to undermine the public acceptance and original intent of the community based gaming model …

I think that is a statement of fact. Paragraph (3)(b) states that the Assembly notes:

> the sections of the Gaming Machine Act 2004 that identify influential persons and prohibits clubs that operate poker machines from being under the influence of outside parties …

Well, that is also a statement of fact. I do not know why you would want to rule that out. Paragraph (4) of Mr Seselja's motion says the Assembly:

> raises concerns about the report that the Labor Party representatives, and members of the current Government, may have been involved in influencing the decision of the board of the Labor Club group …

Well, we had denials yesterday from Minister Gallagher and Minister Barr, but we did not have one from the Chief Minister. The Chief Minister refused to answer these questions yesterday, even though the Speaker gave him the opportunity. He could have put this to bed yesterday, but he chose not to. So I do not see why we should take out paragraph (4). Paragraph (5) states:

> calls on all ministers of the ACT Government to make full and frank disclosure of any involvement they, their staff or their representatives may have had in influencing the decision making process of the Labor Club board.

That would end any conflict of interest questions. If the ministers would simply stand up in this debate and make that disclosure, then it would be over. If the Greens wish to

amend this motion, and they clearly do, perhaps they could change paragraph (2) and make it paragraph (6), because paragraphs (2), (3), (4) and (5) are valid. Deleting them would be unfortunate, and then we could debate the substance of what it is that the Greens wish to do. But the bottom line of this is that replacing one conflict of interest with another conflict of interest will not solve the problem here and will not give confidence to the community that we are addressing this in an open and honest way.

MR CORBELL (Molonglo—Attorney-General, Minister for the Environment, Climate Change and Water, Minister for Energy and Minister for Police and Emergency Services) (12.08): In speaking to the amendment that has been moved by Ms Hunter, the government will be supporting that amendment, but I think it is appropriate that we draw the attention of the Assembly to the way the Gambling and Racing Commission works. We have heard the assertion from the Liberal Party, and from Mr Seselja in particular over the last half an hour or so, that there is a fundamental problem with the Gambling and Racing Commission looking at this matter because Ms Gallagher, as the minister responsible, is, Mr Seselja asserts, able to sack the Chief Executive Officer of the Gambling and Racing Commission and therefore this is all a flawed process. That has been Mr Seselja's argument.

Mr Smyth urges the government to read the Gambling and Racing Control Act. I would urge Mr Seselja to read the Gambling and Racing Control Act because his argument falls down on one fundamental point—that is, it is not the chief executive officer that constitutes the Gambling and Racing Commission, it is the board of the Gambling and Racing Commission. The Gambling and Racing Commission board is the body that constitutes the commission. And who has the power to exercise the powers of the commission? The board does.

Mrs Dunne: Including the CEO.

Mr Seselja: Including public servants on the board.

MR CORBELL: And the chief executive officer obviously acts at the direction of the board. That is why you have a board. And the board, of course, is appointed—

Mrs Dunne: Yes, he is a member of the board.

Mr Seselja: Is the CEO on the board, Simon?

MR CORBELL: And are the members of the board, are the five members of the board, public servants? The answer to that is no, they are not. The five members of the board are not public servants. So here we have Mr Seselja asserting that the chief executive officer of the commission is unable to do his job in investigating these matters because he is a public servant and can be sacked by the minister, but he fails to mention that there is a board, and it is the five members of the board who are responsible for the decisions of the commission and for investigations of the commission.

It is important to note that, when it comes to investigations under part 4 of the act, the members of the governing board are authorised officers for the purposes of

investigation under the act. So those members of the board are independent appointments; they are not public servants. What is Mr Seselja really saying? What is he saying about those five members of the board? They are not public service members; they are independent appointments.

Mr Seselja: You've got to tell the truth, Simon. That's incorrect. At least one member is a public servant.

MR CORBELL: I know Mr Seselja is embarrassed by this, Mr Speaker. He is embarrassed that he failed to include in his speech any reference to the board. Where was Mr Seselja's reference to the board in his strong and powerful argument that this was a flawed process? Did he mention the board once? No, he failed to mention it. He seems to think that the CEO, over the other five members of the board—

Mrs Dunne: No, other four, Simon. He's the fifth member. He is a public servant.

MR CORBELL: has some capacity to have sway over the board. Mr Speaker, if you follow the logic of the Liberal Party's argument, which is, "Okay, the CEO is on the board, therefore the other four members have no say," you will see what an absurd argument it is. The fact is that there are independent members of that board who are in the majority on the board, they have authorised powers to investigate matters under the act, and they are not public servants.

So what is the Liberal Party's argument? Haven't they read the act? Don't they understand that the overwhelming majority of the board are not public servants and that they are independent appointments? What is Mr Seselja saying here—that that entire board is capable of being completely directed by the whim of the minister? They are independent statutory officers under the act. They have responsibilities under the act. And the government has every confidence that they will exercise their responsibilities accordingly and appropriately under the act. So there are simply no grounds whatsoever for that argument from the Liberal Party.

As Ms Gallagher said in the debate earlier today, at the end of the day it is quite clear what the Liberal Party are attempting to do here. This is a politically motivated attack by the Liberal Party. It is a matter that is properly within the realm of the Gambling and Racing Commission to determine as it sees fit, in terms of investigation, in terms of consideration and in terms of whether it believes there have been any breaches of any relevant laws or regulations. That is entirely a matter which is properly within the realm of the Gambling and Racing Commission.

Ms Hunter's amendment obviously has due regard to that. Ms Hunter's amendment recognises that it is indeed the role of the commission to determine these matters, and the government believes that that is an entirely appropriate course of action.

The Liberal Party need to understand that they can attempt to play policemen on this issue, but the government's view is that there is a policeman, the Gambling and Racing Commission, and they should determine these matters as they see fit, and we have every confidence that they will do so.

MR SESELJA (Molonglo—Leader of the Opposition) (12.15): There are a couple of things that I need to deal with, particularly in relation to the amendment. With respect to Ms Hunter's amendment, Mr Smyth has outlined some of the significant problems with it. With respect to what it fails to do—and this is what I cannot quite fathom as to why the Greens would want to take the position—this is the part that they do not agree with. There are a number of parts they do not agree with, but they do not agree with this part of the motion, which states:

> (5) calls on all ministers of the ACT Government to make full and frank disclosures of any involvement they, their staff or their representatives may have had in influencing the decision making process of the Labor Club board.

What is it about full disclosure that the Greens are opposed to? I do not quite understand why they would take this approach with respect to calling for full and frank disclosure, part of which we tried to do in question time yesterday and we were stifled at every turn by the government. Indeed, the Greens were stifled in asking their questions, yet they seemed to be happy to be stifled. They do not want to then, in response to that—

Mr Corbell: On a point of order, Mr Speaker—

MR SESELJA: Can we stop the clock, Mr Speaker?

MR SPEAKER: Stop the clock, Clerk.

Mr Corbell: I think Mr Seselja is reflecting on a decision of the chair. There was no stifling of questions. You ruled those questions out of order because they were inconsistent with the standing orders.

Mr Hanson: You gave Mr Stanhope the opportunity to answer—

MR SPEAKER: Order! Mr Corbell has the floor.

Mr Corbell: For Mr Seselja to assert that those questions were stifled is a reflection on you, Mr Speaker, and a reflection on your decision, and you should ask Mr Seselja to withdraw that suggestion.

MR SESELJA: On the point of order, Mr Speaker: Mr Stanhope was given the opportunity. He was given the opportunity by you in the chamber to actually answer the question, and he chose not to. So the Greens were stifled by the Chief Minister refusing. There is no reflection on the chair in talking about the government seeking to hide behind standing orders at every opportunity.

Mr Corbell: On the point of order, Mr Speaker: Mr Seselja was making specific reference to Ms Hunter's question, and Ms Hunter's question was ruled out of order by you following a point of order from the floor. To suggest that Ms Hunter's questioning was stifled is a complete reflection on the chair. If, every time there is a question ruled out of order, a member in this place can assert that they were stifled

then the authority of the chair is going to be considerably undermined in this place. It is a reflection on your ruling and it is disorderly.

MR SPEAKER: Mr Corbell, there is no point of order. I did not interpret Mr Seselja's comments as being a reflection on the chair.

MR SESELJA: Thank you, Mr Speaker. This is what we get from Mr Corbell so often: when he does not like the argument, he seeks to frustrate it by taking spurious points of order. We do need to go back to this. They have not been frank and forthcoming. They have taken every opportunity that they can to not answer these questions, whether it is using standing orders or otherwise. You have to ask why, and you have to ask of the Greens in this situation why they would vote against a paragraph of a motion that simply calls for disclosure.

Surely, one of the things that the Greens often talk about is seeking disclosure and ensuring that we have accountability in this place. We saw it yesterday; we saw it in question time: the government, to the maximum extent possible, will look to avoid answering questions if they can get away with it. They will do it in whatever way they can, through giving non-answers, refusing to answer or in whatever way they can. So we have sought to ensure that they have to give an account. The Greens are voting against that, and I think that is particularly disappointing.

In relation to the Greens' amendment, we believe that the motion should stand as it is. The deal has been done between the Labor Party and the Greens on this. This is better than nothing, I suppose. It is better than nothing that we have some action rather than none. But the reality is, and we maintain our position, that there is an inherent conflict of interest. Mr Corbell can try and skirt around it all he likes, but the CEO sits on the board, is a public servant and is answerable to the minister.

The CEO would presumably be the person who is actually leading any investigation. It is the CEO that has the resources to do such a thing. I cannot imagine that it would be primarily each of those individual board members who would be leading that investigation. The CEO would inevitably be taking the lead on that. And there is a fundamental conflict when they are a public servant.

If they want to change that, if they want to bring forward legislation that would see the CEO removed from being a public servant and become totally independent, we would certainly have a look at that. But what we have at the moment is this challenge where the person being asked to lead an investigation is answerable to the minister. It is an investigation that inherently will look at actions of ministers, yet we have the Labor Party and the Greens deciding that that is the way to do it. You do not deal with issues around conflict of interest by creating another potential conflict of interest. That is what this does.

Ms Hunter: You're just slurring the reputation of every commissioner in the ACT.

MR SESELJA: We get the interjections again. It is absolutely nothing to do with the individual. We could say the same of any public servant. It is inappropriate for any of the thousands of public servants in this town to be sought to be tasked with investigating their own government. They are not separate from the government. You cannot investigate yourself.

Mr Corbell: What about the board? Don't mention the board.

MR SESELJA: And it is that point that the Greens do not seem to fathom. Mr Corbell, I am sure, fathoms it but does not want to talk about it. He does not want to talk about the fact that the person leading the investigation—

Mr Corbell: What about the board, Zed? What about the four members of the board, Zed?

MR SPEAKER: Order! Mr Corbell, you have made your interjection.

MR SESELJA: The person leading the investigation is a public servant. In any other field—

Mr Corbell: What about the board of the commission?

MR SPEAKER: Mr Corbell!

MR SESELJA: If the Auditor General was a public servant, the Auditor-General would not be able to be as independent as the Auditor General currently is. Mr Corbell did not want to talk about the issue.

Mr Corbell: What about the board, Zed?

MR SESELJA: Who sits on the board? The CEO does sit on the board. The CEO, who would lead the investigation, also sits on the board and is a public servant.

Mrs Dunne: On a point of order, Mr Speaker: Mr Speaker, you have spoken to Mr Corbell. He continues to behave in an entirely disorderly fashion.

MR SPEAKER: Mr Corbell. I think you have made the point with your intervention. Let us keep it quiet and hear Mr Seselja.

MR SESELJA: Thank you, Mr Speaker. We go back to what Mr Stanhope thinks of this issue. This is the head of this government that may or may not be investigated, and he says:

> It would be bizarre in the extreme if the Labor Party, as the owner of an asset, says we no longer wish to sell this asset but a group, albeit members of the Labor Party and directors of the board, says well we are going to sell the asset anyway.

He believes they own this asset. The Labor Party see this as their asset, to do with as they wish. The gaming act says that the board needs to be independent, not subject to direction or control from outside parties. Yet the Chief Minister of this territory has made it emphatically clear that he and his party own this asset. It is their asset to do what they will with.

That goes to the heart of some of the conflicts here. That goes to the heart of some of the issues that were raised by the president of the Labor Club Group. The president of

the Labor Club Group has raised these issues, has raised the issue about site interference, and we have the Chief Minister publicly stating that he believes it is their asset and that they own it. If he believes it, and if, from the reports we have seen, the national executive believe that they own it—it is referred to as half the Labor Party's national asset base—then the question that needs to be investigated is: how is that played out? How is that played out in terms of directions to the board? How does that play out for independence of board members in acting according to their duties?

These are the very serious issues which Mr Hatch has raised. These are the issues which simply need to be investigated, and need to be investigated in an independent way. Unfortunately, with this amendment, what we have, first and foremost, is a failure even to require the most basic accountability and openness from this government, who have shown that they will, at every opportunity, seek to avoid being open and giving a full and frank account to the Assembly. They are not going to do it out of goodwill. We can take that as a given. We saw it again yesterday. They are not going to do it because they want to; they will do it because we make them. They will do it because we force them to. And it is reasonable that we call for that.

It is very hard to justify and we have heard nothing, not one word in Ms Hunter's speech, as to why she and the Greens do not agree with paragraph (5), which calls on all ministers of the ACT government to make full and frank disclosures of any involvement they, their staff or their representatives may have had in influencing the decision-making process of the Labor Club board.

Why would you be against that? Why would you be against that openness and that disclosure? Surely, that is the beginning. As I said earlier, when we started this week, we said that what we need is for the government to answer some of these questions. They have done their best to avoid answering the questions. We had the five-minute speech from Ms Gallagher in which she gave a brief reflection on the gaming act and nothing else. We have had no openness and accountability. What this calls for is that, and what this calls for is for all the issues to be put on the table. We said that, after that process, we would look at whether it was appropriate for the Assembly to investigate it—and it may well be, depending on what comes from this process.

What we are getting at the moment is a roadblock from the government. They are refusing to answer questions and refusing to put the information on the record. Now we are seeing that the Labor Party and the Greens will vote to oppose a paragraph in the motion which simply calls for full and frank disclosure. We understand why the Labor Party would want to do that but we do not understand why the Greens would support that. We do not support Ms Hunter's amendment, although, as I say, in the end it would be better to have some motion passed than none.

MRS DUNNE (Ginninderra) (12.27): This is a very important issue because it goes to the heart of the way that this community manages its gaming machines and it goes to the heart of the way that gaming machines are managed for the benefit of the community. We have spent a lot of time in successive Assemblies ensuring that the profits from gaming machines go back to the community as much as possible. What we appear to be seeing in this unseemly spectacle that is unfolding in relation to the possible sale of the Labor clubs is that there is the potential for large amounts of poker machine profits to go into the hands of an organisation which is not generally recognised as being part of the broad community.

No matter which way you stretch your eyes, the Labor Party is not a community organisation in the same way as a football club is, a croquet club is, or any of the other multitude of organisations that benefit from the proceeds of the gaming machine legislation. That is why this motion is important and that is why the Canberra Liberals and the Leader of the Opposition today have moved this motion which is about openness and accountability.

In relation to the Greens' amendment, it would be a lot more palatable, as Mr Smyth had suggested, if it became item No 6. I do have to reinforce the questions that were asked by Mr Smyth and Mr Seselja, and ask what the Greens are afraid of. In particular, why are the Greens unprepared to call on ministers of the ACT government to make a full and frank disclosure of any involvement that they may have had in this matter?

Yesterday, the Treasurer seems to have done that. Mr Barr—goodness knows why Mr Barr got a letter; one can only speculate as to why Mr Barr seems to have got a letter—seems to have made some account by saying that he had no involvement. What is it about openness and accountability that makes the Greens baulk from time to time? On this occasion they have baulked at this. They have come up with an alternative, and this alternative is so hedged about, simply because they do not know how it will work.

The Greens actually write a "get out of jail" mechanism in their amendment by way of paragraph (c). They actually have predicted the possibility that the Gambling and Racing Commission will come back and say to the Assembly, "We do not have the powers to do this." This is not good enough. This means that the proposal put forward by the Greens is a flawed one and it is why the proposal originally suggested by the Liberal Party is the correct one.

Debate interrupted in accordance with standing order 74 and the resumption of the debate made an order of the day for a later hour.

Sitting suspended from 12.30 to 2 pm.

Questions without notice

Gaming—sale of Labor clubs

MR SESELJA: My question is to the Chief Minister. Chief Minister, your ministerial code of conduct applies to the conduct of both your ministers and their staff. It states:

> Ministers will uphold the laws of the Australian Capital Territory and Australia, and will not be a party to their breach, evasion or subversion.

Chief Minister, were you, any of your staff or your representatives involved at any level in influencing or directing the sale or withdrawal of sale of the Canberra Labor Club Group? If so, who and in what manner were they involved?

MR STANHOPE: If the Leader of the Opposition actually suggests in his question or imputes that I may have broken the law or a member of my staff may have broken the

law, I would urge the Leader of the Opposition, if he has any evidence that I or a member of my staff have in any way broken the law, to provide that evidence to the police.

Gaming—sale of Labor clubs

MR SMYTH: My question is to the Chief Minister and relates to the ministerial code of conduct. Chief Minister, the code of conduct says, in relation to ministerial obligation:

> Ministers will uphold the laws of the Australian Capital Territory and Australia, and will not be a party to their breach, evasion, or subversion.

Chief Minister, you have admitted publicly that you sit on the admin committee of the Labor Party and voted for a motion that included an instruction to halt the sale of the Labor clubs. The president of the Labor club, in the *Canberra Times* on 30 July this year, said of this matter:

> Under the Gaming Machine Act the board of directors of the Canberra Labor Club are required to be in control of the company at all times.

Chief Minister, how have you satisfied yourself that you have not been a party to the possible breach, evasion or subversion of the gaming act, given your involvement on the committee?

MR STANHOPE: I am absolutely sure that I have not broken the law. If Mr Smyth has any evidence that I may have broken the law, I would urge him to provide that evidence to ACT Policing.

MR SPEAKER: Mr Smyth, a supplementary question?

MR SMYTH: Thank you, Mr Speaker. Chief Minister, will you make a full disclosure to the Assembly, including the tabling of all relevant documents, to provide satisfaction to the Assembly that all of your actions have been appropriate in relation to this matter?

Mr Corbell: On a point of order, Mr Speaker: there is currently a question before the Assembly making that very request. I do not know whether Mr Smyth can raise that in question time, given that we are currently in the middle of a debate and that, in very many respects, pre-empts that debate and in fact duplicates the debate that is currently occurring in this place.

MR SPEAKER: Mr Corbell, I understand that the standing order you might have been thinking of has been removed, so there is no point of order.

MR STANHOPE: I am not aware of any documents in the possession of the government, other than the document which the Treasurer has provided to the racing and gaming commission, in relation to this matter. If there were any documents in the possession of the ACT government, or in the control of the ACT government, of course, I would give consideration to tabling them. But I know of none.

In the context of the tabling of documents of private organisations, it is interesting where this takes us, Mr Speaker. I have long had an interest in the identity of the members of the 250 Club. Would it be relevant or appropriate for me to request that the Leader of the Opposition table all of those documents pertaining to the activities of the 250 Club and donations made by the members of the 250 Club to the Liberal Party in order that we might determine that all aspects of the Electoral Act and laws have been complied with appropriately at all times by all members of the 250 Club? It would be interesting, of course, as we transition from the 250 Club to the Deakin foundation or forum, which I understand Mr Seselja attended on Monday night—the body that actually supplants or supplements the abandoned 250 Club, the fundraising arm of the Liberal Party.

I have a passing interest, as we all do, because we are all a bit nosy, in exactly why it was that Deb Foskey stood down from the Assembly, and the circumstances surrounding that. It would be interesting to ask the Greens, perhaps, to table all of the Greens' internal documentation in relation to all of the circumstances surrounding the resignation of Dr Foskey. But these are private matters—

Mrs Dunne: On a point of order, Mr Speaker: this question to the Chief Minister asked him to make full disclosure to the Assembly in relation to the sale of the Labor club. The Chief Minister has gone a long way away from the sale of the Labor club, and I ask you to bring him back to that and to whether he is prepared to make full disclosure in that matter.

MR SPEAKER: Chief Minister, I think you have made the point about private organisations. Could you return to the original question.

MR STANHOPE: I wasn't too subtle, Mr Speaker?

MR SPEAKER: I don't think so.

MR STANHOPE: I thought perhaps it was my subtlety in relation to the fact that every one of us in this place, in a private capacity, belongs to a political party. My membership of the Australian Labor Party is separate, distinct and divorced from my role as Chief Minister of the Australian Capital Territory, and it is.

Mr Hanson: It should be but is it? That's what we're trying to find out.

MR STANHOPE: Yours is not, is it? Is this what you're saying—that your membership of the Liberal Party is not separate from your role as a member of the opposition? I belong to the Australian Labor Party; I have belonged to the Australian Labor Party for 33 years, proudly. I belong in my private capacity. I have a number of functions and responsibilities as a member of the Labor Party that are completely distinct and separate from my role and responsibilities as Chief Minister and as a member of this place.

If anybody suggests that there is any aspect of my behaviour as a member of the Labor Party that is not appropriate, or indeed that of my colleagues, I invite them to show in which way. I invite them to show the basis on which they would make those

allegations. I have no intention of coming in here and tabling papers relevant to my role and responsibilities in a private community-based organisation. It would be inappropriate, it would be improper—

Ms Gallagher: We wouldn't expect it from anyone else.

MR STANHOPE: and we don't ask it of you. We don't ask it of you, and we don't ask it of the Greens in this place. We don't ask, because we respect that role, we respect the privacy attaching to it and we respect the confidentiality of it, and we respect the fact that each of us, in our private lives, in a private capacity, is involved in a range of other activities. So if you have evidence or information relevant to the way in which I conduct myself as Chief Minister or as a member of this place which causes you concern, please produce it.

Government revenue collection

MS HUNTER: My question is to the Chief Minister. In recent weeks it has come to light that there are a number of cases where the collection of moneys due to the ACT government has not occurred or has been delayed due to, among other things, computer glitches. I refer to almost $11 million in outstanding rates not collected from new properties for more than 16 months and the $23 million the ACT is owed in unpaid traffic and parking fines. In addition, there was a computer glitch that affected 22,000 motorists that saw their registration renewals delayed.

Chief Minister, as responsibility for the public service and territory and municipal services lies within your portfolios, what are you doing to review and improve processing and revenue collection procedures and upgrade processing and computer systems so that the government receives all the revenue that is due?

MR STANHOPE: I thank Ms Hunter for the question—and it is a very important question. Certainly issues in relation to rates and the late collection of rates have impacted on territory revenues—delayed them. Of course, there is in relation to any delay a revenue implication in the context of interest forgone.

In relation to issues around rates and the Revenue Office, I know that the Treasurer has pursued the issue strongly and diligently and has made significant demands of her department. The minister has, indeed, publicly expressed—this is not something that we as a government have been minded to do—her disquiet at the time taken by the Treasury—the Revenue Office—to resolve the issue in relation to the late payment of rates.

Certainly, there have been issues with the technology, with the computer systems. At some level and extent, we understand and excuse that. But there certainly has been what the government and the minister regard as an unreasonable delay in resolving the computer and software issues that have arisen in relation to rates. It is an issue that has been pursued strongly.

In relation to unpaid fines—and I think the Attorney-General is far better able to respond to some of these issues—it is easy to say that there is a range of not paid or unpaid fines. Governments have a responsibility in relation to bad debts across the

board, not just in relation to fines, traffic fines, and charges and payments, to have some regard to the cost and the benefit. There is a range of unpaid fines, particularly in relation to parking and traffic, where the offence was committed by somebody who lives elsewhere where the cost of pursuing the debt or the unpaid fine is of an order far greater than the unpaid fine.

Our effort in relation to the recovery of fines is, I think, higher than almost anywhere else in Australia. We have an exemplary record. We collect more than 90 per cent. Sometimes there is a delay, but the systems that we have in place in the ACT, the reforms that have been pursued here in relation the collection of traffic fines and parking fines are strong—amongst the strongest—and are quite consistent with the arrangements that are in place in other places around Australia.

We have a very good and a very high level of collection, accepting that, I think, six to seven per cent of fines at the end of the day, after time or over time, whilst never formally written off, are accepted as fines that are almost certainly never going to be collected. We can pursue them vigorously. We can institute action in places like Darwin, Hobart and Perth, but at significant cost—at a cost which we believe is far greater than the outstanding fee.

These are difficult decisions but they are questions of judgement and that is the basis on which we pursue those issues. So I have no issue with the way in which we pursue fines and unpaid traffic and vehicle fines.

In relation to issues around the late issuance of registration notices, once again it is a matter of enormous regret. We hope always for seamless, uninterrupted systems that allow people time and notice. It has to be said, however, Ms Hunter, in relation to the late distribution of registration notices that the notices are being distributed before the registration period expires. It is just that the period of notice is far less than desirable and far less than our systems optimally provide.

It is a matter of regret that the software failed. It was recharged and it failed again. The failure was not noticed for, I think, a period of a couple of weeks. It has led to very late issuance of a number of registrations. But my understanding is that all those notices have been issued before the registration expires.

These are matters of regret. We invest heavily in ICT. We have well-supported systems. You could always invest more. It is a very hungry area in terms of government resourcing of IT and IT systems. But we invest significantly. We invest, we believe, at appropriate rates having regard to our other priorities. From time to time there are issues and glitches. In this technological age, of course, when there is a glitch, the consequences can be quite significant.

That is the history of those three issues. Of course, I think it is beyond dispute that we can always do better and we try always to do better.

MR SPEAKER: Ms Hunter, a supplementary question?

MS HUNTER: Thank you, Mr Speaker. As interstate motorists owe more than $10 million in unpaid traffic infringements, what have you done to progress this issue

through bilateral agreements with your state and territory colleagues to ensure this revenue is paid?

MR STANHOPE: I am not across that information, but it may be that the Attorney-General is.

MR CORBELL: Further to the answer from the Chief Minister, Mr Speaker, the government does have bilateral agreements in place with a number of jurisdictions. Again, it is the same challenge as exists in the ACT—the enforcement action needs to be taken by the relevant state agencies and those other jurisdictions, and that may occur opportunistically as police apprehend people for other matters and then fines are identified as being outstanding as a result of that apprehension. It might be a further traffic offence or it might be some other form of offence. But those mechanisms are currently in place in the same way that we provide that service for people who are here in the ACT from other jurisdictions and who may be identified as having unpaid fines in other jurisdictions.

It is worth drawing to the member's attention that the government did provide funding in the most recent budget to develop a new regime to help tackle the issue of unpaid fines. That includes additional enforcement in relation to court-imposed fines, additional enforcement officers through the courts, and also the development of a new regime to identify alternatives to jail as the last resort for people who have unpaid fines.

It is recognised generally that jail is the last resort for people who have unpaid fines. Often a jail sentence is completely inappropriate, even though the person has not paid the fine or is unable to enter into a repayment arrangement. In those circumstances, the government has provided funding for the development of a new policy which will be developed over the next 12 months for a community-based orders regime where the court will be able to order a person as an alternative to a jail sentence to undertake court-required community service activity. As part of that funding arrangement, we are putting in place and negotiating arrangements with a non-government organisation to provide that community-based service arrangement.

Finally, as part of that same project, the government is putting in place mechanisms with Centrelink and the commonwealth government to provide for the recovery of unpaid fines through Centrelink payments. It is clear that a very large number of people who have unpaid fines are on Centrelink benefits of one form or another, and it will be possible through reciprocal arrangements that we will negotiated over the next six to nine months to recover those outstanding fines through reciprocal arrangements in place with Centrelink.

Schools—investment

MS PORTER: My question, through you, Mr Speaker, is to the Minister for Education and Training. Will the minister update the Assembly on the benefits of the ACT and federal Labor governments' investment in schools, combined with this government's changes to the planning system and what benefits they are delivering local school communities and jobs?

MR BARR: Once again, I thank Ms Porter for her interest in the education portfolio. I acknowledge that in this parliament I think she has asked more questions in this area than the entire opposition combined. Certainly it was the case in the previous one.

The ACT government, together with the federal government, has been investing heavily in local schools. Here at a local level we have been cutting planning red tape. We have been doing this so that tradies can work and kids can learn.

It is the case that Labor has always been the party of education, the party of jobs and the party of economic responsibility. We went to the people last October with a well thought out education policy, and it is largely because the people of the ACT trust us to develop good policy and deliver upon it that we sit on this side of the chamber and the Liberals sit on the other. It is worth noting that the Liberals are sitting on the wrong side of the Speaker, both here and in the national parliament, and this is because they do not believe in investing in education and they do not believe in investing in keep Australians in jobs.

All members of the Assembly, even the Liberals, must acknowledge that every student in the ACT is benefiting from more than half a billion dollars being invested in ACT schools by the ACT and federal Labor governments. But that is nothing new, that half billion dollar investment from federal and ACT Labor. I can now advise the Assembly that these investments are also keeping hundreds of Canberrans in work—hundreds of Canberrans—and, as more projects roll out, hundreds more will be employed.

The building the education revolution package has already seen around 340 workers and staff engaged in projects. There is a dedicated team of around 45 workers engaged in ACT public schools undertaking painting and routine maintenance—

Members interjecting—

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

MR BARR: Thank you, Mr Speaker. As I said, there is a team of about 45 workers engaged across ACT public schools as we speak, undertaking a range of painting and building modifications, installing shade structures and other routine maintenance around our schools. But the good economic news does not stop there. The $150 million investment in the first round of the building the education revolution initiatives are expected to create a further 250 onsite jobs for Canberrans, including work for around 50 apprentices. That is good for jobs and it is good for kids.

After 12 long years when the federal Liberals treated education as a political football, ACT Labor is pleased to be able to work with the commonwealth to invest in schools. It is why we have moved to further cut planning red tape so that Canberra schools and tradies can get the full benefits of Labor's record investment in education.

Labor's planning improvements are ensuring that projects will not be subject to third party appeals and schools will be able to get on with building these important projects. Development applications for these school projects are still being rigorously assessed

by the independent planning authority and our investments, along with our changes to the planning system, are clearly delivering on the ground in every school in the ACT.

Because of the cuts to red tape I was able to announce that the first BER projects in the country were completed here in Canberra. Under the BER, Turner school received $200,000. Turner has installed a major shade structure, which was manufactured locally in Queanbeyan, supporting local jobs. This project will ensure that all students can play outside rain, hail or shine—again, good for jobs and good for kids. Because of Labor's policies and our investments the Turner school community will soon have a $3 million new library.

Other projects are completed or underway. For example, in Ms Burch's electorate, the Caroline Chisholm senior campus has a new technology classroom. In my electorate of Molonglo the students of Malkara also have an upgraded classroom—again, good for jobs and good for kids.

In Ms Porter's electorate, Hawker College now has a new lift to provide greater access for students with a disability—again, good for jobs and good for kids. Very close to home for me, in the suburb of Dickson the students there have a new gym floor—again, good for jobs and good for kids.

MR SPEAKER: Ms Porter, a supplementary question?

MS PORTER: Thank you, Mr Speaker. Will the minister advise the Assembly of community views of which he is aware in relation to this investment in schools and changes to the planning system?

MR BARR: I am aware of a range of community views about Labor's investment in schools and Labor's changes to the planning system. I can report that they are overwhelmingly positive views. But you cannot win them all; it is clear from the rabble we have had in the last five minutes that those opposite oppose Labor's investments in schools.

Mrs Dunne, the former shadow minister, is famously on the public record as describing investment in public schools as throwing good money after bad. Mr Doszpot, the shadow minister at the moment, has been mute on the subject. I really do not mind if Mr Doszpot follows Mrs Dunne: he has obviously been going to the same hairdresser over the winter break; I just wish that he would stop copying her policies. Mr Doszpot has failed to support federal Labor's $230 million investment in every student and every school. He has failed to support this significant investment.

With education policy, the Liberals say they like a bit of A to E reporting. What can I say? D is for Doszpot, just like D was for Dunne; nothing has changed—same Steve. It is a different Steve from Brindabella, but still a prat. Mr Seselja in recent times said that the good news in the ACT budget surplus was down to federal Labor's stimulus package. The opposition leader, on ABC radio on Friday afternoon, in relation to the budget surplus, said:

> … much of this appears to be Commonwealth money, the question will be what will happen when the Commonwealth money runs out?

The point to make here is that Mr Seselja opposed the stimulus package. He opposed it. He had to do a backflip. He had to do a little bit of opposition for opposition's sake at the time because, under the doctrine of opposition for opposition's sake, he cannot credit the excellent work of the Treasurer, Ms Gallagher.

By contrast with the dazed and confused Liberals, the community loves the new buildings in its schools. I quote the ACT council of parents and citizens, who describe this investment package as "a once in a 100 year opportunity for our schools" and an opportunity that "we can't let pass by". Elizabeth Singer said at the time:

> The Minister for Education has identified changes … that are needed for the ACT Government to spend this money in time, for the benefit of our schools and the community.

John Miller, from the Master Builders Association, said:

> The Government's hell bent on making sure that we can actually get this work rolling out the door

The MBA said:

> We support the Government, we support moves to make sure that we're in a position to actually act on it, and we don't have to hand back money to the Commonwealth that otherwise could be spent in the territory.

The chair of the ACT Block Grants Authority noted the tight deadlines associated with this funding and said he was pleased that the planning regulations could be changed to expedite applications.

And Mr Chris Peters, the Chief Executive of the ACT and Region Chamber of Commerce and Industry, wrote to me about the position that was being taken by the Liberals and said that it was "another case of politics getting in the way of sensible outcomes".

How did the Liberals end up in such a mess? It really is hard to blame a leader as weak as Mr Seselja or a shadow minister as dozy as Mr Doszpot.

Mrs Dunne: Relevance, Mr Speaker.

MR SPEAKER: Order, Mr Barr! I think you have drifted a long way from reflecting on community views on your education package.

MR BARR: Thank you, Mr Speaker. I think the real driver is the black hand of Mr Smyth. That is right: the biggest loser is their biggest strategist.

MR SPEAKER: Mr Barr!

MR BARR: There is a lesson, Mr Speaker.

MR SPEAKER: Mr Barr, resume your seat. Are you going to return to the question?

MR BARR: Yes, Mr Speaker.

MR SPEAKER: It did not sound like it.

MR BARR: Thank you, Mr Speaker. There is a lesson, Mr Speaker. In listening to community views, those opposite, the new members of this place, should never—never—take the black hand of Mr Smyth. Listen to the community, listen to the MBA, listen to the P&C association. They have got a more valuable contribution to make than the black hand of the deputy leader of the opposition.

Gaming—sale of Labor clubs

MR COE: My question is to Minister Corbell and relates to the potential breach of the gaming act over the sale of the Canberra Labor Club Group. The ministerial code of conduct applies to the conduct of both ministers and their staff. It states:

> Ministers will uphold the laws of the Australian Capital Territory and Australia, and will not be a party to their breach, evasion or subversion.

Minister, were you and your staff or your representatives involved at any level in influencing or directing the sale or withdrawal of sale of the Canberra Labor Club Group? If so, who and in what manner were they involved?

MR CORBELL: I draw members' attention to the comments the Chief Minister made earlier in answering his question about the distinction that needs to be drawn between the role of ministers as ministers and the role of ministers and others as members of political organisations. With that said, I can quite succinctly answer Mr Coe's question. The answer is no.

Planning—inspection fees

MS LE COUTEUR: My question is to the Minister for Planning. Minister, ACTPLA has recently changed the fees payable for electrical inspections such that general residential inspections are a flat rate of $180 but that inspections for installations of solar systems could cost up to three times that because of the requirement to install and inspect inverters. Minister, can you explain why the inspection of an inverter should cost an extra $180 on top of the flat rate when the process of inspection may only take a few more minutes to complete?

MR BARR: Obviously I will have to take some further technical advice from the Planning and Land Authority in relation to the fees charged there, but one would imagine that, given the complexity of the task, fees would be charged according to that complexity and the time taken. I will seek some further advice from the Planning and Land Authority on the detail of that question.

It is, of course, worth noting that perhaps the greatest impact on the total cost in terms of delivering an outcome for the householder and for industry is the speed at which inspections can be undertaken. That will ultimately lead to more affordable housing and will ensure greater certainty. By providing additional resources in this year's

budget and strengthening this area of inspectorate within the Planning and Land Authority, the government has signalled its intention to ensure that these inspections are undertaken more quickly. But there must be a recognition from all concerned that there is a cost associated with the delivery of that sort of service. If you want to expedite the service and have it delivered, say, within a 48-hour time frame, then there are costs associated with that. It is only fair and reasonable that the planning authority seek to recoup some of the costs associated with providing service at that level.

MR SPEAKER: Ms Le Couteur, a supplementary question?

MS LE COUTEUR: Minister, given that the government has strongly advocated for the uptake of solar panels and hot water, will you consider changing the fee scale for electrical inspections so as to bring the rates for solar inspections into line with the rates for general electrical inspections rather than persisting with this financial disincentive?

MR BARR: I am happy to seek advice, as I said, from the Planning and Land Authority and to consider the matter. I am sure there is an entirely legitimate reason why there would be a fee differential. I do not believe it would be appropriate to jack the fees up in other areas to cross-subsidise in this case. I think we need to ensure that there is an appropriate fee level. I am sure that is what the Planning and Land Authority do in undertaking this work.

Gaming—sale of Labor clubs

MR DOSZPOT: My question is to Minister Hargreaves and relates to the potential breach of the gaming act over the sale of the Canberra Labor Club Group. The ministerial code of conduct applies to the conduct of both ministers and their staff. It states:

> Ministers will uphold the laws of the Australian Capital Territory and Australia, and will not be a party to their breach, evasion or subversion.

Minister, were you, any of your staff or representatives of you involved at any level in influencing or directing the sale or withdrawal of sale of the Canberra Labor Club Group? If so, who and in what manner were they involved?

MR HARGREAVES: I was feeling dreadfully left out on this subject yesterday and even today I was wondering whether or not I was going to get the slash. I am really grateful to you, Mr Doszpot, for including me in the high-quality colleague group in which I feel a bit too—

Mrs Dunne interjecting—

MR HARGREAVES: However, I can assure the Assembly and I can assure the people of Canberra, that I, like the Chief Minister, am a member of a sub-branch of the Labor Party and I, as a member of the Labor Party, like to involve myself in Labor Party affairs. Have I said or done anything to influence anybody over the sale of the club of which I am a very proud member? No, no, no and definitely no.

MR SPEAKER: Mr Doszpot, a supplementary question?

MR DOSZPOT: Thank you for being so grateful that you got a question on this, Mr Hargreaves. Have you received any correspondence on this matter?

MR HARGREAVES: I refer to the third part of my answer last time. It was the third no. I anticipated your question.

Canberra international airport

MS BRESNAN: My question is to the Chief Minister. Chief Minister, the federal government is due to make a decision prior to 28 August on the Canberra airport's 2009 preliminary draft master plan, which includes plans for a 24-hour freight hub. The ACT government commissioned an independent report on noise levels in the inner north which has not yet been made available. Chief Minister, are you able to inform the Assembly when this report by Marion Burgess will be available for consideration by the ACT community and the federal minister for infrastructure and transport?

MR STANHOPE: I thank Ms Bresnan for the question. I did receive a briefing quite recently in relation to the report. I can't quite remember the exact anticipated time that the report would be made available, but certainly it is imminent. I think it is proposed that it be made available within a week or so. I have not seen the report. I am aware, and I think I have previously advised, that it would have been available prior to this time and that there have been some delays in relation to its finalisation. I believe the report is now virtually at that final stage. I do believe, from my memory of that last briefing, that it is due to be made available within a week or so. I am more than happy to make it available immediately when I receive it. But it is imminent. It is a little later than I was first advised, but I will release it as soon as I receive it.

MR SPEAKER: Ms Bresnan, a supplementary question?

MS BRESNAN: Thank you, Mr Speaker. What steps have you taken to request a delay in the federal minister's decision on the 24-hour freight hub, pending the information in the report being available?

MR STANHOPE: I don't believe that the government, or the Chief Minister's Department, which is handling this matter, has made any direct representations to the federal government to seek to delay its decision in relation to the master plan as a result of issues around noise. Of course, the commonwealth will rely on its own noise assessments, through Airservices Australia. I believe they are conducting, and do conduct, their own noise monitoring. Having said that, Ms Bresnan, I have an appointment with the minister this afternoon. Since you have raised it with me, I will raise it with the minister today.

Supreme Court—workload

MRS DUNNE: My question is to the Attorney-General. Attorney, on 5 August 2009 the High Court of Australia handed down its decision in the matter of Aon Risk Services Australia Ltd v Australian National University.

In delivering his judgement, Mr Justice Heydon made the general observation that the legal fraternity and the Supreme Court of the ACT are "in a strange alliance" and that—and I am quoting again—"the torpid languor of one hand washes the drowsy procrastination of the other".

This may be contrasted with the article that appeared on the front page of today's *Canberra Times*, which suggested the Supreme Court was overworked and in a state of crisis as "justices scramble to stay ahead of their workloads".

Attorney, how have you allowed this crisis to occur? Do you accept the High Court's assessment? What are you doing to fix these issues?

MR CORBELL: I reject the assertion that there is any link between workloads in the Supreme Court and the decision in Aon v ANU. The decision in Aon v ANU relates to the failure, as perceived by the High Court, of the judge hearing that matter to dismiss the application on the day of the application. Basically, the High Court concluded that the presiding judge made an error in not rejecting the application when it was made in the court on that day and obviously criticised the fact that it took 11 months for that matter to be resolved.

The decision in Aon v ANU highlights the fact that our courts need to be more mindful of whether late applications to change the claims made—in this case, civil litigation—should be entertained. That is effectively what Aon v ANU determined in that matter. I reject the link. There is no suggestion that there is a lack of resources that led to that error. It was an error on the part of the presiding judge and that matter has been corrected on appeal in the High Court, as it should be. I am confident that the Supreme Court will have very close and due regard to the decisions of the High Court, given that it is the ultimate court of appeal on these matters.

In relation to the workload of the Supreme Court, members would be aware that the Chief Justice has made representations to me in relation to consideration being given to the appointment of a fifth resident judge. I would draw to the attention of the Assembly the fact that the ACT, outside of the Northern Territory, currently has the highest number of judicial officers per head of population of any jurisdiction in the country. That said, I am giving consideration to the Chief Justice's request and I will be communicating a decision to him shortly on that matter.

MR SPEAKER: Mrs Dunne, a supplementary question?

MRS DUNNE: Minister, what actions will you and your government be taking to ensure that community safety and community confidence in the Supreme Court are realised and that releasing alleged criminals on bail because trials cannot come to court in reasonable time is not a thing of the future?

MR CORBELL: Community safety is always a consideration on the part of a judge when deciding whether or not applications for bail should be agreed to. That is already a consideration and I am confident that our judges have due regard to community safety in looking at those matters. Beyond that, it is not appropriate for me to comment on the general decision making of the Supreme Court. Those are matters properly for the court.

Gaming—sale of Labor clubs

MR HANSON: My question is to the Treasurer. Treasurer, yesterday in question time you were asked about a letter that had been written by the president of the Labor club that been the subject of a report in the *Canberra Times*. Treasurer, in your answer to that question, you said:

> I received a copy of that letter yesterday and I forwarded it to the Gambling and Racing Commission for their information.

Treasurer, under what section of the Gaming Machine Act did you send your letter to the Gambling and Racing Commission? What action did you request from the commission in response to the letter from the Labor club president?

MS GALLAGHER: I thank the member for the question. The letter I wrote to the Gambling and Racing Commission principally raised three matters. I drew their attention to media reports outlined in the *Canberra Times* and other media outlets, primarily on 15 and 18 August, around the proposed sale of the Canberra Labor Club Group. Secondly, I outlined the fact that these reports raised issues of compliance with the ACT Gaming Machine Act 2004. Thirdly, I attached the letter which had been copied to me by the chair of the Canberra Labor Club Group, Mr Brian Hatch, and I asked the commission to review the concerns outlined in that letter in relation to the Gaming Machine Act 2004.

MR SPEAKER: Mr Hanson, a supplementary question?

MR HANSON: Treasurer, thank you for your answer. Would you table a copy of your letter to the commission and any associated documents in the Assembly?

MS GALLAGHER: I have outlined exactly what the letter I wrote to the commission contained. That is it in its entirety. You will trust me on that one, you know. That is what I said.

Mr Hanson: No, I won't.

MS GALLAGHER: But that is what I asked them. In relation to the letter that was attached to it, that is a private, internal party letter, which I have appropriately forwarded to the Gambling and Racing Commission for their investigation. I do not have the permission of the author of that letter to table it in the Assembly. I think the letter has been appropriately forwarded to the authority which has the powers to investigate the concerns raised in that letter.

Mr Coe: You tried to force me to table stuff.

MR SPEAKER: Order, Mr Coe! The Treasurer has the floor.

MS GALLAGHER: We could go back to the tabling of all the issues around Facebook or lack of information around there.

Mr Speaker, I have outlined to the Assembly my role as minister for gaming and the areas I have raised with the Gambling and Racing Commission. I hope that the Assembly trusts me on that and that, in due time and in due course, the commission will report back to the Assembly on the concerns I have raised with them in my letter.

Health—accreditation

MS BURCH: My question is to the Minister for Health. Could the minister advise the Assembly of the outcome of the recent public health accreditation process undertaken by the Australian Council of Healthcare Standards?

Ms GALLAGHER: I thank Ms Burch for the question. I am delighted to put on the record in the Assembly that the Australian Council of Healthcare Standards has accredited ACT Health for a four-year period under its evaluation and quality program, also known as EQuIP. This is the maximum period for which a member organisation of ACHS can be accredited, and it is a great result for ACT Health, for the community and also for the staff who work in ACT Health. I thank them for the hard work that they went to to ensure that the accreditation process went smoothly and that such a good result was achieved.

EQuIP is a four-year voluntary membership program that provides a framework for establishing and maintaining quality care and services in health care organisations. It consists of one independent assessment event each year as part of the continuous four-year cycle, which consists of a self-assessment, an organisation-wide assessment, another self-assessment and a periodic review.

ACT Health has now received from ACHS the final reports on the organisational wide survey and mental health in-depth review for the ACHS evaluation and quality improvement program. Mental Health ACT was awarded an outstanding achievement for its electronic health records system, known as MHAGIC. An outstanding achievement allocation indicates that the organisation has met all the requirements, including policy, systems, evaluation, and benchmarking and is now a recognised industry leader.

Mental Health ACT was also awarded seven excellent achievement ratings. An excellent achievement allocation indicates that the organisation has met all the requirements, including policy, systems, evaluation and benchmarking. Mental Health ACT achieved excellent achievements in the following areas: consumer participation, continuous quality improvement system, integrated risk management system, health care incidents and complaints and feedback, strategic and operational planning, safety management systems and security management.

ACT Health was awarded six excellent achievement ratings in the following criteria: infection control, human resources planning, information and data management, planning and management of information and communication technology, health promotion and strategic planning.

ACT Health and Mental Health ACT received moderate achievement ratings for the remainder of the criteria, which exceed 40. The moderate achievement allocation

indicates that the organisation has met the requirements of policy, systems and evaluation. All mandatory criteria must reach this level of achievement. Failure to achieve a moderate achievement rating would have resulted in a compromised accreditation outcome.

In some of the feedback received in the reports, the survey team noted that there are clear clinical and corporate governance arrangements in place to support quality, safety and risk imperatives across all clinical divisions. Mental Health ACT was congratulated on its exceptional level of consumer participation and the use of the consumer and carer participation framework as a living document actively used by the service. The recovery model was strongly supported. Access to community health services through a number of initiatives, including the community intake system, was commended. Systems for ongoing care and re-entry to health services and good linkages with acute services and other health care providers were noted to be well developed.

Six community health facilities were visited by the surveyors, who noted that they are modern, clean, tidy, easily accessible and conveniently located. The Dental Health Service was acknowledged to be performing at a very high standard and that excellent strategies have been put in place to improve prioritisation and access for clients, to monitor and improve safety and information control, and to increase the range of service delivery options for consumers, including utilisation of the private sector.

The Corrections clinical pathway was noted as an excellent initiative in considering the prisoner's journey through the prison system from entry to discharge and post-release care. Aged care and rehabilitation was found to have a large responsive range of services to support in-patient care, transitional care and outpatient programs.

At the Canberra Hospital, the survey team noted the large range of inpatient and outpatient medical, surgical and critical care services and women's and children's services. Staff were complimented on their compassion and palpable commitment to quality care. It was acknowledged that they are supported by effective leadership and sound, quality, patient safety and risk management systems. New initiatives were acknowledged to have resulted in improved emergency access and reduced bed block. The streamlining of acute and community services for women's and children's health was noted by the surveyors as benefiting families using the service.

The full survey is quite detailed, but, overall, I think the Assembly should welcome the fact that our ACT health service has been given such a high rating and achieved four-year accreditation.

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

Supplementary answer to question without notice
Work safety

MR HARGREAVES: Yesterday Mrs Dunne asked me a very good question, and I said it needed a good answer and I would go away and give it. I am back. The answer to Mrs Dunne's question is that 15 submissions were received in response to the exposure draft of the Work Safety Act regulations from a range of industry,

employer and employee organisations. I am advised that those submissions covered a range of issues and included some recommended changes to the draft regulations. I also understand that a few submissions recommended changes that went to the Work Safety Act 2008 itself, which of course is beyond the scope of the exposure draft regulations.

The submissions were considered at a special meeting of the Occupational Health and Safety Council on 7 August 2009. I understand that the chair of the council will shortly write to me advising the outcome of the council's deliberations, including any recommended changes to the present draft regulations. I will consider those matters, including any amendments, when I receive that report.

I am also advised that the proposed changes will not impact on the commencement of the regulations on 1 October 2009. I am committed to ensuring that the Work Safety Act 2008 and the work safety regulations 2009 commence on 1 October but it should be noted that, at Mrs Dunne's request, a briefing on this matter was arranged on 29 June. A further briefing was offered but not taken up. If it had been, this information would have been provided at that time.

Gaming—sale of Labor clubs

Debate resumed.

MRS DUNNE (Ginninderra) (2.52): When we rose at lunch I was saying that I thought that the proposal put forward by the Greens was deficient because it removed so many good elements of Mr Seselja's original motion, things which the Greens themselves should be quite comfortable with, including calling on the ministers to make a full and frank disclosure of any involvement that they may have had in relation to this matter.

On contemplation of this over lunch, I have decided to move an amendment to Ms Hunter's amendment, which the Clerk has had circulated. I move:

> Omit paragraph (2), substitute:
>
> "(2) raises concerns about the proposed sale of the Labor Club group which will see a potential massive windfall from what is in effect the sale of poker machines;
>
> (3) notes:
>
> (a) the potential for the proposed transaction to undermine the public acceptance and original intent of the community based gaming model; and
>
> (b) the sections of the *Gaming Machine Act 2004* that identify influential persons and prohibits clubs that operate poker machines from being under the influence of outside parties;
>
> (4) raises concerns about reports that Labor Party representatives, and members of the current Government, may have been involved in influencing the decisions of the board of the Labor Club group;

(5) calls on all ministers of the ACT Government to make full and frank disclosures of any involvement they, their staff or their representatives may have had in influencing the decision making process of the Labor Club board; and

(6) requests the ACT Gambling and Racing Commission:

(a) investigate claims made in *The Canberra Times* and *The Australian* newspapers regarding a possible breach of the *Gaming Machine Act 2004* in relation to the proposed sale of assets by Canberra Labor Club Limited;

(b) have tabled in the Assembly the full findings of an investigation into the claims, should an investigation be pursued and completed; and

(c) provide to the Assembly reasons why it may decide it does not have sufficient grounds to conduct an investigation into the claims, if it finds that to be so.".

That essentially re-inserts paragraphs (2) to (5) that Ms Hunter's amendment takes out, keeps in Ms Hunter's amendment as well and makes that paragraph (6). This was essentially the course of action suggested by Mr Smyth before lunch, and I concur with it.

There are, as I said, problems with the course of action proposed by the Greens, simply because no-one is entirely sure what it is and the amendment proposed by Ms Hunter, which is also replicated in my amendment, does actually cast doubt on whether the Gambling and Racing Commission has sufficient powers under the Gaming Machine Act to undertake the review that is proposed by this amendment. There should be a better course of action than this. There are issues in relation to the capacity, not in the personal capacity but the powers that the commission has and the staff of the commission have, to undertake these issues.

It is the case that this is not as independent an organisation as the Attorney-General in particular would have us believe. The attorney was waxing lyrical before the lunch break in relation to the role of the board. We need to make perfectly clear exactly what constitutes the governing board of the Gambling and Racing Commission. It is five members. According to the second note in section 12 of the act, and as has always been the case:

> The chief executive officer of the authority is a member of the board.

If you turn over the page and go from section 12 to section 13, it says:

> The chief executive officer of the commission must be a public servant.

Mr Corbell: What about the other four?

MRS DUNNE: If Mr Corbell actually had any experience of how the Gambling and Racing Commission works—which he does not, which he has never had any experience of, and as a result he does not know—he would know that the work is carried out by the chief executive and his staff, all of whom are public servants.

This morning the Treasurer said, "So you think that I would go and sack somebody because they were not doing what I wanted?" What did Mr Smyth do this morning? He brought in a piece of legislation to rectify the mess made to a board by a minister of the Stanhope government. A minister of the Stanhope government sacked a whole range of people from a board because he did not like what they were doing and he could not get his own way. He has run away again. He does not like what he hears. Today we introduced legislation to rectify that sacking.

Members of boards in the ACT are not safe from sacking by ministers in the Stanhope government and they need to be afraid. In the same way as Mr Acworth and his compatriots were sacked on that occasion, members of the Gambling and Racing Commission and the public servants who work for them are liable to be sacked if this government does not get the answers it wants. This is why referring this matter to the Gambling and Racing Commission for an inquiry when they may not have the powers to do this is not the best possible move.

Mr Seselja's original motion is a motion of considerable merit. And I think that there is general agreement on the opposition benches that the investigation proposed by the Greens is probably as good as we are going to get at this stage but it is not good enough. On that basis we will be prepared to support Ms Hunter's amendment so long as it is accompanied by my amendment that puts back into the motion the substantial good work that was done by Mr Seselja. I commend the amendment to the house.

MR COE (Ginninderra) (2.57): I stand here today to comment on the ethics of possible profiteering on the back of an opportunity that was gifted to organisations in good faith and supposedly with the community's best interests at heart.

There are lots of questions that need to be answered regarding the sale of the Labor clubs, perhaps most importantly: if the ALP cannot sell the gaming machines or the licences, what is included in the proposed sale if they are in fact the owner? I am not sure that everyone who visits a Labor club understands that the Labor Club Group is in effect a fellow traveller in the ALP movement. For one reason or another, some users of the clubs do not realise that there is a close working and financial relationship between the clubs and the ALP.

Just the other day a person I was chatting to was amazed that the Labor clubs and the ALP were closely affiliated. Unlike when many health insurers get bought out and a payment is made to members, no such payment will be made to members if the Labor clubs were to be sold. Instead, the revenue from the sale may go to the ALP for the funding of their political operations.

Clubs are meant to be independent. As I will discuss at the end of this speech, the *Canberra Times* has raised concerns about this. A further clue for the politically savvy is, of course, the fact that the Labor Club Group is spelt without a "u" in "Labor", which reflects the ALP's decision to adopt the American spelling in 1912, a clue that the Labor clubs operate and were established in close cooperation with the ALP.

I ask the question: how many people that go to the Labor clubs and pour money into a poker machine, buy tickets in the meat raffle or pay their annual dues know that they

are propping up a democratic socialist party that has the objectives of a democratic socialisation of industry, production, distribution and exchange to the extent necessary to eliminate exploitation and other antisocial features in these fields? That is stated in part A, section 2, of the national constitution of the Australian Labor Party.

I wonder how many people who bought the deluxe Christmas buffet, including cold decorated mirrors of pacific oysters, king prawns and sliced smoked salmon, knew they were perhaps benefiting the Australian Labor Party to the tune of $59.50 per person, bookings not essential. I do note, according to the Labor Club's Bistro on Chandler, that final numbers are required 24 hours in advance and payment is required at the conclusion of the function. If only such a commitment was needed by problem gamblers before they poured more than $59.50 down the throat of an unforgiving poker machine on Chandler Street!

I wonder how many people in my electorate of Ginninderra that frequent the Belconnen or Ginninderra clubs know the extent of the Labor Club's gaming operations. On 13 October last year, the ACT Gambling and Racing Commission published the number of gaming machines held by each club in the ACT as of 20 June 2008. As everyone in this place knows, the Labor Club has many. In particular, the Canberra Labor Club in Belconnen had 272 machines. The City Labor Club had 58 machines. The Ginninderra Labor Club in Charnwood had 95 machines and the Weston Creek Labor Club had 63 machines.

The Canberra Labor Club Group had 488 machines. There were 5,087 machines as of 30 June 2008 in the whole of the ACT. The Canberra Labor clubs, perhaps owned by the ALP, held about 9.6 per cent of gaming machines in the territory. The Australian Labor Party is a key stakeholder in gaming in the territory and it is this Greens-endorsed ALP government that will be overseeing any sale of the Canberra Labor clubs and any change in ownership of licences. I am concerned by this.

Does the Labor Party understand that the provision of poker machine licences and subsequent profits are meant to be for the community's benefit or does each of those members opposite think they should be for the ALP's benefit, for their own vested interests? Does Ms Burch, does Ms Porter, does Mr Hargreaves, does Mr Barr, does Mr Corbell, does Ms Gallagher or Mr Stanhope have a problem with the ALP profiteering from problem gamblers?

In my inaugural speech I said:

> Yet this government, that has put so much stock into being socially progressive, has no qualms collecting money on the backs of problem gamblers through poker machines.

Where is the social justice in ripping into vulnerable Canberrans? What is progressive about that? What does the ALP think about this? It is easy to talk about the ALP as if it is a faceless machine. However, when it comes down to it, every organisation is run by people and those opposite or those in the organisational side of the party must take some responsibility.

In my electorate of Ginninderra the Labor Party controlled 31.1 per cent of the gaming machine market as of 30 June last year. To narrow the electorate down to the district of Belconnen, by excluding the Gungahlin suburb of Nicholls and the village of Hall, the ALP market share of gaming machines was 38.5 per cent. How many other businesses are there in Canberra that have a 38.5 per cent stake of their industry in Belconnen? I propose that there are not many at all.

How great is the problem of expenditure on gaming machines in the ACT? According to the September 2007 review of the maximum number of gaming machines allowed in the ACT—

Mr Seselja: On a point of order, Madam Assistant Speaker: it is getting very difficult to hear my colleague Mr Coe. There is a lot of talk. If you could ask people to come back to order, it would be very helpful.

MADAM ASSISTANT SPEAKER (Ms Le Couteur): Thank you.

MR COE: Thank you, Madam Assistant Speaker. The per capita expenditure on gaming machines in the ACT was $746 in 2004-05. So each adult in the ACT spends $746 of their post-tax income per year on gaming machines. Each couple is pouring just short of $1,500 into poker machines. That is a huge average. I know lots of people that would not put anywhere near that amount into a machine. So I am concerned at how many people there are that are going way above this figure, raising the average to $746. It would be interesting to see analysis of the market to reveal a median figure of expenditure on poker machines in the territory.

Let us look at the number of gaming machines per 1,000 adults as per the data in the report I just quoted from. In the ACT we have 20.78 machines per 1,000 adults, the highest in the country. The Australian average is 12.22 machines per 1,000 people. We are not far off double that. In addition, we have a relatively dense population where everyone in the territory would be, at most, a few kilometres from a poker machine.

In my electorate of Ginninderra, there were 68,358 people enrolled to vote for the October 2008 election. In June 2008, the Labor clubs operated 367 machines in the electorate out of 1,178 across all clubs in Belconnen, Nicholls and Hall. Assuming the number of machines did not change a great deal in the few months from 30 June 2008 to the election in October, the ALP alone had 5.35 machines per 1,000 voters in Ginninderra. That is almost the same number as the total sector size per 1,000 people in Tasmania or the Northern Territory.

What do all these figures mean for the Labor clubs and the ALP? They mean a lot of money is at play. Will the ALP be treating the privilege and responsibility of operating gaming machines in a way that is for the community's benefit or will they be treating it as an asset for them to profit from?

Section 14(1) of the Gaming Machine Act 2004 clearly states that machines are not designed to be used as a device for individual gain or commercial gain by someone other than the club. There are questions about the application of this clause in this case. The people of Canberra, through the Assembly, deserve answers.

I share the concerns of many of my colleagues that the proposed sale could be, in effect, the sale of poker machines. I believe this is against the intent of the legislation and I hope the ALP will closely analyse the laws and ethics of such a sale. The *Canberra Times* of 15 August ran a story on the front page, starting with:

> The Australian Labor Party is embroiled in allegations it might have breached company, tax and gaming laws by seeking to unlawfully influence the sale of a $50 million gaming empire.

What will be the government's response to these concerns? How will the government and the ministers distance themselves from these concerns? How can the community have confidence in the government, given concerns about conflict of interest? What will the ALP do to get a review process underway, with integrity and independence?

Part 3 of section A of the ALP constitution states, as an objective of the ALP:

> To achieve the political and social values of equality, democracy, liberty and social co-operation.

Where do the operation of poker machines and the sale of Labor clubs fit in with that objective? There are lots of questions in this sorry tale. The effects of problem gambling are real, and we as a society must confront that.

I wholeheartedly support Mr Seselja's motion and urge all in this place to act in the community's best interest and vote in favour of the motion.

MR SMYTH (Brindabella) (3:08): I applaud Mrs Dunne for taking the time over the lunch break to actually put the amendment into such a neat form so we can quite clearly see what is trying to be achieved here. What the amendment does is leave Mr Seselja's clause (1) in place, which would appear has broad agreement from everyone in this place.

So clause (1) as a starting point would be a very interesting base of any debate about poker machines into the future. But let us follow through the sequence. If you take what Mrs Dunne has attempted to do here, particularly in conjunction with some of the answers we got and did not get during question time, it is very important for these clauses to remain as they are.

To actually have clauses (2), (3), (4) and (5)—as Mr Seselja had written—linked with clause (6), as proposed by Ms Hunter, is not inconsistent. In some cases you would say they actually complement each other. There is a sequence there that leads to the final request in clause (6). There is, indeed, Madam Assistant Speaker, room for both. All of these can stay on the paper because, as I have said, they are not inconsistent and there is a logical approach. Particularly when you look now at what would be clauses (4) and (5) in light of the answers and the non-answers of question time, it is an opportunity, I hope, for the Greens to reconsider their position. Clause (4) would now state:

> raises concerns about reports that Labor Party representatives, and members of the current Government, may have been involved in influencing the decision of the Labor Club group;

Clause (5) states:

> calls on all ministers of the ACT Government to make full and frank disclosures of any involvement they, their staff or their representatives may have had in influencing the decision making process of the Labor Club board.

The interesting thing is that we have had some disclosure from four out of the five ministers. Four out of the five ministers have offered up; they all said, "No, we have not had any involvement." They said that they have not had any attempts at making influence by themselves, their staff or their representatives. It is curious that one minister, the Chief Minister, has refused to rule it out.

I think that leads to there being some weight to leaving these clauses as they are. The Chief Minister should come back down here. Indeed, the Chief Minister has been conspicuously absent from this debate. He should come down and clear the air once and for all, and actually say, "No, I have not." That would make it very much easier for this debate to proceed.

But the minister is now putting a cloud above himself. We have got four ministers who have said, "No, I have not done anything improper." We have one minister who refuses to rule that out. You have to ask the question why the Chief Minister would do that.

I think it is very important, therefore, that particularly clauses (4) and (5), as contained in this amendment, remain. If we go to clause (2), I still make the point that clause (2) is quite true. There are concerns about the proposed windfall which is truly outside the effect of what was intended by the act. Clause (3) simply, again, states the fact:

> the potential for the proposed transaction to undermine the public acceptance and original intent of the community based gaming model;

We have all heard the Chief Minister stand up in this place, and those of us that have been at the Clubs ACT annual night have heard the Chief Minister stand up on at least seven occasions, and say, "We are a club town." He has to remove the cloud that his actions are now putting over Canberra being the club town, about the community-based gaming model that exists in this town.

If he will not do that, you have to question why. If four out of five of his ministers can simply stand up and say no to this question, you have to ask why the Chief Minister will not do the same. It is only the Chief Minister that can answer that. I would ask the Greens to reconsider. It is not unreasonable to leave these four clauses in. They are not inconsistent.

I believe, in fact, you could probably say that clauses (2), (3), (4) and (5) lead to the request that is embodied in clause (6) that Ms Hunter has moved. Therefore, it makes the motion more complete. When people look back in time at this motion and, indeed, when the Gambling and Racing Commission looks at what is being asked of it by the Assembly should this get up—and it appears that this will get up—they do so in the light, first, of this debate and, second, the fullness of what would be the entire motion.

I think it is appropriate that the four pieces remain there. They certainly add to it; they certainly do not detract from what will be the final motion.

MS HUNTER (Ginninderra—Parliamentary Convenor, ACT Greens) (3.13): I just want to respond to Mrs Dunne's amendment. In doing so I want to state again that we support a full investigation into all aspects of the claims made in the *Canberra Times* and the *Australian* newspapers with regard to a possible sale of assets by the Canberra Labor Club Ltd and we are not in any way supporting anything but full and frank disclosure by all those involved in the matter.

However, we are seeking a full investigation and a full and frank disclosure under the current legal arrangements. To insinuate that the Greens are somehow asking for anything less than a comprehensive, thorough investigation is false and misleading. Madam Assistant Speaker, there is no deal between the Greens and the government on this matter.

Mr Seselja: You voted against it. You can't just vote against it and then pretend it is not happening.

MS HUNTER: I would just like to give a bit of a warning to Mr Seselja about making such accusations. The Greens are acting in accordance with the current legislative arrangements by calling on the regulatory body charged with investigating any breaches of the Gaming Machine Act to look into the claims made in the media.

The way in which the Liberal Party calls into question the professional capability of this agency, and, in fact, by inference that of other boards and commissions in the territory, is deeply concerning. We have heard questions raised about their independence. We have had questions raised about their capability—

Mr Seselja: And they didn't answer them and you didn't even bother asking them again.

MADAM ASSISTANT SPEAKER (Ms Le Couteur): Mr Seselja, please. I cannot hear Ms Hunter. Thank you. Ms Hunter, please continue.

MS HUNTER: I find this an appalling situation. As I said, we have acknowledged that several parts of the Liberal Party's motion do have some merit with regard to the intent of gaming machine licences and subsequent profits to be for the benefit of the community. However, to support that whole motion with my amendment tacked on the end would be to support unsubstantiated claims that are yet to be investigated.

Madam Assistant Speaker, the Greens are taking a measured, step-by-step approach to call for an investigation of these serious claims. I repeat, for your benefit too, Mr Hanson, that we will be watching this issue very closely until we have some resolution of these claims.

MR SESELJA (Molonglo—Leader of the Opposition) (3.16): I will be closing the debate, I think.

MADAM ASSISTANT SPEAKER: Very well. I call Mr Seselja, who will close the debate.

MR SESELJA: I think we have probably spoken about the matter at some length. I do need to respond quickly to Mr Hunter's latest outburst. I know Mr Rattenbury is ordinarily the person who gives ratings on the performances of members in this place, but that was really a ridiculous contribution to this debate. Ms Hunter has essentially argued that black is white; no, they are not arguing against what they are arguing against; they are not intending to vote against what they are voting against. Then she claimed that there are unsubstantiated claims in there without pointing to one word of it.

Mr Hunter perhaps needs to learn that she cannot just put it out there without pointing to it. If you are going to say something, back it up. Back it up with something—anything. Yet there was not one word, not one word that actually backed it up. What Ms Hunter is failing to understand is that this is what she is voting against. She is voting against the call on ministers of the ACT government to make full and frank disclosures.

I do not know what the warning was meant to be but that is what you are voting against. You can warn me all you like, but I will not be silenced in arguing the case for full disclosure in highlighting when the Greens side with the government against full disclosure, because that is what they are doing. It is a ridiculous contribution to this debate and it should be dismissed as such.

Madam Assistant Speaker, the original motion is one that should be supported. It should be supported because we have done what we said we were going to do, which is that we were going to seek answers from the government. They are doing their best not to answer questions. We are seeking information. We are not making allegations. We are not making unfounded assertions. We are going on the back of reports and claims made by others, made by respected members of our community, and saying they need to be independently and thoroughly investigated.

Questions need to be answered by ministers in this place. We are seeking accountability. We will continue. We are not going to allow these issues to be swept under the carpet simply because the Labor Party and the Greens do a deal. We will continue to push regardless. We will continue to ask questions and we will not be silenced by the ridiculous, veiled threats of anyone across the chamber.

Madam Assistant Speaker, this is a critically important issue. These are serious claims. Everything in that motion is defensible. None of it makes claims that are not substantiated. Most of it is raises concerns that need to be investigated. We say they should be thoroughly investigated. We say there needs to be openness and accountability. We say there should be independent investigation. That is what this motion is about and I commend it to the Assembly.

Question put:

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

The Assembly voted—

Ayes 6	Noes 11	
Mr Coe	Mr Barr	Ms Hunter
Mr Doszpot	Ms Bresnan	Ms Le Couteur
Mrs Dunne	Ms Burch	Ms Porter
Mr Hanson	Mr Corbell	Mr Rattenbury
Mr Seselja	Ms Gallagher	Mr Stanhope
Mr Smyth	Mr Hargreaves	

Question so resolved in the negative.

Amendment negatived.

Question put:

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

The Assembly voted—

Ayes 11		Noes 6
Mr Barr	Ms Hunter	Mr Coe
Ms Bresnan	Ms Le Couteur	Mr Doszpot
Ms Burch	Ms Porter	Mrs Dunne
Mr Corbell	Mr Rattenbury	Mr Hanson
Ms Gallagher	Mr Stanhope	Mr Seselja
Mr Hargreaves		Mr Smyth

Question so resolved in the affirmative.

Amendment agreed to.

Motion, as amended, agreed to.

Housing—Currong apartments

MS BRESNAN (Brindabella) (3:24): I move:

That this Assembly:

(1) notes:

(a) that Housing ACT is yet to sell, refurbish, or resolve the future of the Currong Apartments in Braddon;

(b) the positive social, environmental and economic outcomes that are being delivered around the world through the innovative design of multi-unit social housing developments; and

(c) the social and environmental benefits of the award winning K2 Apartments constructed by the Victorian Office of Housing in the central Melbourne location of Windsor; and

(2) calls on the ACT Government to conduct a well organised and resourced project competition for the Currong site to build a sustainable neighbourhood that will:

(a) provide homes for a social mix of residents;

(b) meet best practice environmental performance standards; and

(c) feature healthy, inclusive, high quality design.

Canberra people expect to see best practice, creatively designed buildings in our city. As much as we hope to see such buildings in the Parliamentary Triangle and in expensive suburbs, in nearby rural residential and perhaps at the international airport, we hope to see it in our shops and in our public and community housing.

This motion is about possibility and ambition. In a very simple way, it asks the government to aim high with its own buildings and initiatives. It asks the government to ascribe the same rights to a high-quality building environment for people who live with disadvantage or are at risk of social exclusion as others in our community enjoy. It addresses the common desire to see the ACT government take on board the social and environmental impact of its own developers. It taps into the desire that so many of us have, to make Canberra into the city that we know it can be: one with a footprint for our environmental future, organised to meet our social and cultural needs and economically sustainable over the long term.

What the Greens are proposing is a concrete initiative which can deliver the goods. I will briefly outline public housing developments in other places that the new Currong could follow and how project competitions in the past have worked to get them built. I will also address the notion of housing affordability in this context. What is affordable to people depends on their circumstances. Building lower priced housing on the edge of Canberra is not always so good. Proximity to services, links to community and the size of transport and energy bills are all factors in the equation.

The new Currong can play an important role in providing a range of social housing solutions to Canberra people. Design competitions do deliver high-quality outcomes. The K2 apartments in Windsor, Victoria, were the result of a design competition run by the Victorian Office of Housing and the Australian Institute of Architects. The competition was launched and indeed driven by the housing minister in 2001. The competition called for buildings that would last 200 years and would generate their own power, would use less than half the usual amount of water and would provide an adaptable way of housing for 150 public housing residents.

The K2 apartments pioneered low-emission building materials, incorporated attractive low-water gardens and a social as well as an environmental approach to sustainability. The cost premium for making this attractive, innovative best-practice approach was less than 10 per cent. It will be paid back through energy maintenance and water

savings in a few years. Since completion in 2007, the K2 apartments have won national and international awards. The winning architects, the departmental champions and the proud residents would all be available, I am sure, to talk to the minister and the public about the quality of the development and the value of the initiative.

Going back further in time, BedZED, the Beddington zero emission development, is Britain's largest carbon neutral, ecologically friendly community. Developers of the project include the Peabody Trust, one of London's largest and oldest housing associations, and the BioRegional Development Group, a sustainable consulting firm. It includes a mix of shared equity, private and community housing and has been occupied since 2002. The project also incorporates mixed-use components, including commercial buildings, an exhibition centre and a children's nursery.

The architect estimates the additional cost incurred through carbon neutrality and the made-to-measure building components that were required to do that at about 10 per cent. However, he also estimated that, were the British government to take the same approach with just 15 per cent of its new public housing, it would be possible to build in this way at no extra cost.

BedZED is more than simply an arrangement of housing. At a simple functional level, such as the integrated availability and shared use of cars and gardens, residents do live together as a community. The latest monitoring results from BedZED, published on 15 July this year, show that, on average, residents know 20 of their neighbours and particularly like the non-isolating community spirit, with the social side being spectacularly good. Performance figures for this development also include an 81 per cent reduction in energy use for heating, a 45 per cent reduction in electricity use compared to the local average, a 64 per cent reduction in car mileage compared to the national average and a 58 per cent reduction in water use compared to the local average.

K2 apartments in Melbourne are conducting their first monitoring and evaluation procedure now, and formal advice is that the vast majority of residents are proud of their new homes and enjoy living there, the key point being that the community development outcomes for mixed use and social housing developments are significant. You do not get a good outcome from a competition if it is not a good competition, and the involvement of the Institute of Architects in Victoria is indicative of that.

The Australian Institute of Architects has guidelines for architectural design competitions. According to the guidelines, a competition is appropriate when the project is of public significance, will benefit from a wide degree of design investigation, is to be on a significant or unusual site, will benefit from the public interest that a competition can generate and where design excellence is a high priority.

In rebuilding or reimagining the Currong, a properly resourced and organised competition, consistent with these guidelines, would be appropriate. This motion calls for a project competition. That means that the outcome of the competition is that the winning entry is constructed. In that context then, the brief for the competition needs to be clear. In this case, the housing mix would need to be specified—a mix of public and community housing perhaps. A proportion for retail community use could be

considered and so on. The energy performance, the use of materials, the liveability goals, the relationship to nearby public housing and to the arts centre would need to be specified.

The K2 competition specified approximately 100 medium-density public housing units, with a high proportion suitable for people with disability, with an overarching environmental goal of minimising detrimental effects and maximising positive effects throughout design, construction, operation and eventual decommissioning. Performance targets include zero CO_2 emission in use, no external energy source for heating and on-site energy generation, water supply and sewage disposal.

More specifically, the three ESD criteria were no non-renewable energy needed for building operation, a building designed for a life of at least 200 years, water demand reduced by 50 per cent. Entrants were also encouraged to consider other aspects of sustainable design in their submission and to explain the strategy they used to achieve them. This quote from the Department of Housing's technical information kit makes that clear:

> True sustainability takes into account far more than energy and water savings.
>
> The approach taken with the K2 apartments was to combine the notion of a healthy building and environment. The project considered the social and economic aspects of sustainability to be as important as the natural environmental aspects.
>
> Access to landscape, indoor air quality, natural ventilation and the provision of a variety of communal spaces were considerations in achieving a socially responsible development.

Of course, things have moved forward a long way since K2 was first designed; so we do not want to set our goals too low. Nonetheless, even if we only achieve what has been achieved by the Victorian Office of Housing on that site, we will be a long way further down the path. This is another element in what the motion describes as a well-organised competition. Similarly, it is important to have an expert panel, including architects, adequate funding to encourage serious participation and so on. I think the summary of the two housing developments has flagged some of the underlying issues.

I would like to come back to the interlinking questions of affordability, social sustainability and community development. For many people, buying a home is out of the question. Private rental puts them in housing stress, and even the 75 per cent market rent arrangement available through providers such as CHC Affordable Housing creates difficulties.

For people on the outskirts of Canberra, where high-frequency public transport is not available, travel to work, services, shops and entertainment is a necessity. The cost of travel in time and dollars can be substantial; so that is an affordability issue but it is also of course an issue of social inclusion—not just the social inclusion that comes from being able to go shopping but the inclusion that comes with connectedness.

The type of development suggested by this motion, as the brief overview of K2 and BedZED demonstrates, does have those benefits, including social interactions that come from collaborative activities, the gardens, the integrated support we would be able to deliver to such a consolidated site, the social mix of neighbours, the easy access to services and facilities and the extra discretionary spending that the lower energy and transport costs would give them.

I cannot accept the presumption that a multi-unit development is not now, and never will be, an appropriate housing model for such a site. I note media comments from the minister that the Currong site is inadequate for the kind of development we are suggesting. There are 96 units in the K2 apartments, and 99 homes at BedZED. There are over 200 units at Currong. The land size at Currong appears to be similar to K2 and BedZED. The issue is not one of size or scale.

Finally, I acknowledge that I have built the argument on the K2 apartments in particular but, as the people who have worked on that development have pointed out to me, there is a lot more possible now in terms of innovative design and construction than was evident when the K2 competition was commissioned. The language I have used in this motion allows for a more wide-ranging interpretation of land use on that site.

I understand that this government does not want to lock itself into a competition, although we are talking fairly broadly here. I do not believe anything that the Greens are trying to do here boxes the government in. All it really would achieve is to up the ante in terms of ambition and architecture for social housing in Canberra.

MR HARGREAVES (Brindabella—Minister for Disability and Housing, Minister for Ageing, Minister for Multicultural Affairs, Minister for Industrial Relations and Minister for Corrections) (3.36): I welcome the opportunity to respond to Ms Bresnan's proposal to run a design competition to turn the ageing Currong apartments into an environmentally sustainable social housing network.

I have to say that I have some concerns about this motion. I believe that it is simplistic, it is naive and it has not been thought through carefully. But I also say that, in the spirit of the Labor-Greens agreement, I have offered the Greens many briefings on issues relating to my portfolio responsibilities. I am a little disappointed that Ms Bresnan did not think it a good idea to have a chat with me about this, to discuss its merits and its flaws.

Ms Bresnan says that the proposed competition would seek housing designs for a mix of residents, demonstrating energy and water efficiencies, sustainable building practice and healthy inclusive design. The ACT government is already doing this. The government, through Housing ACT, is already pursuing an extremely active policy of improving the energy efficiency of public housing in the territory. We have already committed half a million dollars to water efficiency measures and are two years into a $20 million program of energy efficiency improvements that include building fabric improvements and high efficiency hot-water systems and heating appliances for new and existing dwellings. Those being constructed under the Rudd government's stimulus package for social housing incorporate universal design features which aim

to improve the liveability of dwellings. I remind members that the federal Greens voted for the stimulus package, and I commend them for that.

I am pleased that the ACT government will be building all properties to a six-star rating. I have to point out that the ACT is applying a six-star rating to all stage 1 properties as well, even though this was not a commonwealth stimulus package requirement. Recently, too, I engaged in major consultation with architects and associated experts as to future directions in the quality and best design practice for public housing dwellings in the ACT.

All of those aspects referred to by this motion are already occurring, as I have explained here. They will, of course, be applied to any future development, such as Currong.

What is concerning me most about the motion before us here today is that this call by the Greens for a design competition is ignoring the most important issue relating to the Currong apartments, or for that matter any concentration of multi-unit, multistorey public housing properties anywhere in the world—a concentration of social disadvantage. Sure, a design competition might decide on an architectural style, amongst other things, but paint colours and carpets will not address the issues of disadvantage faced by many public housing tenants in multi-unit properties, such as drug and alcohol abuse, domestic violence, mental health issues and access to appropriate services.

ACT Labor's priority is to attack social disadvantage by getting out of these multistorey, multi-unit complexes while preserving support service structures. You will be aware that we have already done this with Fraser Court in Kingston and Burnie Court at Woden.

The government's approach is one that salt and peppers public housing properties throughout the suburbs, taking into consideration individual and case support needs. In practice, this means placing our tenants within the community, with all the attendant benefits—not having them isolated in pockets of disadvantage in multistorey, multi-unit complexes. The Greens seem to want us to make a choice between that and improving the design and colour of a silo of disadvantage.

I do not believe that a competition like this would provide much value in addressing the underlying issues. The development of the Currong apartments site is being progressed taking both social and environmental concerns into account.

I also have to say that the jury is still out on the K2 apartment complex in Melbourne referred to by the Greens in their motion. Yes, it won many designs and architectural plaudits, but the Victorians tell us that there is no evidence yet of a direct link between the design of the complex and addressing the cycle of disadvantage facing so many public housing tenants in multi-unit properties.

We have also been told that, like us, Victoria believes that the preservation of support networks and the dismantling of silos of disadvantage is good public housing policy. K2 concentrates 96 units in one location. Approximately half of the units have tenants with a disability. The site in Melbourne is 4,800 square metres—less than half the size of the Fraser Court site, which had 104 units in it.

In addition, and I stress this, although there is no direct link between public housing and crime—

Ms Bresnan: No, there is not.

MR HARGREAVES: No, there is not. Accept that. Data, though, from the Victorian police reports that the city of Stonnington—where the K2 project is located and where there is a high level of public housing complexes in some streets—has the fifth highest crime rate of Melbourne's 32 metropolitan municipalities. I am not saying that this is a causal link. What I am saying, though, is that you have got to be very careful when you place people within an environment that already has that sort of smoke about it. We have to be a bit careful about that.

If we were to follow this model recommended by the Greens, we would be replacing an eight-storey building with a newly painted eight-storey building. It could have the most sophisticated energy efficiency initiatives, but what of the resultant social disadvantage of our tenants living in such concentration? Even the Victorian government is yet to confirm that its K2 model is delivering the anticipated outcomes.

The government will not be supporting the motion, because we do not believe that the idea of the competition will adequately address the underlying issues affecting tenants in concentrations of multistorey, multi-unit public housing properties. It is about addressing disadvantage. This will be a costly window-dressing exercise, we believe. You can't make a silk purse out of a sow's ear, as you know.

Madam Assistant Speaker, I seek leave to move two amendments together.

Leave granted.

MR HARGREAVES: I move amendments Nos 1 and 2 circulated in my name together:

(1) in paragraph 1(c), insert the words "potential for" after "the" (first occurring); and

(2) omit paragraph (2), substitute:

"(2) notes the ACT Government's commitment to socially and environmentally sustainable public housing, which has as its main objectives:

(a) the aim and ambition of eliminating homelessness in the ACT;

(b) the allocation of public housing properties based on client need, as part of the suite of support packages designed to increase the quality of life of all clients;

(c) the provision of a Canberra-wide social mix of residents through a client focussed mix of stand-alone and small scale multi-unit properties;

(d) the implementation of best practice environmental performance standards; and

(e) the implementation of healthy, inclusive, high quality design.".

The amendments remove the notion of a design competition, because such a competition will imply that the successful design will be constructed on the site. We cannot commit to such an action at this stage. There is an implication that if you have a competition about a given site, then something will happen on that site. That, we believe, would probably prejudice the discussions and the negotiations around what could happen on the entire block, not only that particular site. We think it is just early for that. I know it has taken a long time, but it is a very complex and complicated issue.

The other amendment more clearly outlines the government's commitments to its attack on homelessness, its commitment to improving the lot of the disadvantaged and its commitment to environmentally sustainable design.

Fundamentally we agree with what the Greens are trying to do—come up with a nice marriage between attacking homelessness and supporting the disadvantaged, and doing it in an environmentally sustainable way so that the buildings that we have are real live buildings and can reduce the carbon footprint. We are looking at sustainable design, universal design. We support that.

The difficulty that we have about this particular motion is that the motion is concentrated on the Currong site. Were we to be talking about our approach to public housing across the board, we might have a slightly different view; it would depend on the wording. But I have to say that I am also concerned that you are talking abut the public housing stock. If we use that particular footprint, we can do no more than replace a building with the same type, either through the refurbishment of the existing one or by knocking it down and putting another one up.

We have not discussed it here, but we need to ask whether we would have a better social outcome by selling that particular area, that particular block; realising those funds; and translating them into environmentally sustainable properties elsewhere in Canberra. Would it be a better social outcome? We believe that it would.

We believe in what we are doing now in developing an exit strategy for multistorey properties—getting out of eight storeys and more, and going down into things like two storeys. For example, the private-public mix works very nicely at Kimberley Gardens in Wanniassa. From memory, I think that Housing ACT owns about five of the units. There are about 50 or 60 in that particular block. You would not know who is who. It is a good social outcome. We are not talking about knocking multi-unit properties on the head; what we are talking about is not necessarily going with eight-storey or multistorey blocks.

When we talk about making sure that people have accommodation in the city area, naturally enough we would be looking at a public and private mix on that whole block when that whole block was looked at. We know that there are conversations going on.

I cannot reveal the details about that at the moment, but I can advise the Assembly that there are conversations going on which encompass the whole block and not just the site.

We need to look at the mixture there. This is not about selling it off so that rich people can move closer to the city. This is about addressing the needs of people. The way in which we put properties out there is to match people on the list. What is it about them? Do they need a specific structure built to take account of a physical disability? Do they need to have a property closer to the hospital, for example, because they need mental health services? The location is a big driver of that. There is the number of children and whether or not the children need a yard. The big thing that we notice lately is that the greatest call is for two-bedroom apartments, but we need to be mindful that kids need a yard to grow up in. We cannot just go from one set of stock to the other; we need to have a mixture.

I have to say that this particular part of the world has a very bad history. The reason why we got the people out of there in the first place was that some of the people who were living in the Currong apartments—some of the people were absolutely wonderful people; they really were—were having a really tough time because some of the people in there were not of that ilk.

Ms Hunter: I thought it was because the building was falling apart.

MR HARGREAVES: No. You have been reading my speech notes. The thing is that the building itself, the building fabric, was past its use-by date. You could argue the same thing for the Red Hill flats and for Illawarra Court in Belconnen. You could argue the same thing for the Gowrie and Stuart flats in Narrabundah. I would argue that you would be right there too.

We cannot just go and do the whole lot in one go; we just do not have the infrastructure in the ACT to cover that. We do need a strategy. I have asked the department to come up with such a strategy. Once that is done and the cabinet has ticked off on it, I will bring it back to the Assembly, put it in front of the Assembly and seek the Assembly's input into that.

It is about us looking at addressing homelessness first up and addressing social disadvantage and not having pockets of it which regenerate themselves and feed off each other—and doing all of that in the context of a responsible approach to our environment here in the ACT, making sure that our carbon emissions are reduced, making sure that our footprint is reduced and making sure that the costs, funnily enough, to those very same people are reduced.

When it comes to multi-unit but not multistorey properties, we still have a roofline we can go to PVC on. We can still do that. We can still take advantage of the feed-in tariff. We can still start training people about how to use their homes. We can still start putting in nice curtains. They are environmentally responsible initiatives.

Whilst in general terms we agree with what the Greens are trying to do with this motion, we just do not believe that it should be concentrated on Currong and we are not going to go with any commitment to an eight-storey or multistorey building. We

would prefer not to go with that. When I had a look at the picture of the K2 apartments, they were identical to the Illawarra apartments in Belconnen, but with a couple of environmental things stuck on the top.

Finally, the longest living memory I have of an eight-storey apartment is the woman who lived in an apartment in Currong who had a mental health condition and who jumped off it. She jumped off it because she was in so much despair. We did not do the right thing by her. I have to say that nobody else has got that, but I do have that. We are a bit concerned about that. I would prefer not to support the motion.

MR COE (Ginninderra) (3.51): The Canberra Liberals will be opposing the motion. The motion does not address the key issues that cause problems in high-density public housing complexes. The Canberra Liberals believe that phasing out high-density housing complexes is in the best interests of the community and the ACT's public housing tenants, who are some of our most vulnerable residents.

High-density public housing can create more social problems than it solves. This sort of housing puts people with differing and often complex needs next to each other in often disproportionate numbers. High-density public housing often results in tenants such as elderly people, single-parent families and people suffering from drug or alcohol addictions, mental health issues or other issues being placed in close quarters to one another, which can result in tension and social instability.

There are a small number of tenants in public housing who make life unacceptably difficult for their neighbouring tenants. Residents of high-density complexes suffer disproportionately from this and often do not feel safe and live in fear in their own homes. These complexes are difficult to police effectively, which, unfortunately, only worsens the fear that these vulnerable people feel.

Antisocial behaviour in public housing is a pressing concern for the Canberra community, especially in and around these large, high-density complexes. Making a high-density complex like the Currong apartments environmentally friendly will not address the concerns of the Canberra community; nor will it help make lives better for public housing tenants.

It is true that new buildings or a newly refurbished building will add to the physical comfort of tenants. A new or refurbished building, however, will only ever be a facade if the concept of the building remains the same. The Greens' motion goes only to the look and feel of the complex, not the root causes of the social problems within and around the complex. A public housing nightmare with new paint and carpets is still a public housing nightmare.

This motion is typical of what we have come to expect from the Greens. The Greens are never willing to take a good, hard look at the real issues, including the significant issue of antisocial behaviour.

Who wants high-density public housing to remain at the Currong apartments? The city traders do not want it. Nearby residents do not want it. Residents who have lived in the complex do not want it. I am sure that if you asked the police officers who are often called to the complexes they too would say that it is a bad idea. Who is calling for high-density public housing other than those over there? The ACT Greens in the

Assembly are isolated as the only people in the Canberra community who want this sort of outdated model of public housing to remain.

We know what the Greens think about this, but what about the left of the Labor party? What about Mr Corbell? What about Ms Gallagher? Where are all the socialists on this issue? The socialists are good at telling everyone else what to do as long as they do not have to do it themselves. They have no problems with spending money on addressing social issues as long as it is not their own issue. They cling to the outdated ideal of high-density public housing as long as they do not have to live in it. I can tell the Assembly now that if those on the crossbench lived in this sort of housing I reckon they would have a few issues with it too.

There are better solutions. The phasing out of high-density public complexes and providing a better framework for community housing providers to assist in meeting the social housing needs of the territory offer a way forward. The health and wellbeing of tenants and community standards must be at the centre of all our future decisions regarding the relocation of and new accommodation for public housing tenants.

I have said in this place before, and I will not hesitate to reiterate, that community housing providers are often better placed to meet tenants' individual and complex needs and house them appropriately in a timely and sensitive manner. Havelock Housing ACT, a nationally accredited community housing provider in the ACT, spends more on maintenance per dwelling than Housing ACT, yet Housing ACT overheads outstrip Havelock Housing by a significant amount.

The Australian Housing and Urban Research Institute revealed in June 2008 that Havelock spent $3,237 on maintenance per dwelling compared with $2,509 per dwelling for Housing ACT. It also revealed that in terms of net average total overheads—that is, salaries and administration—Havelock spends $1,791, which is well below the Housing ACT level of $3,356 per dwelling.

Housing ACT is a top-heavy bureaucracy that is too laden down in process and therefore is not responsive enough to the needs of public housing tenants in the Canberra community. It has taken Housing ACT and the government far too long to deal with the issue of high-density public housing. Action must be taken to move towards more appropriate social housing in the ACT. New housing developments should contain a mixture of options, not try to recreate the failure of these high-density complexes.

The opposition looks forward to debating social housing in the Assembly—and to some serious debate, including on the proper role of Housing ACT and community housing providers. We also look forward to serious debate on the challenges facing social housing in the ACT, especially on the serious issue of antisocial behaviour.

The Greens should not seek to trivialise the housing debate by dressing up a debate on environmental building standards as a serious contribution to debate on social housing. As I indicated at the beginning of my speech, the opposition will vote against this motion. It is the wrong direction for social housing in the ACT.

Debate (on motion by **Ms Hunter**) adjourned to the next sitting.

Health—H1N1 influenza

MR HANSON (Molonglo) (3.58): I move:

> That this Assembly:
>
> (1) notes the grave concerns raised by the family of the first victim of the H1N1 Influenza '09 (Swine Flu) in the ACT with regard to the way they were treated by ACT Health and the circumstances in which details of the death were widely reported in the media prior to the family receiving details; and
>
> (2) requests that the Minister for Health:
>
> (a) provide the Assembly with a full explanation of any failures in communication that occurred between ACT Health and the family; and
>
> (b) provide a full explanation of the current ACT Health procedures for notifying family and the public of any Swine Flu deaths in the ACT.

It is with some regret that I bring this motion before the house, and I do so with a degree of sensitivity, noting that this relates to a personal matter that affected the family of Mr Michael Johns: the first fatality from swine flu in the ACT. I would like to firstly express—I am sure that this would get unanimous support—my condolences to the family of Mr Johns. In doing so, though, I recognise that there is much to learn, and hopefully there will be some benefit from this when it comes to future incidences of swine flu in the ACT and any possible future fatalities. The family has come forward, I believe quite bravely, to outline what has happened in their case so that lessons can be learned in our ACT health system so that similar errors are not made again.

Significant hurt has been caused to the family that has accentuated their grieving, and I would just like to quote from what the family has said:

> In this case many systems have let our dad and our family down on a number of levels, and there were additional significant mishandlings of this situation which we cannot be certain won't occur in the future. However, TCH has assured our family that it now has protocols in place to avoid future undue stress to families. And so, while our family cannot change recent events, we can at least encourage other families also who feel the systems have let them down to explore all avenues to better outcomes.

I certainly hope that through the very brave actions of Katie Sewell and her family and the regretful death of their father that better outcomes do eventuate from his tragic loss.

It is important also to put a human face on these sorts of tragedies. So often when we talk in this place or in the media we talk about statistics. Indeed, at lunchtime today I was doing media, as was the minister, and we were talking about statistics in relation to elective surgery. But when you are talking about 15 per cent and this number of people operated on or this number of fatalities, putting a human face on it is very

important for us as politicians so that we understand that, when we are making decisions in this place and talking about statistics, we are actually talking about people's lives and the effect on families, which is significant. It has certainly brought it home to all of us in this case.

I recognise also the endeavours of ACT Health staff, and certainly it is not my intent here to apportion any blame. They are dealing with difficult circumstances at the moment with hospital systems which are under immense pressure both from, I would contend, the mismanagement of this government over a number of years that has failed to deal with the increasing capacity across a range of areas, and from the swine flu epidemic and the normal influenzas that are faced during the winter period and the pressure that puts on them. I will talk to Ms Gallagher's proposed amendment in that regard later.

In outlining the family's concern, they have spoken to the media extensively and they have also put out a statement which articulates their concerns. I would just like to summarise some of those issues. One of the significant issues they have is that they only found out through the media that their father had passed away from swine flu. So it was reported in the media, and it was three days after their father's death that they found out. That is quite unfortunate and speaks to the inadequate information about his condition that was passed to the family both prior to his death and then afterwards.

The implications for the family were significant. Indeed, the sister of Katie Sewell suffers from the same underlying condition as her father did. I will just quote again Katie Sewell's words:

> As a result of TCH health professionals not making any attempt to contact our family to provide information or offer support related to swine flu, we were left to ourselves to find the answers to many questions that concerned us and the people who had come in contact with Dad and/or his personal environment at home. My family had serious concerns for one of my sisters who has the same pre-existing medical condition as our dad and had been in his house after he died.

She says further:

> Sources of information included: ACT Health—TCH, New South Wales Cooma District Hospital, Swine Flu Hotline, General Practitioner, World Health Organisation—Pandemic (H1N1) 2009 website and others alike. We were left to form our own conclusions regarding the risks associated with swine flu, with the real possibility we were wrong. This created a sense of isolation, fear, anxiety, guilt and excruciating pain.

There was also a situation where the family received a call from the Canberra Hospital a week after Mr Johns's death, saying that their father had been discharged and he had left his clothes behind. That obviously caused significant further distress. In the family's words:

> The lack of procedure had left undue strain on the family which was compounded when TCH contacted my step mum saying that dad had been discharged a week earlier leaving his clothes behind when in fact he had actually died in their hospital.

There was also another unfortunate complication, which was the impact on the funeral. Because of the lack of information and the misinformation surrounding this case, there were people who were afraid to attend Katie Sewell's father's funeral because of fears of contracting the virus. That caused undue pain and, in her words, it stopped the grieving process. She said:

> It's completely stopped our grieving process and put it on hold.

Attempts were made by ACT Health throughout this process to pass information to the family and to deal with the process. It just seems to have gone wrong in this case. The family had a meeting with six officials who discussed the issue with the family some time after the father's death. The family has actually described the meeting as political and have said:

> This situation has left family members feeling as though Dad was simply a number and no respect was given to him; and that we as his family and individuals were treated similarly without respect or acknowledgement.

So the process seems to have been one which has been mishandled from a communication point of view leading up to this weekend when the family were advised that there would no public apology. Shortly after being provided that advice, there was a public apology, but the family were given no forewarning that that would made. I read again from the family directly:

> This bandaid apology was indicative of the insincere correspondence and handling of our father's death. The apology that appeared on the ABC News was done without any correspondence or personal interaction by ACT Health and our family. Without being aware of the apology, family members who usually watch ABC news were confronted on seeing the apology without the opportunity of being previously warned or even having the apology personally delivered prior to the news bulletin. This lack of consideration grieving families who may have lost someone in normal circumstances let alone one that is under such national and world wide focus was hard to deal with in the fashion ACT Health has delivered.

Further:

> Family members who watched the apology felt—like the written apologies—he did not adequately address our family's concerns … Therefore, in our minds, the existing apologies did not come remotely close to actually saying sorry.

The family is also concerned that what appears to have occurred is that, instead of a genuine response and attempt to address the family's needs and to listen to them and understand their concerns, there was a blame game over who had leaked the information. Again, in the words of Katie Sewell, Mr Johns's daughter:

> We are disappointed that rather than seeking to address our concerns and our hurt, the government agencies are still playing the blame game over who leaked this to the media.

This is particularly disappointing given that a similar situation related to the first swine flu death in Australia. It seems that some of the lessons that could have been learned in that situation have not been.

I have another recent example of a family who lost someone in the Canberra Hospital, and this actually came to light in the media. I was approached about this, and although it is certainly not the same situation, similar concerns had been expressed about the way that ACT Health has been communicating with families of deceased.

In this case the family concerns included that the fact that the man waited more than a year for surgery, in which in time his condition deteriorated significantly. His elective surgery was put off on a number of occasions. He was admitted for surgery at short notice. However, a fatal error occurred during the procedure, and the coroner—I have read the coroner's report—handed down a damning assessment of the hospital's role in the incident, citing poor admission procedures. ACT Health failed to adequately follow up the matter with the family, with poor communication between them and the family. There was no apology; only a promise that procedures were being reviewed. Like Mr Johns's family, it was not until the widow in question in this case went public that ACT Health actually responded to the family in any meaningful way. I will quote the widow:

> I think it is disgusting, I really do. All I wanted was somebody to apologise. But they bloody won't, so I'll get them through the bloody pocket. The solicitor said we won't get much, but I don't want money. It's the principle of the thing, I want an apology … I don't want anybody else to suffer like he did, it's unnecessary. If I can stop at least somebody else feeling like I feel, it's worth it.

It is a great shame that the concerns raised in the *Canberra Times* on 3 August by the widow of this man were not listened to and implemented in the case of the unfortunate death of Mr Johns.

So what did go wrong? Certainly the family has raised a number of their concerns, but the substance of the motion calls on the minister—hopefully this is what we will hear today from her—for an open and honest account of what has gone wrong in this case and what changes to procedures have been made as a result. We want to know what actually has been done and put in place at the Canberra Hospital so that as we move forward we can feel confident that, if there any more fatalities, they will be dealt with appropriately.

The Johns family has made some requests of the minister, and I will just read through them: ACT Health services notify the family immediately when swine flu is suspected and/or tested for; a coordinated response across all key agencies when working with families where swine flu may have been present at the time of a loved one's death; ACT Health services or a general practitioner provide an immediate follow-up with information to and support for the family directly affected by the swine flu-related death; an extension of that to follow up with the deceased's networks, such as providing friends and workplaces with information on dealing with swine flu; and all emergency services and agencies alike involved to be informed and the correct protocols and recording of an exposure in personnel files to such a contagious disease.

It is a bit unclear now what the procedures are for with dealing with deaths from swine flu in the ACT. There has been a second death, unfortunately. In the case of the second death, no information has been released. There has been a change in procedures, so I guess that what we do need to know is whether there is a balance.

Obviously the family's needs and emotions need to be addressed, and that is absolutely a priority. That is what has been learnt out of this case. But there is also a need to inform the public. There is a balance that needs to be achieved. We got it wrong in the first case by giving too much public information and not enough to the family, and we do not want to go to the other extreme where the public does not receive information. We need to make sure that we are achieving a balance. Of course, each individual case will be somewhat unique.

Other concerns have been raised with me about where the minister has been throughout this whole process. It seems that Dr Charles Guest, the Chief Health Officer, has been left to publicly apologise. I believe there is a ministerial responsibility to speak to the media and to be the frontperson for ACT Health and not just to be there when there is a good news story. The minister should also be there when a tragedy like this unfolds. The Minister for Health should be at the forefront of dealing with these sorts of issues.

My concern is that this is a trend that we have seen in the government. I note that in regard to the recent unfortunate death in custody of a remandee that the minister refused to speak to the media also and it was left to Corrections officials. I understand that when there is a death, either in the hospital or in Corrections, there is a limited amount of information that can be passed on and that it needs to be handled very sensitively in waiting for investigations and so on. But I think the community do expect their ministers to front up to the media to answer questions and provide advice from the health professionals. I do not think that ministers, be it either the health minister or the Minister for Corrections, should be avoiding and refusing to speak to the media simply because there has been a fatality.

I refer to the offer I have provided previously about a bipartisan approach to swine flu. I continue to express my confidence in the way that ACT Health are dealing with the issue more broadly. I believe that the remediation measures they have put in place are right. I express my great confidence in Dr Charles Guest and his staff in the way that they are dealing with the issue. We have to deal with the issue at hand, which is that of the family, as an individual case. *(Time expired.)*

MS GALLAGHER (Molonglo—Treasurer, Minister for Health, Minister for Community Services and Minister for Women) (4.13): I thank Mr Hanson for bringing this matter to the Assembly. Let me say from the beginning that, in relation to this individual, elements of the communication with the family were certainly not as timely as they could have been. In certain areas it lacked information that they were obviously seeking. But in this case—and I do have some difficulty talking on individual matters because of some of the laws that we have around privacy of an individual's health records in particular—from my review of the matter the coronial process did complicate the matter in terms of the communication, not in terms of the response.

I am also unhappy about the contact that the family had over the individual's possessions. It was an unfortunate mistake that has obviously compounded the family's grief, and ACT Health has apologised to the family. I have written to express my condolences to the family of the individual. Anyone who has experienced the sudden loss of a member of one's family knows that it is devastating, and there is very little any of us can do to put aside grief for families.

I have to acknowledge that some of the responses from government in relation to this matter have seemed to exacerbate the family's private grief. The coronial process has been complicated by the fact that confirmation of the individual's swine flu status—and this matter is, I think, public—was made post mortem. The matter was then, and is now, before the coroner, and the coroner will quite rightly determine the individual's cause of death in the course of the coroner's inquiry.

With regard to the comments attributed to me in the *Canberra Times*, may I give members a bit of background? I responded to a call late in the afternoon from the police reporter from the *Canberra Times.* He clearly had a level of information about this individual when he approached both ACT Health and my office. I am not aware of how that information came to that reporter from the *Canberra Times*. Certainly it did not come from my office or from ACT Health.

In the course of my discussion with this journalist I became particularly concerned at a line of questioning that this was such a significant public health matter that ACT Health and I, as the minister, had to be clear that we were not keeping information from the public. I mentioned to that journalist that there had been no confirmed case of a swine flu death at that point, which was, I think, 31 July. I also raised concerns with him about distress that could be caused to families by pre-emptive stories when the complete information was not available to any of us at that point in time.

However, throughout this swine flu pandemic I have been very mindful of the need to balance information that may come to me in my role as minister, whether it be through the Chief Health Officer or through the hospital, and the need to keep the public informed and keep public trust in the processes used by ACT Health in managing the pandemic. In that sense I was keen to not have a story or a view expressed that we were trying to hide something from the Canberra community by not confirming whether or not investigations were taking place.

In normal situations, when a matter is before the coroner, ACT Health would simply not comment. We just would not comment. We would say that that matter is before the coroner and there is no comment. And I have to say that in future, as a result of the distress that has been caused to this family, I, as minister, and ACT Health officials will just maintain that line, that if it is before the coroner, there is no comment from ACT Health at all, and just leave it at that. I think the fact that we did say, in response to questions from the *Canberra Times*, that tests were underway actually started the distress that the family ultimately has expressed through the media.

So the story did run in the *Canberra Times* on that day and was picked up, obviously, by radio stations throughout the day. I then appeared before the media, I think, at 11.30 the next morning—so that would have been 1 April—at a scheduled event where I, again, was asked repeatedly about the status of this individual's result. Again, with the benefit of hindsight, my answer should have been that this is a matter before the coroner and I have no further comment to make.

However, I did have in my possession verbal advice that the H1N1 status had been confirmed and, again, in balancing the public interest and the needs of the community,

I felt that I was not able to withhold that information from the public and that, if I had, questions would then have been asked of me about why I withheld information from the public.

I think we have all learnt lessons from this matter and I again acknowledge the distress caused to the family. I have ensured that this process will not repeat itself again by confirming that in a matter like this, such as an H1N1 status being confirmed post mortem, it will be a matter for the coroner to speak about. We have advised the national incident room that in terms of reporting, which we are required to do under the pandemic planning, no further details other than the fact that a death has occurred will be provided. This is based on the small size of the ACT community and the fact that individuals can quite clearly be identified, possibly through a notice in the paper which links them to an H1N1 status. That is the position that we have taken. I hope that it gives the community the information they need, but offers the families of the loved one the security that they can grieve in private without public notification of their loved one's death.

After the death of a patient in one of our public hospitals or health services, it is normal practice for the treating doctor and team to inform the family of any relevant positive test results. This would also include the provision of appropriate advice to immediate family members regarding any measure that they should take personally to protect themselves or any potential health risk arising from the circumstances of the individual's death. That relates not just to the H1N1 virus.

If at any time during the course of treatment of any patient of any of our health services there are notifiable communicable diseases matters impacting on the wider community, the Health Protection Service is notified and can undertake broader public health action. In the case of a death associated with H1N1, after the treating doctor has informed the family of the test results, public health officers will contact the family with advice relating to close contacts. For specific or individual advice, this will be for the person to visit their GP or other specialist. Public health officers will provide just general information on H1N1.

I know that in the case we are discussing today, ACT Health has provided significant support to the family over the past two weeks, particularly around the concerns that the family has raised. This support included a senior doctor from the office of the Chief Health Officer liaising with family members, providing information about swine flu and discussing at length their concerns around their own health. ACT Health acknowledges and I acknowledge that information to assist the family could have been provided sooner, and again we apologise for any distress caused by this delay.

Every year, seasonal influenza is associated with many deaths throughout Australia. In fact, I did draw this point to the attention of the journalist from the *Canberra Times*. It is not routine practice for ACT Health to issue media statements or, in fact, provide any public comment about deaths that may occur in the hospital, whether it is related to flu or any other illness. Hundreds of people die in our hospitals every year and they are dealt with in accordance with established hospital protocol. But in relation to any communicable diseases, publicly available advice relating to simple infection control measures such as washing hands and advice to remain at home if someone has flu symptoms is considered sufficient. The government does recognise the high levels of

public anxiety over H1N1 09. Extra communication steps are required to notify family members when death occurs, and these are in place.

The Acting Chief Executive, the Chief Health Officer and I have all provided written apologies to the family. We did that pretty much immediately on the family raising their concerns directly with us. It was certainly before I left for overseas. ACT Health senior staff met with family members to discuss their concerns and to personally apologise for any distress caused. I have thought about this. I think that is an appropriate way to express our apology. I do not think there is much to be gained from continuing to go public on this individual's case. Senior staff from ACT Health remain available to the family to discuss issues of concern with the family.

In relation to the apologies that have been given, while I was overseas the Chief Health Officer provided comments, which obviously were public because he was responding to media inquiries, and he confirmed the apology already given. I do not think there was an extra apology that was given to the media that was not given to the family. It was merely confirming the fact that he had, that I had and that the Acting Chief Executive had all expressed our apologies and condolences for the loss of their family member and the distress that was caused.

The government will support Mr Hanson's motion. I have probably addressed as much as I can of the elements of that motion. An amendment has been circulated in my name picking up the final points of Mr Hanson's speech. I move:

> Add:
>
> "(3) acknowledges the sustained hard work and hours that a large number of ACT Health staff in the Population Health Division, the Emergency Departments of The Canberra Hospital and Calvary Public Hospital, Community Health, and also comprise support staff throughout ACT Health including Marketing and Communications and Executive Coordination have put in since the advent of the H1N1 epidemic in Canberra in May.".

My amendment is to acknowledge the amount of work that is going on in all aspects of ACT Health in relation to the swine flu pandemic. Yes, we have had this situation, which has certainly not been ideal and changes have been made and apologies have been expressed. But I do not think anyone in here without the thorough knowledge of the briefings that I have had can understand exactly the hours that have gone in from our public health officials—our doctors, our GPs and our nurses—in dealing with the extra workload that comes from having the H1N1 pandemic.

I would hate to see that some of their efforts were viewed as less worthy because of this individual case. We have been up-front. We have acknowledged that there have been issues. We have sought to address them. We have changed our processes. This issue was complicated by the fact that the H1N1 status was not managed within the hospital. It happened after that.

I am not trying to take away from the motion at all. I understand other members might think I am trying to shy away from acknowledging that this issue occurred. I am in no way doing that. I am merely adding another paragraph that acknowledges the sustained hard work and what is going on and, in fact, acknowledges that this is going

to go on for some months to come. While people are certainly employed to do this job, I think it is timely and fair that the Assembly formally acknowledges the work that they have put in. I hope that members see fit to support my amendment.

MS BRESNAN (Brindabella) (4.28): The death of a loved one is probably the most difficult experience any of us will ever have to deal with. Almost nothing else can equate to the shock and grief that is thrust upon us in a manner beyond our control. The immediate days and weeks following a death take enormous strength for those left behind as they are forced to face certain realities such as notifying family members and organising arrangements as a result of that death.

There is no avoiding such pain, none whatsoever, but as bystanders to those who have experienced the loss, we, whether we belong to government or not, can make sure that our interactions with those that are grieving assist in making them as comfortable as possible. It is probably even more important that government officials, as distinct from others in the community, deal with those grieving as sensitively as possible, given the official and formal role that government represents in our society.

So it was most unfortunate that in the case of the first potential swine flu death in Canberra the government did not involve this standard of care in its contact or, perhaps, lack of contact with the family. Regardless of who was involved in this case and given this was not a typical or normal situation, the family should have been informed and a confirmation made that the family had been informed before any information or confirmation was made available to the media.

The lack of contact from ACT government officials had further consequences in that family and friends became concerned that they, too, may have contracted swine flu, given their frequent contact with their father prior to his death. The family had little information on the virus apart from that provided more generally in the media and through the internet.

In understanding the family's story, it is important to note that despite the ACT government having reduced the ACT to the protect phase, there was still substantial media about the impact the virus could have. For example, in the *Canberra Times* article in which the Minister for Health confirmed the death was from swine flu, there was also a statement that the swine flu pandemic was yet to peak.

Ms Gallagher: No, I did not confirm a death from swine flu. It has not been determined yet.

MS BRESNAN: Okay, I am just going by what was in there. The family were, of course, deeply concerned, especially since one of their members had the same pre-existing condition as their father and had spent time at his house after he died. The situation was further impacted by some friends avoiding attending the funeral out of fear that they, too, would come in contact with swine flu. So it was that the family were left to internet resources, trying to form their own conclusions about whether or not they were at risk.

As a precaution, some of the family attended New South Wales Cooma District Hospital to be tested for swine flu. This has been recommended to them by both the

Australian government swine flu hotline and New South Wales Cooma District Hospital. But when they arrived at the hospital they were actually turned away, despite two family members having flu-like symptoms. I cannot imagine how distressing the situation must have been for the family as they dealt with the death of their father and the perceived impact on their own health. The lack of contact with the family in this case increased the family's level of stress and discomfort.

In the aftermath of these events, the family contacted the ACT government seeking some form of resolution. They were hoping for an apology for the mistakes that had been made and the impact that it had on their grieving process. The family also wanted some assurances that the same situation will not happen again. Apologies were provided to the family in written form in respect of the articles printed in the media. The family were disappointed as the apology did not, in their opinion, adequately address the mishandling of confidential medical information or the lack of follow-up and emotional support.

The family went on to request a public apology. However, they were told that the written apologies were enough and that it had been decided a public apology would not be issued. In a turn of events, on Saturday, 15 August, the Chief Health Officer did make an apology on the ABC news. The apology that appeared on the ABC news was done without any correspondence or personal interaction with the family.

Mr Hanson has already read out the five things the family would like to see addressed and which were issued in their family statement on 16 August. They are all areas which should be covered in a situation such as this one with swine flu or any other situation that involves information needing to be given to a family to help them in the grieving process.

I note that the Minister for Health has moved an amendment to the motion which acknowledges the hard work and hours that have been put in by a number of Health staff in response to the swine flu pandemic. This is a true statement. Staff have worked incredibly hard and done an amazing job in addressing swine flu in the ACT. I would note that a very successful clinic was run by nurses in the initial stages of the arrival of swine flu in the ACT. Also in estimates hearings, the Chief Health Officer, Dr Guest, gave evidence about the significant steps that were being taken to combat the pandemic.

However, I will not be supporting the minister's amendment as we do not believe it is appropriate, given the context of this motion. This motion is about the family and providing a resolution that they want, and that is what this motion should remain about. We are not in any way, though, disregarding the hard work which has been done by ACT Health and officials.

In closing, my office has spoken with the family in regard to Mr Hanson's motion and they support its text. I, too, will be supporting the motion on behalf of the Greens and hope that the government follows the suggestions of the family and develops strong protocols for dealing with bereaved families, particularly where information is essential to helping families and, beyond that, friends and work colleagues through the grieving process.

Finally, I would like to formally extend once again my own and the Greens' condolences to the family for their loss. It is an old, but true, saying that the only way past grief is through it, and I do hope that today's discussion can provide some sense of justice alongside the recent events so that family's pain can be somewhat minimised.

MR SMYTH (Brindabella) (4.34): There are a number of issues that need to be addressed. I think the first one is that the minister has indicated, while Mr Hanson was talking, that they would not be releasing public information or further information. Part of the problem when something goes wrong is that we then overreact and, after so much information being released in an inappropriate way, we then go to the other extreme of releasing no information. You have to question the public health consequences of releasing no information.

If people were in contact with a victim or somebody who had worked with the victim, or a family member or close friend, or people who lived in the same street, it is appropriate that those who have been at risk be informed. So I would ask—and I am sure we would all give the minister leave to speak again—that she tell us how that information will now be made public.

What we do not want to see is an overreaction to the mistakes of the first incident which may cause even greater harm, because it is very important, in the sense of the pandemic, as it faces the ACT, Australia and the world, that the flow of appropriate information at appropriate times is maintained. If the minister wants to elaborate on that, I am sure that we would give her the opportunity to speak again.

The problem for the family, as expressed in their statement, is the feeling they have of the lack of respect of officials and the process for their needs at a time of great distress. I add my condolences to the family, as others have here today. It is very hard when you lose a loved one. To gain extra information from an unexpected source must be incredibly distressing.

But the minister said in her speech that she saw no benefit in further apology. Clearly, the family sees it of some benefit.

Ms Gallagher: No. I said further public discussion.

MR SMYTH: Sorry, no. She saw no benefit in a public apology. The family seemed to indicate in the document that they have supplied that they actually do see some benefit. I think the case can be made that because so much of this was actually played out in the public arena—whether that was the intention or not, that is where it has been played out—it would be an appropriate place to make an apology.

The minister said that the statements made by Dr Charles Guest on the news on 15 August were in fact the same apology just being reiterated. The problem for the family is that they thought the original apology was not appropriate and did not cover the areas that they had raised. Indeed, in their document they say:

> This bandaid apology was indicative of the insincere correspondence and handling of our father's death.

Again, I am sure all present would give the minister leave to stand in this place and simply make an unreserved apology to the family at the time of their great distress.

Ms Gallagher: I have. I have just said it about a hundred times, Brendan.

MR SMYTH: I have not heard you say it. But that is the point; it is the way you make an apology. If you have read their document, they go on to say:

> Family members who watched the apology felt—like the written apologies—he did not adequately address our family's concerns.

I give you full credit, minister; you have acknowledged that there were concerns and you have acknowledged there was failure in the process. And that is a good thing. But what the family is saying—and I will quote their words:

> Family members who watched the apology felt—like the written apologies—he did not adequately address our family's concerns. Therefore, in our minds, the existing apologies did not come remotely close to actually saying sorry.

How could they? I continue:

> This situation has left the family members feeling as though Dad was simply a number and no respect was given to him and that we as his family and individuals were treated similarly without respect or acknowledgement.

What I am simply saying is that there are obviously feelings there, feelings that could be easily addressed by the minister simply standing and saying quite clearly, "I, myself, and on behalf of ACT Health, unequivocally apologise for any distress caused to them." If it is a lack of clarity that is the problem then the opportunity here on the public record is a good opportunity to clear that issue up.

It is interesting that as late as the 18th, according to the *Canberra Times*, Ms Sewell is quoted as saying:

> Therefore, in our minds, the existing apologies did not come remotely close to actually saying sorry.

Obviously, if it is a communication gap, there is an opportunity here simply to close the gap. And that is all I am saying. If there are more substantive problems then perhaps the department needs to take that up with the Sewell family.

I think it is important that we get this right. I think it is important that where something like this goes wrong and then it is exacerbated by the phone call, "Please come and get the patient's garments"—it must be hard to understand what effect that would have on the family; they are tough times; I think all of us who have lost loved ones know how tough they can be—that insult to injury must be eating at the family and must be quite distressing in that regard.

I think there are a number of simple things that could be done here. Firstly, it would be interesting to hear the minister explain how the process will actually work in

regard to what information will be made to family and close associates of anyone who has contracted swine flu, particularly those that die from it, given the context of the sister who has a similar underlying medical condition to the father and who was then turned away from a hospital.

Secondly, I think the opportunity existed on the official record of this place, the *Hansard*, to place an unreserved apology. I think all members would support the minister in making that. It certainly does not come at, I believe, a cost to the minister but the closure that it would bring the family, I suspect, would be substantial. I think the effect of boosting the confidence of people in the reforms that the minister might undertake would certainly be enhanced by the fact that she had taken this step to give the correct level of closure to a family who is obviously suffering.

The fact that the family then turned from the ACT department and sought help from the New South Wales health department shows the depths of some of their pain. The fact that they have issued the three-page statement outlining their concerns and making that publicly available shows that there is concern (1), for the way that their family has been treated but (2), that what they have done is—to finish on what can only be seen as a positive note—outline the number of things that they think, given what they have gone through, their experience, could be undertaken by the emergency departments and by ACT Health to ensure that (1), we ameliorate the impact of swine flu and (2), we ameliorate the impact particularly on families who suffer the loss of a loved one or indeed who have a loved one who is infected by the swine flu. I think they are very simple requests.

For the sake of clarity—if the minister would like to speak again, we would be quite happy to give her the leave—firstly, she could outline exactly what the information flow will be. To go from so much information to no detail being released is a concern. Secondly, she could simply take the opportunity to put out an unreserved public apology. The other problem for the family clearly must be: if you thought that there was a public apology on the ABC and you stumbled on it by accident, I can understand that you would be upset. But then I think to find out now that it actually was not an unreserved public apology but it was just a reiteration of the existing apology, which a family had felt to be inadequate to their needs, would again only lead to the distress of the family.

The opportunity is here. It is offered in good faith. It is about giving a family that has lost a loved one some closure. It is a very simple process to stand and apologise. It is a very simple process to stand and offer some additional information. I hope the minister takes the opportunity.

MS GALLAGHER (Molonglo—Treasurer, Minister for Health, Minister for Community Services and Minister for Women) (4.43), by leave: In addition to the comments that I have already made in this debate earlier today, I stand here on behalf of the government and unreservedly apologise to the family for any distress that has been caused to them through the handling of their loved one's death and, in particular, public statements that have been made by me or through ACT Health in relation to that. I want to make it clear that I have not confirmed the cause of death in any individual. It is not my role to do that; it is the role of the coroner. I would leave that to them.

I understand that, in part of the debate, I referred to a date being 1 April. For the benefit of *Hansard*, I need to correct that to 1 August.

In relation to the changes that we have put in place—and these are in place already—the issues that cause concern in the individual's case that we have been talking about this afternoon are about issuing information on the age and the gender of the individual. I can confirm that from now on we will not be confirming the age or the gender of any individual. If it is in ACT Health's responsibility, that is, if the person passed away with a known confirmed case of H1N1 at the point of their death, we will confirm the death only. If it is with the coroner in the case of a post-mortem confirmation of H1N1 or any other communicable disease or illness, the responsibility will rest with the coroner to comment on that.

In relation to balancing the need for public health information, I think we have learnt a lot through this matter. I certainly have. I will not be cautious about refusing to comment, particularly to *Canberra Times* journalists on any information they have, in the interests of ensuring appropriate safety for individuals and I will weigh that more heavily than the need to provide information to the public in a similar instance, if it is to occur again.

If there are any issues that the Health Protection Service feel need to be articulated publicly in relation to some of the concerns Mr Smyth had about neighbours, friends, work colleagues or the rest of it, that is a matter for the Health Protection Service to handle those matters. But my preference now is that none of that information is made public unless there is a genuine public interest in that information being made public. I will take the Chief Health Officer's advice on those matters.

MR HANSON (Molonglo) (4.46): Firstly, minister, thank you very much for the apology that you have made to the family. I hope that it will mean a great deal to them. I think that was a very genuine and heartfelt apology and I commend you for it. I also thank Mr Smyth for his words and Ms Bresnan for hers and, indeed, the contact that you have had with the family and the way it has been handled.

I hope that our collective words and our actions in the Assembly have gone some way to assuring the family of Mr Johns that this will not happen again, that the mistakes that have been made will be rectified and that, in that regard, in some way, their father's passing has not been in vain. It has obviously been a very difficult issue for the family and it has been a difficult issue, I think, for all of us here today, and I commend my colleagues again for the way that they have dealt with it.

Turning to Ms Gallagher's amendment, I concur with her intent but, in your words, minister, you said that you would not want it to take away from the motion or there may be some risk that it might be considered in that way. I do not think that is your intent in any way. I do not believe that is. But I would not want the risk that, by including those words in a motion, it could be in any way perceived by the family of Mr Johns as doing so. In that regard, I will not be supporting the amendment, for essentially the same reason as Ms Bresnan.

I certainly encourage the minister to address the family's concerns and everything that she has said today gives me assurance that she will. Now that this matter has been

clarified and the approach has been, I guess, made a bit clearer for members of the Assembly, perhaps a public statement or passage of information out to the broader community on the way that these matters will be dealt with in the future may be useful, and I urge her to consider that.

I thank the family for bringing this matter forward in the way they have. I think it has been a difficult issue for everyone concerned but it has been an important thing that Katie Sewell and her family have done in being so brave in addressing this issue so publicly and making sure that, where mistakes have been made, they will now be rectified by the department. I have confidence in that. That is a very brave thing.

I thank also the ACT Health officials who have continued to work hard on these issues and, although in this case there have been some mistakes that have been made, certainly in the main, they are doing a wonderful job. If the minister would want to bring that amendment forward in a separate motion then certainly that would receive our support and, I am sure, that of the crossbench.

In closing, I would like to offer my condolences to the friends and family of Mr Michael Johns and leave it at that.

Question put:

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

The Assembly voted—

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

Question so resolved in the negative.

Motion agreed to.

Small and micro business

MS BURCH (Brindabella) (4.53): I move:

> That this Assembly:
>
> (1) acknowledges:
>
> (a) the contribution of the local business sector and the benefits that small and micro businesses bring to the ACT; and
>
> (b) the programs and business support offered through the ACT Government; and

(2) recognises the establishment of the Canberra Small and Micro Business Forum which will convene in September 2009.

I welcome the opportunity to speak about the contribution of our local business sector. Whilst Canberra is seen by many as a public service town, it often surprises people to learn of the diversity and the level of private sector companies doing business here in the ACT. I would like to begin by talking a bit about that, as well as highlighting some of the great local success stories here in Canberra.

Overall, the ACT private sector comprises businesses covering everything from multinationals right down to micro businesses servicing the larger businesses, the public sector and, importantly, the needs of our local community. As a former small business owner for some five years, I understand the demands of running a small business and the benefits that small business brings to our community. Small business owners are the masters of multiskilling and multi-tasking. They are often the manager, the marketer and the financial controller, as well as being the hardest worker in the business.

When we look at the national accounts data, the ACT's non-government share of gross state product is higher than the government's share. The national accounts data also shows exports at around $1.01 billion, which is very significant contribution to the ACT's overall gross state product. Similarly, private investment was in excess of $3.5 billion in 2007-08 and, as a share of the GSP, it has risen from around 12 per cent in 1999-2000 to nearly 16 per cent in 2007-08.

In the ACT the private sector employs around 10,000 workers, compared with around 95,000 workers employed in the public sector. There are around 24,000 small and micro businesses in the ACT, with around 13,000 being home based or non-employing; that is, home-based sole operators. These figures are worth reflecting on when you consider that our total population is 340,000-odd people.

It would seem that around one in eight Canberra households has a business lurking behind the front door or perhaps, as a basic business start-up location, their garage. Some 20 years ago that is precisely where Jason Hart was—in his garage, which I am pleased to say is in my home suburb of Chisholm. By 2004 his business was the fastest growing Australian software developer in terms of revenue and employment growth. Jason is now internationally recognised as a business leader who has pioneered several successful private and public companies and has been recognised by Deloittes as one of Australia's top producing software exporters.

It is the hard work of Canberra businesspeople that has helped the ACT economy to grow. Last year Canberra cracked the magic billion dollar mark in export earnings—not bad for an economy with no mining exports. There are countless examples of other local and small business success stories that I could talk about, but I would like to recognise just a few.

Last year, the Centre for Customs and Excise was a national category winner in the Australian Export Awards. It was started at the University of Canberra less than nine years ago. A couple of months ago two Canberra companies, Admin Bandit and Healthcube, picked up national I-Awards for their achievements in the ICT sector.

Another Canberra success story is Aspen Medical. Aspen specialises in the delivery of healthcare services, health consulting and e-health to government and private organisations and has won the ACT Chief Minister's Export Awards services award category for two successive years.

I mentioned the Chief Minister's Export Awards, which is a great initiative that this government provides to promote local businesses. But I would like to focus on a different government initiative for the moment, that being Canberra BusinessPoint. Canberra BusinessPoint is one of the ACT government's key investments in, and partnerships with, local businesses and it provides a unique service to the business community.

Canberra BusinessPoint is currently being provided under contract through Deloitte Growth Solutions. It offers a comprehensive suite of activities, including business development resources, one-on-one mentoring, a range of online tools and services and a series of networking and training events. It aims to assist businesses at start-up phase and in the early stages of their development.

Canberra BusinessPoint conducts workshops to help business during these tough economic times and helps them stay one step ahead. Over the past 12 months I understand that Canberra BusinessPoint has had around 330 participants attend their monthly workshops, another 540 attend their networking events and, as well, conducted over 840 mentoring sessions.

I was honoured recently to attend the second annual Canberra BusinessPoint Gala Awards. It was a great night and a great opportunity to celebrate the achievements of Canberra's dynamic small business sector. The winner of the enterprise award for the year 2009 was Viridis E3 Pty Ltd, which specialises in the delivery of cost-effective, environmentally sustainable development and property consultancy services for its broad range of public and private sector clients.

Other winners included the WISE Academy Pty Ltd, Lucy Media Pty Ltd, Formulate Information Design and mHITS Ltd. I mention mHITS because it was very pleasing recently when I bought a coffee from a local cafe in Tuggeranong to notice that this cafe was using the purchasing payment software system developed by mHITS. It is great to see local ACT companies turning to another local company for their business software rather than choosing one of the common overseas products. It really highlights the quality and innovation of our local business sector.

We are also seeing programs like the government supported Exporters Network grow each year as new companies connect to this vibrant support and mentoring community. In fact, the ACT business community benefits from a range of different business networks, and to continue my theme of ICT development, I would like to mention Canberra.net. Canberra.net is an ICT network started by a range of industry stakeholders and supported by the ACT government, Microsoft and other local groups. Its aim is to bring together ACT software organisations to engage in cooperative activities, achieve collective competitiveness and develop new opportunities for the ACT software industry as a whole.

I would also like to mention the Chamber of Women in Business. This group provides support and development opportunities for businesswomen in the Canberra region. As the only business association focusing on businesswomen's needs, the chamber offers members a supportive environment that fosters their business growth. Their women's business information resource has been made possible by funding from the ACT Office for Women and offers myriad useful information resources for women to plan, grow and then market their businesses in the ACT.

In my electorate of Brindabella I would also like to recognise the group Business Tuggeranong. They are an active, self-funded organisation that does a great job in promoting the Tuggeranong valley as an attractive and viable place to do business. I commend them for this and also for their ongoing work in building valuable networks between a range of stakeholders on the south side, including government departments, community organisations, educational institutions and retail businesses.

We continue to be proud of the way our business sector has evolved and how the ACT government's relationship with business has also evolved. Recently, through the ACT budget, we have seen this government reinvest strongly in key business programs. To name a few, this government has provided an extension to TradeConnect over the next four years. It is broadening the existing Canberra.net program and supporting the introduction of the CollabIT program in partnership with the AIIA. We are supporting the international student ambassadors program as an important part of the government's trade and export development initiative. Further, we have provided further funding to ScreenACT over three years to support local creative industries.

This builds on the year before, when the government also put into place a number of innovation related measures such as the InnovationConnect grants program to support local innovators and provided around $3.5 million for research facilities, which brings with it an additional $30 million in matched funding from the commonwealth. All this translates into new jobs and business demand.

The ACT government, through the business and industry development arm of the Chief Minister's Department, offers support to micro, small and medium businesses. The business and industry development supports include small business establishment, operation and development, innovation across all business sectors and economic development across the broader capital region.

There are a number of venture capital support and capital partnership programs available to help Canberra businesses to get started and to take up the new opportunities. The Canberra Business Development Fund is a local venture capital fund formed through a joint venture between the ACT government and Australian Capital Ventures Ltd and is designed to provide eligible businesses located in the Canberra region with a source of capital funds through equity investment. Capital Angels is a private investor angel network that provides a forum for investors to proactively support Canberra and the region's entrepreneurs.

The ACT government also provides for younger businesspeople with the creating youth business initiative. This program helps young, unemployed entrepreneurs to establish successful, sustainable businesses and achieve personal and financial independence.

"Lighthouse—unleashing your innovation potential" was an initiative of last year's budget and is a joint initiative between the ACT government and the Canberra private sector. The centre is being positioned to attract both high growth businesses and early stage investment opportunities from existing local industry, research institutions and individual entrepreneurs in ICT and creative design.

I would also like to mention just a few examples of other assistance programs available for the ACT business sector. The ACT Business Licence Information Service lets the private sector deal with the government through a single point of access and provides a quick, convenient way to find the complete range of business licences, registration, permits and approvals needed to set up a business in Canberra.

The Business Reference Service is provided by ACT Libraries and focuses on the provision of information services to small businesses in the ACT region. The new exporter development program is designed to assist small and medium sized companies develop their businesses overseas and make their first export sale. The program is offered through Austrade and TradeStart as a package of free services.

Madam Deputy Speaker, as you can see, it is a fairly rich program environment. Of course, it could be said that there are other things that we could do, but the fact remains that this government is supporting an array of well-conceived and effective programs to services and businesses.

I would like to draw to the attention of the Assembly the consultative forum announced by the Chief Minister's Department. That will be on 16 September, and I encourage all small and micro businesses to be aware of that.

Finally, I would like to inform the Assembly that the ACT government promoting this September as business in focus month. Around 70 business events are being run through September in a partnership model with business, community and its organisations. We hope that Canberra businesses will take part, take a break from the daily grind and hook up to one of the events, all of which have been conceived to give businesses some tips, ideas and new networks to take them to the next level.

MR SMYTH (Brindabella) (5.08): I thank Ms Burch for launching this own goal and highlighting the fact that, of course, this is just another backflip by the Stanhope-Gallagher government concerning small and micro businesses in the ACT. Ms Burch probably did not know, or somebody upstairs did not tell her when they framed this motion, that we used to have a Small and Micro Business Advisory Council until the government abolished it. Yes, we had this, but the government said, "We don't need these sorts of things." It is probably some of that business welfare that Mr Barr is so averse to handing out. But in the disastrous budget that was launched in 2006—

Mrs Dunne: But then again, he got rolled on everything. Two beats four every time!

MR SMYTH: Then again, he got rolled as the Treasurer. It was in that disastrous budget in 2006.

Small businesses of today are the lifeblood of tomorrow's Canberra. I do not think anybody disagrees with that. It really is an intriguing motion, and we support it in principle. It is hard not to support assisting businesses to grow in the ACT. But what we have got is yet another backflip by the government. And, yes, the chuckles are coming from Mr Barr, the man who can't add up, and who does not know that four beats two. But what it shows is, and we always thank Ms Burch for the opportunity to show, the failure of the government.

It is worth reading some of the history of the government. It is good to go back through the Chief Minister's Department's reports and look at the sorts of things that the government used to do. Of course, they were continuations of what the previous Liberal government had done. Again, I say to Ms Burch: yes, I agree with you in this case; a focus on business is important, and it is good that the government continues with that Liberal Party initiative because that is the bipartisan sort of support that we need in order to promote business in the ACT.

I would like to go back to page 44 of the Chief Minister's Department annual report for 2002-03. There, under "Support and Development—Contribute to the continued support and development of business in the ACT through the provision of targeted products and services", there are five dot points. The fourth one reads:

> *Business Advisory Boards*—Consultation with business continued through the three business advisory boards: the Business Canberra Board; the Knowledge Based Economy Board; and the—

get this, Ms Burch—

> Small and Micro Business Advisory Council.

Yes, we used to have a Small and Micro Business Advisory Council. And it is a shame that it went because, in December 2003, when we look at the history of this matter, Ted Quinlan, to give him his due, used to get this; Jon Stanhope does not. If you continue to look at that history—

Mrs Dunne: He did want to cut them till they bled, not till they died, though.

MR SMYTH: Well, except on his taxation policy, perhaps. Mr Quinlan did understand this, and it is quite clear that he understood it. In his economic white paper, even though he said it was a statement of the bleeding obvious, and much of it was, he said that what they wanted to do, the objective, was to make Canberra unashamedly pro business. That has gone. It is not in the new document *Capital development.* In fact, there is nothing in the new document *Capital development* except motherhood statements like "we need business in the ACT".

Action 5 in chapter 4 of the economic white paper which was released in December 2003 says that the government will establish a number of things. It says

that it will "enhance the role of Business ACT to focus on"—and the second-last dot point reads:

> The provision of support for the Small and Micro Business Advisory Council that will advise the Government and the Small Business Commissioner on policies and programs for this important industry sector.

Ted Quinlan got it, and you can understand why Ted left the Assembly when both of his initiatives, the Small and Micro Business Advisory Council and the Small Business Commissioner, got the flick. The Small Business Commissioner probably had the shortest life of any statutory commissioner in the history of the ACT, because he got the bullet in the 2006 budget as well. The annual report for 2005-06, under "Policy development", states:

> *Business Community Consultation*—The Canberra Partnership Board focussed on a number of key issues during the year, including initiatives to encourage innovation in ACT businesses, and actions to address the Territory's current skills shortage. The Government's primary mechanism for consulting with the small business community was through the Small and Micro Business Advisory Council … A remodelled SMBAC was launched in August 2005 chaired by the ACT Small Business Commissioner.

Gee, August 2005; gone, June 2006. It was not very long-lived, unfortunately.

Of course in the *For the future* 2006 budget document, under "Reforming economic development", there are a couple of amazing statements. The first is:

> … the Territory's small size and narrow economic base limited the Government's capacity to seriously influence and assist business activity and economic opportunities.

Think about that statement: the territory's small size and narrow economic base limited the government's capacity to seriously influence and assist business activity and economic opportunities. So it is a matter of saying, "Business, it's your fault that we, the government, can't help you grow because we're too small because you're too small." That is just amazing. What a cop-out that is.

The other problem for this crowd is that, as a consequence of the flawed Costello review, the functions of the Small Business Commissioner were absorbed into the department and, of course, the majority of small business support and grants programs simply disappeared off the face of the earth. It is a shame, really, because here we are, a couple of years later, reinventing the wheel, with opportunity lost and the need for momentum to be regained—all of the things that should have been considered before this occurred.

So you had that disastrous budget in 2006 when the Stanhope-Gallagher government rationalised support for business. They abolished their Small Business Commissioner. In effect, I did not have a gripe with it; we were not particularly supportive of it at the time, simply because it was an admission of failure. But they removed a number of advisory bodies, including the Small and Micro Business Advisory Council. That

council had existed for some time, and it is just crazy that we stand here today lauding the government for reintroducing something they got rid of three years ago.

The abolition was justified by the Stanhope-Gallagher government following the analysis of the flawed and secret Costello report. Again, it is another reason for this place to see that full report. It is another flawed piece of analysis that the government has got away with, and it is another reason why that report should be tabled here in the ACT Assembly.

Let us consider the situation now. If you consider the proportions of employment regarding private-public sector, you have only to look at the fact that, in 2000, about 60 per cent of employment in the ACT was private sector employment. Therefore, public sector employment was about 40 per cent. That is something that the previous government had worked hard on. We knew that, if we wanted to grow the economy, if we wanted to diversify the economic base, growing employment in the private sector was part of that equation. We actually worked on it.

Mr Barr: The fact that the commonwealth sacked so many public servants probably helped in that ratio.

MR SMYTH: We worked on it. The slack was taken up. It was taken up by the private sector. But recent statistics show that the public sector is growing at somewhere between 45 and 50 per cent now, and going up. We had statements from the Treasurer recently that she does not think it will change. These are the confusing signals that this government sends to the business community. Ted Quinlan was unashamedly pro small business. Katy Gallagher does not think we can do anything to change it; therefore "we're not going to try". Jon Stanhope laments that our narrow economic base is holding us back, but when you look at all of his actions, you will see that they have put extra taxation burdens on business and they have done nothing to diversify the ACT economy. So where is it that the government stands?

It gets even more confusing when you have Joy Burch, member for Brindabella, stand up here today and recognise the establishment of the Canberra Small and Micro Business Forum, but with no appreciation, understanding or acknowledgement that it was the government that she is part of that got rid of it. I think that is the crazy bit about having this debate today.

There are a number of issues. There are real issues out there for small business. Procurement, which the public accounts committee is going to look at, is a big issue for local businesses, not just small and micro businesses. Taxation is a big issue for business. Red tape continues to be an issue, and the ability of small business in particular to respond to things like requests for tender, or indeed to comply with the legislation that the government puts in place. There is the way that government puts on fees and charges, and where it puts them. Of course, planning—as Mr Barr, the planning minister, is with us—is a big burden on organisations in the ACT, who simply want to get on with the job of being in business but cannot because of the burden that the government puts on them.

Mrs Dunne will speak later about the OH&S regulations that are facing business. There is a lot of trepidation out there about the regulations that this government has

put in place and the genuine impact that they will have on the business community in the ACT.

The history of this government is poor: cuts to funding, we have had cuts to programs and we had cuts to tourism. For instance, many small businesses in the ACT rely on the tourism industry—in particular, on the convention industry, the meeting industry. But here we are, eight years into a Stanhope government, seven years after Ted Quinlan told the tourism awards in December 2001 that "by this time next year" when the awards were on—that is, December 2002—"we'll be announcing where the new Convention Centre will go". Well, here we are, approaching December 2009, and if you are a small or micro business that hangs off the Convention Centre and the tourism industry, you would not be holding your breath at this stage.

In the lead-up to the election, the Chief Minister said that there were only two things that the business community in the ACT needed, and they were leadership and surpluses—leadership that he would provide and surpluses that he would guarantee. Weeks out from the election, the Chief Minister personally promised surpluses. Of course, we know that that disappeared as soon as the election was over. Instead of having the leadership that they need, the surpluses that they deserve and the lack of debt that they wanted, they have a government giving them deficits and a government giving them increased debt.

In terms of the recent budget, the Business Council appeared at the estimates committee hearings. It is interesting to read some of the quotes from the CEO of the Business Council. One of them was:

> … we are hearing on a regular basis that it is more difficult to do business with the ACT government than any other jurisdiction in Australia and sometimes overseas. We have exporters that find it easier to do business with defence in Washington than they do with the ACT government.

That is a pretty damning indictment. The US defence department is not renowned for its usability. But we have somebody saying, "We have exporters that find it easier to deal with defence in Washington than they do with the ACT government." And there you go. The CEO of the Business Council went on to say that one organisation said they had had three interviews with companies this week and all had indicated they planned to go to Adelaide or places in New South Wales because it is much easier. So it is well and good to have an advisory council or a forum, but you are going to have to start listening to the business community. They do not think you are doing your job and they do not think that Canberra is an easy place to deal with. They would rather deal with defence in Washington, they would rather go to Adelaide or they would rather go to New South Wales. It is pretty sad.

The final thing that the Business Council had to say was—and this was about the debt, despite the promise that we would have years of surpluses:

> Our concerns relate to the magnitude and duration of the forecast budget deficits. It is our view that some … serious measures will need to be taken to claw back those deficits in future years … Those concerns are amplified by the fact that the budget does not clearly outline how the ACT government expects to eliminate the deficit by 2015-16 … it is quite a worrying time for business to be looking at seven years of deficit.

It is the perfect storm that was described. Cuts at a federal level, cuts at an ACT level, will become the perfect storm for business in the ACT. That is the prospect, and the concerns out there are real.

Ms Burch talked about the government moving to reinvest in business. She is right: they are moving to reinvest, because they cut—they cut inappropriately, they cut at the wrong time. The ACT economy is suffering because of that, business is suffering because of that, and potentially unemployment is suffering because of that.

One of the biggest impediments to employment is often the lack of experience or the inability of business to upsize. There were some federal programs in recent years about getting micro businesses to take that first step, to employ their first employee, because many people had never done it before, they did not have the skills, they did not know what they needed to do.

Where appropriate, the government should step in and help those businesses so that we reap the long-term benefit for young Canberrans leaving school who want a job, for women returning from maternity leave who want a job, for older Canberrans who have retrained and who want to embark on a different career. Many of them, with the skills that they have, are ideally suited to working in small business or in micro businesses, but we have to have in place a regime that encourages it. We have to have in place the systems that make it simple. We have to have in place a government that champions the private sector so that people know that it is an appropriate place to be employed. And we have to have an understanding that the government is supportive of growing the private sector in the ACT—something that you will not find from this government because they do not like speaking about business.

MS LE COUTEUR (Molonglo) (5.23): Like previous speakers, I am rising to support this motion. Of course I will be supporting this motion, because the reason that this small business forum is happening is that it is part of the Labor-Greens parliamentary agreement and therefore, obviously, an excellent idea. But apart from obviously being an excellent idea because it is in the agreement—

Mr Barr: Who could argue with logic like that?

MS LE COUTEUR: Exactly, Mr Barr: who could argue with that? But more seriously, small business is a really important part of our economy, and small and micro businesses are the part of our economy which tends to get neglected. There are many of them; they are all small. It has always been a lot of work for the government to consult with them properly.

That is why we put in the agreement that there needed to be a consultative forum. We did, I admit, call it a roundtable. The idea of this was to have a new model of engagement between the government and the micro home-based small businesses, because the previous ones either did not exist or had not been working. We want to have something that is a two-way exchange of ideas. We do not want something that is just the government saying blah, blah, blah. We want something where the government listens to the small business community and acts on what the small business community is saying.

I believe that there are in the order of 30,000 small and micro businesses in the ACT, so it is a really major part of our employment base. Most private sector businesses in the ACT are small; I think about 90 per cent of them qualify as small businesses. In thinking about this, it is always good to remember that small businesses are really important also because they tend to be where innovation comes from. We all know that the bigger an organisation is the more bureaucratic it becomes and the harder it sometimes is to have new ideas get out. That is where small business is so incredibly important in an economy and a society—because small business is what drives innovation and what drives change.

Some of the smaller businesses we have are spin-offs from ANU. Some of the brilliant ideas they have had have turned into small businesses. Some of them have now turned into big businesses. I imagine it is the same with the University of Canberra.

The other thing about small businesses, particularly as many of them are home based and they usually have the proprietor working in the business, is that they tend to be very family friendly. When you are working for yourself, you organise your hours around all your commitments, including your family. And when you are a small business, you are like a family and you tend to be the most family-friendly part of our business community.

Mr Smyth mentioned in his speech—I think it was in response to Mr Barr's interjection, to be precise about it—that in the past small businesses became particularly important because of redundancies. I do not want to suggest that there will be any, but if the global financial crisis continues it is possible that small business, for that reason, will become important again.

But enough of all these positives. I want to also talk about something that the government is doing in terms of small business. I want to talk about the ACT supermarket competition policy review. The first thing I would like to say is that what we found very disappointing about this review was that it concentrated—I suppose inevitably, given the name—on competition. The Greens are not saying for one minute that competition is not important. It is important; we are in a capitalist competitive economy. But competition is not the only thing. We found it quite surprising that the review did not include the impacts on local shops. Once small businesses move out of the home, they move into local shops. The competition policy did not look at the impact on local shops and communities.

And there are other comments on this. The competition policy was looking at the impact of the current supermarket grocery policy on competition and various players. We are of the opinion that the current supermarket policy definitely favours larger operators and does not support independent operators to supply a larger diversity of goods. We believe that it is important to maintain vibrant local shops, because they are the heart of suburbs and communities. It is also a bit distressing to find what is happening in many shopping centres. You have small, innovative shops there, but as they become successful they get wiped out by bigger, non-local firms. That is happening in many areas.

In terms of this review, the government also asked whether we thought it was important for the government to intervene and about ways in which the government could support effective and sustainable competition in the grocery sector over the short, medium and longer terms, taking into account the findings and recommendations of the 2008 ACCC inquiry. Our response to this was that we believe that the government has a vital role to play in intervening in the market where necessary. That is for supermarkets and that is also for small business. When the government fails to have policies which protect the interests of local residents and small and local businesses, it is also failing local communities.

Let me give a demonstration of this. I understand that earlier this year over 250 submissions were sent to ACTPLA about the proposed development at Giralang shops and that almost 3,000 people signed a petition to oppose it. It is clear that the people of Canberra see local shops as a very important part of their community and it is clear that local shops are an important part of small business.

They are the main things I want to say. Small businesses are a really important part of our community; they are one which the government is not paying enough attention to. We are very positive about the new forum; we are very positive that the government is implementing one of the items in our agreement; and we are very hopeful of success from the forum.

MR BARR (Molonglo—Minister for Education and Training, Minister for Children and Young People, Minister for Planning and Minister for Tourism, Sport and Recreation) (5.30): I start by thanking Ms Burch for bringing this motion forward this afternoon. I can indicate very clearly the value that the ACT government places on the contribution made by the private sector to our local economy. We seek to put in place a robust set of policies to foster an economic environment in which local businesses can flourish.

I think it would be fair to say that the government has a fantastic, cooperative and productive relationship with the business community and with the peak bodies that represent its interests. Ministers regularly meet with leaders of industry, as do senior officers within ACT government agencies. Between us, we work to identify challenges and opportunities, work through issues as they arise and keep channels of communication open and cordial.

Proof of this is that so many of the supportive programs that are delivered locally are designed in concert with the private sector and delivered through partnerships with the private sector. This cooperative path with the private sector is one that has been taken for a number of years now. The approach is, by all reports, working extremely well. It allows the government to call on the special expertise, knowledge and networks of the very community that we are seeking to help.

To give one example, the small business mentoring and advisory service that is funded by the territory government is delivered by Deloitte Growth Solutions. Another example is the creative industries development program ScreenACT, again funded by government but delivered by an industry task force under the auspices of the Canberra Business Council. Similarly, the new ICT collaboration program is being

delivered in partnership with the Australian Information Industry Association. The lighthouse innovation and commercialisation centre is delivered in a funding partnership with Epicorp. The ACT Exporters Network is delivered in partnership with the Canberra Business Council. All of these relationships are strong and productive.

Of course, no government can possibly be in conversation with each and every business. There are many small and micro businesses that choose, for one reason or another, not to belong to peak industry bodies. To be frank, many of them are probably quite happy to have minimal contact with bureaucracy and government. But that does not mean that the government is content to assume that everything is all right. We need to create opportunities for all sections of the private sector to be heard, so that the government can better understand the range of needs and concerns.

Here in the ACT, as in most places, it is small, micro and home-based businesses that government is least formally engaged with. That is why the Chief Minister has announced that we will trial a new engagement model called the Small and Micro Business Forum.

As Ms Burch indicated, small businesses represent nine out of every 10 private sector entities in the territory. Of the 24,000 small businesses in the ACT, around 13,000 are home based or non-employing. They are typically businesses that do not have the capacity, time or wherewithal to engage directly with governments. Yet there is no doubt that these businesses are crucial to the local economy.

The Small and Micro Business Forum initiative, which will be tested in conjunction with this year's business in focus month, is designed to encourage an open conversation between government and small and micro businesses. The forum will be open to all small and micro business owners across the territory.

The government encourages these businesspeople who have a need or desire to get a message to government to take the few hours needed to attend the forum. We are hopeful that this forum will bring to the attention of government and senior officers in ACT government agencies some of the issues that may not easily reach the surface or get onto government's agenda. They may be matters that have an impact on the running of small businesses yet are not obvious to those most intimately concerned. Of course, I will not be able to promise—nor can anyone in the government—that everything can be fixed on the spot, but we can guarantee that the issues raised and the ideas put forward will get to the right people in government and that the issues raised will be heard.

The forum is part of a trial. The government is hopeful of a good roll-up and some positive outcomes. There is certainly the hope that there will be future forums and that people will benefit from the lessons learnt at the inaugural event. An important component of the forum will be the development of mechanisms to feed back to participants any progress on matters arising from the forum. Those channels will be agreed in consultation with participants.

Of course, the forum is just one of 70 events on offer as part of September's business in focus month—again, an example of the government working closely with the

private sector to deliver programs of benefit to the business community. I understand that more than 40 private sector partners have joined with government to present this inaugural business in focus month. The government looks forward to September and to delivering the fantastic program of events—events that will help position our local business community for a productive and prosperous future.

Mr Smyth began a little dissertation on the history of business and the private sector in this city. It is worth just making a few observations about his comments around the last decade or so. It is interesting to note that he presents with some great pride a view that simply by slashing the amount of public sector employment in this town the proportion of private sector employment will increase.

A more substantial claim and a more substantial contribution might be to be able to grow employment in both sectors of the economy rather than simply taking a straight transfer of jobs from the public sector into the private sector and somehow lauding this as a fantastic achievement. In other words, growth of employment in the city would be the goal. I do not think you can look back at the initial period of the Howard government and the rampant cuts that were made to the public sector at that time as any great moment of pride for the Liberal side of politics. Nonetheless, Mr Smyth is free to claim that legacy and reap all of the electoral rewards that will come from attaching himself to that Howard legacy from 1996 to 2001.

It is interesting to observe that long-run observers of Australian political history will note that the longer a government are in office, particularly at the federal level, the more likely they are to grow the public sector, to provide armies of bureaucrats to support the ever-advancing number of government programs that seem to come with longevity in office at the federal level. At the tail end of the Howard government, we saw a massive ramp-up of public sector employment in certain areas that were priorities for that government. There were undoubtedly thousands of bureaucrats employed around changes to the tax system and thousands of bureaucrats employed to implement the Work Choices agenda. If you then look at the long-run impact on public sector employment in the territory, that would perhaps explain why their proportion of public to private shifted a little back from the 60 to 40 ratio that was in place during the initial phase of the Howard government.

As I say, the goal surely should be to grow employment, not just shift employment from one sector to the other. That is why the Labor Party is the party of jobs. We are the party of employment: we always have been; we always will be. We have a very strong focus across the many portfolios in the territory government on promoting job growth. We are seeing that, be it through important stimulus measures in the school sector or through cutting planning red tape to ensure a simpler, faster and more effective planning system.

Just this week, I was very pleased with the launch of the new visitcanberra.com.au website, a fantastic new initiative to enhance our delivery of tourism services on the web and a terrific opportunity for small and micro businesses to partner with government to promote their message. I encourage members who have not seen the new website to log onto visitcanberra.com.au. It is a great new website and clearly an example of where government can partner with local industry, in this case the tourism industry, to promote this region.

Having said that, I would like to again thank Ms Burch for raising this matter today. We look forward to a very successful focus on business month next September.

MRS DUNNE (Ginninderra) (5.40): I thank Ms Burch for bringing forward this motion. It is obviously a matter that is of some tenderness for the government because I notice that the Chief Minister has put out two press releases about this subject in this week. If the number of press releases can be used as a performance measure, it obviously shows that the government is interested in the issue.

Mr Smyth has dealt with the history underlying the demise of previous smaller micro business organisations in the ACT. I want to speak briefly on one issue that hugely impacts on small business and micro business, particularly small business in the ACT. I will be speaking on this at some length over the next two or three weeks of sitting because it is of such importance. I refer to the implementation of new occupational health and safety regulations.

The occupational health and safety regulations are due for implementation on 1 October this year. There is considerable concern in the community about the imposition of these regulations and the consultation process that relates to this. I have received a considerable number of submissions in relation to this and I think that I should dwell on some of them.

First and foremost is the impact that this will have on business. The ACT, along with every other jurisdiction in the country, has joined up to a harmonised OH&S process that will be introduced nationally by 2011. But the ACT wants to get out in front of that and has introduced new workplace safety legislation. These OH&S guidelines will have an effective life of only 15 months before they are superseded by the national harmonisation process, which is really smart. So we change and we change and we change for change's sake.

That really gives business certainty. That is really providing a great service and cutting the red tape when it comes to small and micro businesses. That is the underlying thing: why do they want to do it in the first place and why are they imposing this on small businesses in particular? The take-out message from all the submissions I have received is that this is a set of regulations that has been written for big business and imposed upon small business.

I have received representations from the Pharmacy Guild, which represents all of those small shop owners who run community pharmacies across the ACT. This will have a huge impact on their businesses. I specifically sought out the guild because OH&S is a very important issue when dealing with poisons, classified drugs and things like this. It is an important issue. What is being imposed upon small business like the pharmacists is unreasonable.

Instances of other unreasonable things include the provision of amenities. Under the OH&S legislation, every builder will have to provide on site a shower for their workers. That is fine if you are working on a large site with large site offices and things like that. But on every block where a house is being built, these requirements necessitate the provision of a shower. The failure to provide a shower is a strict

liability offence. These requirements are an enormous imposition on a small cottage builder or a tradesman working with an offsider and an apprentice. These are things that are unreasonable and they are a dreadful imposition on costs.

Over the next little while I will be dwelling on the issues that have been raised by a whole range of organisations that have real dealings with small business and a real understanding of small business. The imposition on 1 October of the OH&S regulations will adversely affect small business. I hope that the government will be out there at these forums during September listening to what small business say about their daft OH&S regulations.

MR DOSZPOT (Brindabella) (5.45): Mr Speaker, I am pleased to contribute to the debate on this motion brought to us by Ms Burch. I am particularly pleased to be able to talk on a topic where I do have a reasonable amount of experience. My business experience takes in general management of a number of multinational companies in Canberra as well as running my own small business and assisting other small business enterprises.

I think most of us were riveted to our seats by Mr Barr's absolutely impassioned speech about small business. Those of us who did not fall asleep are even more interested. But I am sure that there would be a lot of interest in the business community and a lot confidence generated by his wonderful words that really inspired all of us about how much he knows about business.

I also agree with Mr Smyth's reference to the historical aspect of what has taken place with this government in relation to business and business support, or lack of business support. One of the first acts of the Stanhope government that was elected in 2001 was the abolition of Cantrade. It was one of the most successful enterprises that integrated small business and micro business, and provided international opportunities for small businesses. What did this government do? They abolished it as their very first act when they came in. As Mr Smyth rightly points out, we are now reinventing the wheel once again.

This is a very timely topic to discuss. This sector brings invaluable benefits to our community. The small business forum will be an important avenue for small businesses to voice their concerns to the government. I urge them to participate in this dialogue. Outcomes are another thing altogether. One would hope that this forum is not just a token gesture and that it does provide some real solutions and outcomes for small and micro businesses in the ACT.

I have had representations only this week from constituents in small business who are concerned about what they perceive and what they experience as a real problem. They believe they are consistently being overlooked by the ACT government as suppliers. I would urge you, Ms Burch, to look into some of those success stories that you spoke about where local businesses are actually winning national and international business. But they find it paradoxically quite hard to get support at the local level from the ACT government.

In fact, there was an interesting example some years back when a software company that actually received ACT government starter funding was then able to operate very

successfully nationally with its product and internationally but was unable to get support from the very government that actually enabled it to start its business. Ms Burch, we do applaud your sentiments but you do have an advantage. You are sitting on the government side. I urge you to look into some of these areas that you have brought to our attention. Have a look at how the reality of life for small businesses equates to the words of wisdom that we are hearing here today.

How many local businesses and micro businesses are successful in turning to the ACT government? Is there a preferential policy for the local supply of items to our hospitals, schools and ACT government agencies? These are questions that must be asked and answered as part of the small business forum. A lot of the businesses in your area of Tuggeranong, Ms Burch, will be keen to see how you can influence some of these issues.

How much notice is taken of small businesses at the local shopping level where essential repairs and infrastructure improvements have been neglected? All of these factors play a very important part in the profitability of these essential businesses at suburbs all around Canberra. Before I was elected to the Assembly last year I was involved in meetings with local shopkeepers in Calwell and Gowrie as well as with concerned members of the community in these areas. I was also involved in presenting a petition to the then minister for TAMS, John Hargreaves. It was a petition signed by over 600 concerned residents relating to public safety issues, which also have an impact on the profitability on the shopkeepers at Calwell and Gowrie.

All of these issues are still waiting to be addressed. They were waiting three years at the time that we took the petition to Minister Hargreaves. But what was Minister Hargreaves's reaction to the petition from 600 people? It was totally dismissive. He said, "You can get 6,000 signatures as far as I am concerned. They will not make an iota of difference." And they did not. There was nothing done and this was pre an election. The iota of difference that Mr Hargreaves was referring to was repaid in abundance at the election. The arrogance of that pre-election activity was well known to the community. I believe that the community did make some difference to Minister Hargreaves's election results and a dramatic difference to Mr Gentleman's results.

Over the past few months I have also received representations from the owners of the Theodore supermarket regarding serious safety issues that have been brought to this government's attention and have not been attended to. Ms Burch, whilst I obviously support the fine sentiments in the motion, you will understand my scepticism about the reality of this government's support of business in general and small business in particular.

MS BURCH (Brindabella) (5.51), in reply: I thank members for their support of this motion. I will take on board those comments that have sense to them and some level of reality. But if we are looking at the reality of the impact of this government and our approaches, I think we need to look no further than the effect on the construction industry around our schools and our social housing policy.

In the media just this week there was reference to new social housing in Narrabundah. Just in that project alone, I could not count on my fingers and toes the number of

small businesses that participated and benefited—from delivering the stove to the brickies and the painters. Reality is one thing; your interpretation of it is clearly another and you are welcome to your own interpretation.

Small business makes a huge contribution to the national economy and, indeed, to our local economy. As has been mentioned, in the ACT we have around 24,000 small businesses that embody just about every conceivable form of business activity in a modern economy. This town has been branded a government town but now we have the benefit of having private sector employment greater than that of the public sector.

As I have said, Mr Speaker, if you look at the national accounts data the ACT's non-government share of gross state product is indeed higher than the government's share. The business sector, and within it small business, does play a very significant part in the economic fabric of this city. But we still recognise that public sector strongly shapes and drives our private sector.

Canberra's lead industries—public administration, defence, education and research, and cultural heritage—stimulate our businesses and other industries. I go to those comments from members opposite who seem to demean the public sector and demean the benefit that that sector brings to our town. I think it is a slight on public sector employees and the businesses that service that sector.

For example, it has given rise to a strong business and construction sector, a burgeoning ICT industry, unique capabilities in housing and urban development, growing capabilities in biotechnology and environmental services, a broader creative industry, financial and professional services, tourism, hospitality plus a diverse retail sector. In this knowledge-rich city there are still many traditional small and micro businesses that we as citizens and other businesses rely on each day—the newsagent, the plumber, the electrician, the local supermarket, the takeaway and our favourite coffee shops and bakeries.

Our private sector is vibrant and diverse. This year's Hot 30 Under30 awards run by *Anthill Magazine* featured Dr Sam Prince, a Canberra-based medical doctor and entrepreneur with a diverse portfolio of enterprises including the Zambrero Fresh Mex Grill, a national chain of Mexican restaurants and the Emagine Foundation, which provides IT infrastructure to developing countries. This business employs 34 people and generates a combined turnover of over $1 million.

The ACT government is committed to providing an environment that supports the establishment of small businesses and enables them to grow and to realise their potential. We do this through responsible financial management and developing our economic and social infrastructure. This helps to maintain the competitiveness of our economy and to encourage business innovation. We also do this through a multilayered business program environment with well conceived programs that help firms accelerate their development and learning and assist them to seek out new opportunities.

The government also promotes business development in the broader region through its involvement in bodies such as Regional Development Australia ACT, which is a joint initiative with the Australian government. The ACT government facilitates skilled

migrants entering businesses through our own regional certifying body and our school and business migration program.

Taken together, this government offers a rich program environment which clearly is not often appreciated. Mr Smyth's comments are his own, but he called for systems and processes to be in place. That is probably something I can agree with, Mr Smyth. We do need systems and processes in place. I can say that this government does provide sound and open processes and systems that support local business. I refer to BLIS, the business reference service, Lighthouse, Unleash your Potential and Canberra BusinessPoint, to name a few. I do not know; Mr Smyth must have his earplugs in.

As Mr Barr said, Labor is the party for jobs. It always has been and always will be. I remind the Assembly of the Canberra small and micro business forum that will be held on 16 September this year. It is hosted by Jenny Brockie. The forum is about providing small businesses with an opportunity to have their say on local business issues and difficulties they face. I call on the Assembly to recognise the establishment of this new forum as a useful tool for small and micro businesses in Canberra.

I finish by saying that the ACT government recognises the important contribution that small and micro business makes to the ACT economy. We offer our support to the business community through a range of different programs, networks and initiatives and I commend this motion to the Assembly.

Motion agreed to.

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

Detail stage

Clause 1.

Debate resumed.

Debate (on motion by **Ms Hunter**) adjourned to the next sitting.

At 6.00 pm, in accordance with standing order 34, the motion for the adjournment of the Assembly was put and negatived.

Law Officer Amendment Bill 2008

Debate resumed from 10 December 2008, on motion by **Mrs Dunne**:

> That this bill be agreed to in principle.

MR CORBELL (Molonglo—Attorney-General, Minister for the Environment, Climate Change and Water, Minister for Energy and Minister for Police and Emergency Services) (6.00): The Law Officer Amendment Bill 2008 was presented on 10 December 2008. The purpose of the bill is to establish a requirement that the

Attorney-General ensure that litigation conducted on behalf of the territory is conducted in accordance with proper standards.

The government has a strong track record of encouraging that all litigation on behalf of the territory is conducted in a way that is both fair and proper. The obligation of government to behave in accordance with the highest standards of conduct in this field is undisputed. The government, therefore, supports this bill as an unobjectionable restatement of the government's ongoing program of ensuring fairness and honesty in litigation, as in all of the government's activities. The method chosen in this bill to supposedly help further enshrine fairness in this bill does raise some concern, however, as it creates a new reporting requirement that may turn out to be imprecisely drawn. The government will be supporting this bill on the basis of the government's strong commitment to fairness in litigation. However, I should add that it will be important to carefully monitor the effects of the new legislation to ensure it achieves optimal results.

The Law Officer Amendment Bill seeks to amend the Law Officer Act 1992 to allow for the notification of mandatory model litigant guidelines. The bill will give the Attorney-General the responsibility to ensure that litigation conducted on behalf of the territory is started and conducted in accordance with proper standards. Adopting this bill will not constitute a substantive change in the government's policy or practices in the conduct of territory litigation.

The legal obligation of the Crown to behave as a model litigant in all affairs is well established in the courts of the territory and, indeed, across Australia. Behaving as a model litigant means acting in all stages of a legal matter in accordance with the highest standards of fairness and honesty. Model litigant behaviour ensures that whenever legal action occurs on behalf of the territory the legitimate rights and concerns of opposing parties and the public are protected. Enshrining the model litigant guidelines into legislation will merely duplicate this firmly rooted legal principle. As first law officer of the territory, the Attorney-General is already obligated to act as a model litigant in all matters. The same requirement applies to the Chief Solicitor, who is responsible to the Attorney-General for all conduct on behalf of the territory as a litigant.

The government already has strong measures in place to ensure that the territory behaves as a model litigant. The government's current policy of centralising litigation services promotes scrupulous adherence to the existing model litigant guidelines. By centralising most of the territory's litigation under the supervision of the Government Solicitor, the government is able to effectively monitor and manage that litigation. Because clear recognition of the obligation to act as a model litigant is already a feature of the territory's litigation practices, changing the status of the existing model litigant guidelines is not a change in policy or practice. Model litigant conduct is already obligatory, and the government has a long and proven track record of behaving as a model litigant.

The government also has a longstanding policy of publishing guidelines to ensure model litigant behaviour and is committed to continuing its policy of adhering to the guidelines that were formally adopted by the government in February 2004. The existing guidelines provide very clear standards for the conduct of all litigation on

behalf of the territory. They make it clear that it is a matter for the Attorney-General to address any departure from the guidelines.

If this bill is enacted, the model litigant guidelines will become a notifiable instrument. Again, this would not be a change of policy for the government but, instead, only a change in the format and status of one aspect of the government's policy of ensuring fairness in litigation. The model litigant guidelines have always been publicly available and prominent in guiding all litigation on behalf of the territory. They serve as a tool to ensure compliance with the established principle that the territory must act at all times with propriety and fairness. All officers, including counsel, who conduct litigation on behalf of the territory are well aware of their obligation to conduct themselves as model litigants, and both the Chief Solicitor and I work to ensure that all conduct complies with those model litigant guidelines already in place.

The reporting requirements as cast are said in Mrs Dunne's explanatory statement to place an obligation solely on the Chief Executive of the Department of Justice and Community Safety to report on action taken to ensure compliance and reporting on breaches. One key difficulty with this is that the most recent and available information about any employee's conduct is in the hands of the chief executive of each of the respective departments and agencies; it is not in the hands of any one chief executive, even the Chief Executive of the Department of Justice and Community Safety.

I note that Mrs Dunne has accepted that this is a problem with the drafting of her bill and is proposing amendments to rectify it accordingly. The government will be supporting those amendments, and I welcome Mrs Dunne's indication that she will change the reporting requirements to make it clear that the relevant chief executive of each of the relevant agencies must provide and report on the conduct of litigation to the Chief Executive of the Department of Justice and Community Safety within 21 days of the end of each financial year. This is a sensible amendment. I thank her for making it, and the government will be supporting that amendment.

Of course, it is necessary to keep an eye on all of the amendments proposed today. Some people will inevitably argue that, because they have been involved in litigation against a government agency or, more likely, if they lose their case against the government agency, the government agency must somehow be acting improperly. I would strongly reject such assertions. I am confident that no members in this place would want to see misguided complaints of that type caught by this law. It is for this reason that the government will be concerned to monitor the practical and administrative burden placed on the likes of the consistently reliable, fair and honest entities that undertake litigation here in the territory, such as the Government Solicitor, the Director of Public Prosecutions and the Legal Aid Commission, in relation to the reporting aspects of this law.

In conclusion, the Law Officer Amendment Bill does not substantially alter the existing and proven methods of continuing the territory's longstanding tradition of model litigant behaviour. The existing model litigant guidelines and provisions for regulating territory litigation are already serving the public well. This bill will simply change those from guidelines to statutory documents under legislation. The government's agreement to this bill is a reaffirmation of our commitment to model litigant behaviour. This bill refers to a set of guidelines that the government has

already adopted. It will amend the Attorney-General's functions under the Law Officer Act to express a responsibility that, as Attorney-General, I already am aware of and committed to upholding. These changes are, in general, unobjectionable restatements of existing law, and the government's agreement to it only re-emphasises its commitment to ensuring fair and honest conduct.

MR RATTENBURY (Molonglo) (6.07): I would like to welcome Mrs Dunne's bill today. This bill will require the Attorney-General to create binding standards of ethical behaviour for people performing legal work on behalf of the government. This is a welcome step that brings the ACT closer in line with the commonwealth, and while it will not create an actionable right against the Crown, it will establish an ethical standard by which legal practitioners will be measured.

This bill compels the Attorney-General to issue model litigant guidelines and to ensure that anyone who is performing territory legal work is at least aware that they should comply with those guidelines. The bill also serves to spell out protections from liability for people who seek to comply with the guidelines while undertaking territory legal work and instigates reporting on compliance and breaches of the code.

I would like to acknowledge initially that government already has model litigant guidelines in place, as the attorney has just outlined, but they have limited legal status. Anecdotally, we are concerned they are not always complied with. It is unfortunate that the Labor government has not seen fit to raise the model litigant guidelines to the status of a legislative instrument before. This legislation establishes a statutory requirement for the Attorney-General to issue the guidelines and for public servants and people acting on behalf of the Crown to comply with them.

This legislation establishes a statutory requirement for the Attorney-General to issue the guidelines and for public servants and people acting on behalf of the Crown to comply with them. The Greens will also be tabling an amendment to Mrs Dunne's bill, and that has already been circulated and discussed. We believe that will add some clarity and certainty about where the responsibility for ensuring compliance of the guidelines should rest, but I will return to outline this in more detail later. I would note that I appreciate the support that has already been offered and flagged on that amendment.

In virtually every legal dispute between the government and a private citizen or corporation, the government has an overwhelming advantage both in terms of financial and legal resources and in terms of access to relevant and probative information. Our adversarial system of law encourages a no-holds-barred, winner-take-all approach to litigation, whereby any points conceded or courtesies extended can be interpreted as signs of weakness or as poor choices of tactics if they help the opponent to advance their case in any way. Some private law firms have pushed the limits of what is acceptable professional conduct in pursuit of their clients' interests. The corporatisation of legal firms has also introduced novel challenges for lawyers in upholding their ethical responsibilities to the court at the same time as pursuing shareholder value.

Under the Howard government, ethical standards in the public sector declined as ethics and moral imperatives took a back seat to political pragmatism and a

win-at-all-costs mentality. A commitment to good process was abandoned in favour of the private sector imperative to get results and for managers to achieve performance measures based on dollars saved or cases won. Lawyers acting on behalf of the government found themselves under pressure to put their duty as officers of the court behind their corporate objectives. Of course, this approach is unlikely to serve the best interests of either claimants or the public interest, which, in the case of action taken by governments, should be of paramount importance.

Having formal statutory guidelines for behaviour to refer to will be a welcome relief for public sector lawyers who want to resist such unwelcome pressure to compromise their professional standards. I am not saying that most or even many public sector lawyers in the ACT have failed to live up to the higher ethical standard required of them, but putting these requirements in place should ensure we do not reach that point where it is in question.

Having said that, the Greens, and I am sure the opposition, have heard of cases where ACT government agencies appear to be using legal action or the threat of legal action to intimidate and break down the will of their opponent by enmeshing them in seemingly endless and expensive court or tribunal proceedings. There have been unfavourable comments made by the Ombudsman about the approach taken by some ACT government agencies to ensure that their statutory interpretations are based on sound and up-to-date advice. It is often the case that the people against whom the might of the Crown is wielded are the least capable of resisting such pressure.

We have also witnessed criticisms of the way in which the Crown in the ACT undertakes its prosecutions. Often this is put down to a lack of resources in the DPP, a lack of coordination between the DPP and ACT Policing, or a lack of experience on the part of DPP prosecutors. But sometimes it is more serious than that. There have been a number of cases where the judiciary has been critical of the way in which the Crown has gone about trying to establish its case.

In the recent Supreme Court case of Abuaagla, Chief Justice Higgins expressed concern that the prosecution counsel had coached their witness to "misremember" a crucial fact, which was the timing of an event. He expressed concern that the prosecution had failed to call another witness who was present at the scene because they knew that the second witness could contradict the witness they had called and whose testimony turned out to be thoroughly unreliable. I wonder whether the Attorney-General has taken action to investigate these concerns expressed by the Chief Justice or whether he has even been briefed on them. Hopefully, the passage of today's bill will go some way to ensuring that such practices will not happen in the ACT in the future.

An early explanation of the principle behind the model litigant rules exists in the observations of Sir Samuel Griffith, the Chief Justice of the High Court, in his ruling in Melbourne Steamship Co Ltd v Moorehead. The Chief Justice said, in expressing his surprise about a technicality, that the Attorney-General had put to the court:

> I am sometimes inclined to think that in some parts—not all—of the Commonwealth, the old-fashioned traditional, and almost instinctive, standard of fair play to be observed by the Crown in dealing with subjects … is either not known or thought out of date.

Yet over 100 years later, it is not as if things have necessarily improved. In 2008, in the case of Morgan v State of Victoria, Justices Nettle and Ashley said:

> … Victoria's position was hardly that of the model litigant which it purports to be and should have been. Throughout, whatever be the explanation for it, Victoria's position towards the appellant was very aggressive, repayment being sought prematurely and otherwise inappropriately, and contempt proceedings being threatened on several occasions and ultimately being brought when on proper analysis contempt could not be established.

The concerns and examples I have been referring to are not confined to the ACT or to this point in time. Essentially, the model litigant code is little more than the idea that government litigants and their agencies should act with complete propriety, fairly and in accordance with the highest professional standards.

Why should the code apply to the state and its representatives? It has long been recognised in the courts that the state must conduct its legal dealings to the very highest of standards so as to gain the confidence of the public it serves and represents. Indeed, Conrad Lohe, Crown Solicitor in Queensland, has described this role of the state as the fountain and origin of justice that should not at any time use its power as a means of public oppression, even through litigation. The way in which the government, the public service and the AFP prosecuted their case against the unfortunate Dr Haneef stands as a stark reminder that freedom needs more than eternal vigilance; it needs strong legislative support, a well-informed public, a free press and politicians who rise above the urge to use fear to serve their purposes. It also requires us as legislators to support and encourage the legal profession to stand up to the pressure to win at all costs.

For the public service lawyers who act on behalf of the state, the authority that is granted to them is, as one lawyer has described, held in trust. They act on behalf of the state, specifically the Attorney-General and, as such, they represent the duty of the state in upholding respect for the rule of law. They must act as exemplar litigants, upholding the basic principles of fairness and justice in their actions.

The model litigant guidelines oblige public service lawyers to act in a way that avoids delays and cost, avoids litigation where possible and treats claimants fairly. It also requires the application of procedural fairness so as to not take further advantage of those claimants who are already disadvantaged. Public service lawyers must not rely on defence strategies that delay or circumvent the fundamental issues involved in the litigation. Avoiding costs to claimants is not the only consideration. While the state clearly has deep pockets, they are not unending, and there are responsibilities for governments to spend taxpayers' money wisely. The community expects that governments should not be throwing money up against the wall to fund unjustified legal processes when they could be easily avoided, perhaps by pursuing and being receptive to equitable and practical settlements which achieve policy objectives while ensuring that the law is upheld and the public revenue protected.

While it can be easy to spout the principles involved in the model litigant guidelines, it is often much harder to apply them on a day-to-day basis. It requires rigour from our public officials and the implementation of a number of rules of practice. It requires the

Attorney-General and the government to issue directions that high ethical standards are expected and that the lawyers who abide by them will be supported. It also requires processes for reporting to ensure compliance, something Mrs Dunne's bill begins to address. The Greens are pleased that in Mrs Dunne's bill there is a mechanism for reporting and for that reporting to occur formally, as clearly this is the first step to being accountable. It will assist in reviewing whether there is a need for specific measures to improve compliance.

We will be supporting Mrs Dunne's amendment that outlines more clearly how this reporting process will result in the Chief Executive of JACS being able to gather compliance reports from all agency heads and collate them into the JACS annual report. The Greens believe it will usefully assist public scrutiny for the JACS annual report to contain a compilation of information about compliance measures and breaches of the guidelines. The Greens are concerned Mrs Dunne's bill does not make it clear who is responsible for ensuring compliance, and it is for this reason that we have tabled our amendment.

The guidelines that have already been issued by the Attorney-General make it clear that the government believes issues relating to compliance or noncompliance with the guidelines are matters for the Attorney-General. The guidelines also make it clear that the government believes that compliance is not for any court, tribunal or other body. However, the elevation of the guidelines to mandatory status—and Mrs Dunne's bill is explicit that anyone performing territory legal work must comply with the model litigant guidelines—means that it would also be prudent to elevate the issues of enforcing compliance into the legislation, and this is what the Greens amendment seeks to do. If we do not do this, it remains open as to whether a complainant could seek redress on a breach of compliance of the guidelines in the court system. While we have some sympathy with the idea that action could be taken in a court of law by someone aggrieved with a government litigant's behaviour, we do not believe this matter has been canvassed in sufficient detail to take that step at this time.

As the current bill has no offence provisions, it is also unclear how compliance would be enacted in the court system, aside from perhaps remedying the original complaint. However, it is not as if judges have not in the past taken into account the obligations on the state to conduct themselves as a model litigant. In Kenny v South Australia, the Chief Justice made an order against the state after ongoing breaches of time limits, stating that the Crown Solicitor's Office should, in fact, be setting an example to the private legal profession and be more expeditious in its conduct. However, it is a very different thing for the courts to take into account the existence of the guidelines in regard to the proceedings that are before them than it is to rule on compliance issues under administrative law in the context of a civil or criminal trial.

If compliance with the guidelines is able to be heard in the courts, we may well risk delays as complainants make new applications being taken out in another. This could lead to interminable clogging of the courts if substantive issues were sent off to an administrative law court. This just demonstrates at this point that we do not know enough and we have not sufficiently considered the issues in leaving this open. The Greens would suggest that further investigation and consultation with stakeholders would need to be undertaken before opening up this scenario. We would welcome further dialogue on this issue if, in the short term, there were ongoing problems raised

by the community in regard to accessing justice under the model litigant guidelines. It may well be that the obligation to comply with these guidelines should be raised to an actionable right, but I am not aware of any other Australian jurisdiction that operates in that manner, and I do not think it prudent to proceed down such a path without extensive deliberation and public consultation.

In real terms, the efficacy of the model litigant guidelines may well rely on the Attorney-General's capacity and determination to enforce them and to follow up on reports of noncompliance. It is less clear at this stage that the processes for ensuring compliance in a constructive way are fully integrated into the practice of the department. It may be that the Ombudsman or Public Advocate should be given a watching brief over compliance with these guidelines. This is a matter for future consideration.

The federal government has for some time had legal service directions in place—that is, binding rules that guide the performance of legal work of the commonwealth for which the Attorney-General is responsible. The commonwealth also has a compliance strategy for enforcement of the legal services directions that outlines a clear process of ensuring that all legal staff are fully informed about the standards, aims to avoid breaches of the standards and seeks to manage complaints and remedy breaches when they do occur. As a last resort, when breaches cannot be easily remedied, the federal Attorney-General has the capacity to remove firms or counsel on legal panels that breach legal service directions or to raise serious breaches with the responsible minister. Furthermore, the federal Attorney-General is able to take action to enforce the legal services directions. I would urge the Attorney-General here to replicate such a process. It is worth noting that under the Howard government compliance with the guidelines seemed to become almost discretionary. This demonstrates that the form of the guidelines is perhaps not the most crucial element; it is the will of the Attorney-General and his government to ensure that their legal officers and private lawyers employed to act on their behalf uphold the requisite standards of behaviour.

One way of identifying breaches of the guidelines, clearly, is the collection of complaints from those who have grievances. The ACT has had only a handful of complaints that relate to breaches of the guidelines over the past three years, and the government's position is that none of those were found to disclose a breach of the guidelines. Rather, they were cases where claimants had grievances about the outcome of the substantive case. I suspect that most litigants who feel aggrieved by government legal practices are unaware that the government's lawyers were supposed to be bound by higher ethical standards.

Additionally, I suspect that they would feel that complaining would be of no use, and could well result in what they would perceive as further victimisation. I am unaware that any serious attempt has been made to canvass the views of those who may have grievances about the behaviour of government legal representatives. I would urge the government in that context to undertake such research and also to invite the judiciary to give their impressions of how government legal representatives measure up to the model litigant standards. I think that would be a constructive and informative approach to take.

Perhaps a more proactive approach to maintaining the standards outlined in the guidelines would be for an independent legal auditor to undertake audits to assess whether the matters were handled in accordance with the guidelines. That may also be an approach worth considering. His auditors could approach welfare clients, private litigants and their legal representatives to gather evidence about the levels of compliance with the guidelines. Whether at an agency level or on a case-by-case level, this may be a way to improve accountability and adherence to the guidelines and drive the implementation of the guidelines more strongly through all agencies, including those that may have a reputation for taking all matters to litigation without realistic settlement strategies.

In summary, the Greens will be supporting this bill in principle, and we look forward to receiving support for our amendments and supporting those amendments that will be put forward today.

MRS DUNNE (Ginninderra) (6.25), in reply: Briefly, in closing, I want to thank members for their support of this bill in principle. I think that it is momentous that we join the commonwealth as the only jurisdiction in Australia to have raised the profile of model litigant guidelines to the level that is proposed in my bill. Most other jurisdictions have model litigant guidelines but they have a low profile. In most cases, only lip-service is paid to them. Mr Rattenbury has referred to some cases where that has definitely been the case.

This Assembly thus goes a long way to lifting the importance and the operation of the model litigant guidelines. It puts more onus on the Attorney-General to support that higher profile. It puts more onus on government agencies to comply with them. It gives the people of Canberra more assurance that the government, in matters of litigation, will behave in a way that does not put them at a disadvantage in the legal arena. On behalf of the people of the ACT, I thank the Assembly for this act today.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail stage

Clauses 1 to 4, by leave, taken together and agreed to.

Clause 5.

MRS DUNNE (Ginninderra) (6.27): I move amendment No 1 circulated in my name *[see schedule 1 at page 3418]*.

I will briefly outline this amendment. The first amendment simply makes it mandatory rather than discretionary for the Attorney-General to issue model litigant guidelines. As we all know, there are currently model litigant guidelines but we do not ever want to find ourselves in a situation where an attorney might withdraw them and not replace them. It puts beyond doubt the requirement for the Attorney-General to take responsibility for the development of model litigant guidelines and to take them seriously. It does not allow the Attorney-General to ignore this responsibility.

This matter was raised with me in consultation with Mr Rattenbury. I think that the suggestion that he and his staff at the time made was a good one, and I commend the amendment to the chamber.

Amendment agreed to.

MR RATTENBURY (Molonglo) (6.29): I move amendment No 1 circulated in my name *[see schedule 2 at page 3418]*.

MR CORBELL (Molonglo—Attorney-General, Minister for the Environment, Climate Change and Water, Minister for Energy and Minister for Police and Emergency Services) (6.29): The government supports this amendment to the Law Officer Amendment Bill 2008. Mr Rattenbury's amendment would bring the bill more into line with the commonwealth Judiciary Act 1903, which forbids raising the issue of compliance with a legal service direction in any proceedings, except on behalf of the commonwealth.

The Chief Solicitor has advised me that, unamended, the Law Officer Amendment Bill did not give a cause of action for breaches of the model litigant guidelines. So this latest amendment would expressly prohibit anyone other than the Attorney-General enforcing compliance with the guidelines, foreclosing any doubt that breaches of the model litigant guidelines could give rise to a cause of action against the territory.

The prohibition on raising noncompliance with the guidelines in proceedings would only extend to instituting separate proceedings to enforce compliance. Parties to an existing proceeding would still be able to complain in court about the conduct of other parties in those proceedings, including the territory. Courts would still be able to consider failure to behave as a model litigant in exercising discretion, for example, to award costs or in deciding whether to adjourn proceedings.

MRS DUNNE (Ginninderra) (6.30): The Canberra Liberals will support Mr Rattenbury's amendment, which is taken from the federal act. This amendment would make it incumbent upon the Attorney-General to enforce the model litigant guidelines, either in the attorney's own right or by application to a court or tribunal. It otherwise excludes such enforcement being raised in a court or tribunal proceedings except by or on behalf of the territory.

The amendment also serves to raise similar provisions already in the guidelines into law. The important thing is that, in doing this, it does not stop a court commenting on the behaviour of the territory in legal matters, nor does it stop an aggrieved person challenging in a civil matter the behaviour of the territory at a separate proceeding. I did have some initial reservations but, on reflection, I think that Mr Rattenbury's amendment is a good one and I am happy to support it.

Amendment agreed to.

MRS DUNNE (Ginninderra) (6.32): I move amendment No 3 circulated in my name *[see schedule 1 at page 3418]*.

This amendment requires that all chief executives provide a compliance report to the Chief Executive of the Department of Justice and Community Safety within 21 days of the end of the financial year and that the Chief Executive of the Department of Justice and Community Safety be required to compile a whole-of-government report on compliance matters, including on behalf of the Department of Justice and Community Safety itself, and publish it in the JACS annual report. This would provide an easily accessible report that provides a snapshot of the government's behaviour in legal matters covered by the model litigant guidelines.

I think that reporting, as Mr Rattenbury said in his remarks, is the first step towards real compliance with the model litigant guidelines and I commend the amendment to the Assembly.

Amendment agreed to.

Clause 5, as amended, agreed to.

Clause 6 agreed to.

Title agreed to.

Bill, as amended, agreed to.

Adjournment

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

> That the Assembly do now adjourn.

Prayers for peace

MR DOSZPOT (Brindabella) (6.34): On Sunday, 9 August, along with 150 people from the Jewish, Christian and Islamic communities of Canberra, I attended a prayer meeting at the Jewish community centre in Forrest, in my capacity as shadow minister for multicultural affairs, to join in the prayers for peace in the Middle East. It was an occasion that inspired all of us who were in attendance, and I would hope this occasion was only the first step in establishing a regular dialogue among the worshippers from all faiths.

There was a publicity release issued on behalf of the participants which captured the mood and the intent of the prayer meeting, which was called "Prayers for peace in the Middle East" and which read as follows:

> It was a reverent but also inspiring time as representatives of the three traditions led worship segments from each tradition in turn. Sufi chant and music from Jewish and Christian choirs was heard together with readings from the Scriptures of each faith and brief comments and a prayer from a leader in each of the three communities. Participants had been asked to respect the intention that this was to be a time of prayer and meditation. The spirit of the event was prayerful and deeply peaceful and many from the different communities appreciated being able to pray together in such a simple but meaningful way.

> The event concluded with the signing of an Interfaith Commitment on Dialogue and Co-operation in which the three communities promised to continue to respect and listen to one another, to work together in discerning 'principles for peace' and seek a joint project in which they might support sister communities in the Holy Land working for peace. This Interfaith Commitment brought another dimension to the day and meant that sharing in prayer is but the first step in a process of engagement and dialogue that aims beyond symbols and words to mutual understanding and concrete action. None of the leaders participating in the process underestimates the complexity of the issues involved or the differences in perspective between the various faith traditions. However, there is a recognition that peace is the gift of the God of all the Abrahamic faiths and an objective common to all three communities.
>
> Bishop Pat Power, 2009 Canberran of the Year, said "Here in Canberra we are uniquely placed to promote dialogue. The good will which exists between the Muslim, Jewish and Christian communities enables us to cross divides which in other places seem insuperable."

The Interfaith Commitment to Dialogue and Cooperation, the document that was signed, reads:

> Recognising the good relations that have been enjoyed for many years between the Jewish, Muslim and Christian faiths within the community of Canberra and the ACT, we commit ourselves:
>
> 1. To continue to treat one another with respect and courtesy.
> 2.To be open and welcoming toward each other's perspectives, experiences and beliefs.
> 3. To pray for the well-being, safety and growth in truth and peace of all our communities.
> 4. To explore and develop the resources for peace found in our own traditions—our sacred Scriptures, faith practice and spiritual history.
>
> We commit ourselves to continuing dialogue towards an increased understanding of each other's perspectives on issues of conflict affecting our sister faith communities in the Middle East and in particular:
>
> 1. to explore shared "principles for peace" on which we can agree to move forward in support of sisters and brothers in the Middle East as they seek to build a sustainable peace.
> 2. to seek a joint project in which we together can partner with communities in the Holy Land to embody those principles for peace and make a practical contribution to the building of peace in the region.

This document was signed on 9 August 2009, on behalf of the Jewish, Christian and Muslim communities of Canberra, Australia, by Dr Anita Shroot, President of the ACT Jewish Community; Reverend Joy Bartholomew, President of the ACT Churches Council; and Ahmed Youssef, Canberra Islamic Centre. The document concludes:

> As I understand the leaders from the three faith communities have met since the Prayers for Peace, and intend to take further the exploration of the "principles for peace" and the shaping of an interfaith project in which they might co-operate, and no doubt all people of good will, would want to congratulate them and wish them well in this initiative.

Operation Christmas Child

MR COE (Ginninderra) (6.38): I rise this evening to speak about an excellent project of Samaritan's Purse called Operation Christmas Child. Operation Christmas Child is a wonderful project that brings so much happiness to people all over the world. In a nutshell, it involves the donation of a shoe box filled with presents for a child that might otherwise not be able to celebrate Christmas.

The shoe-boxed size gift should be packed to include the following: something to love, like a teddy or a doll; something for school, like pens, pencils, or paper; something to wear, like a T-shirt, shorts or a hat; something to play with, like a tennis ball or toy cars; something for personal hygiene, like soap and a face washer; something special, like a carry bag or sunglasses. Through the project, you are able to give a very personal gift to a child that might otherwise receive nothing this Christmas.

I had the pleasure of launching the 2009 Canberra appeal on 30 June this year. When launching the appeal, I mentioned that these days, with so many charities needing our time and money, it is easy to get confused and lose track of all the good work done in our community and further afield. However, I think Operation Christmas Child has real cut-through due to the unique way that we in Canberra, or people anywhere, can give time, energy, thought and a tangible gift to a child thousands of kilometres away.

The project started almost 20 years ago and has gone from strength to strength all over the world. To date, more than 61 million shoe boxes have been delivered to children in 135 countries. In an exciting development for 2009, people that register their box online can track where in the world their box is sent. This adds yet another personal element to what is already a very special gift. The project is made possible by the many volunteers that assist with distribution of the boxes, collection, processing, logistics, promotion and many other components of the exercise.

Last year, in our region alone, more than 22,000 shoe boxes were collected. I am sure all in this place would agree that that is an amazing feat—22,000 boxes. This year, I hope our region can do better and we in the Assembly can make a sizeable contribution. I have got many empty boxes in my office ready for the taking by members and their staff, and I will happily coordinate the collection of the full boxes. Members should return the boxes early in October. I have brochures and can help out with any questions you might have. In October, all those people that contribute to the appeal will be invited to take part in a media event here at the Legislative Assembly, where we will hand over the boxes to Samaritan's Purse.

I would like to extend my sincere thanks to all the schools, churches, community groups, companies and individuals that give so generously. I would also like to put on the record my sincere thanks to Ann Prunty, who is the ACT and southern New South Wales manager of Samaritan's Purse. She is the driving force behind Operation Christmas Child in our region and does a wonderful job. I would also like to thank and congratulate the national manager of Operation Christmas Child, Ian McDougall, for the great work he does.

In closing, I urge all people listening to or reading this speech to get involved. Please contact my office or visit www.samaritanspurse.org.au or call 1800 684 300 to find out how to contribute.

Question resolved in the affirmative.

The Assembly adjourned at 6.42 pm.

Schedules of amendments

Schedule 1

Law Officer Amendment Bill 2008

Amendments moved by Mrs Dunne

1
Clause 5
Proposed new section 5AA (1)
Page 2, line 20—

omit

may

substitute

must

3
Clause 5
Proposed new section 5AC (2) to (4)
Page 3, line 19—

insert

(2) Each chief executive (other than the JACS chief executive) must—

(a) prepare a report setting out the matters mentioned in subsection (1) (a) and (b) for the administrative unit; and

(b) give the report to the JACS chief executive not later than 21 days after the end of the financial year.

(3) The report prepared by the JACS chief executive under subsection (1) must include a summary of each report given to the chief executive under subsection (2) for the relevant financial year.

(4) In this section:

JACS chief executive means the chief executive of the administrative unit responsible for this Act.

Schedule 2

Law Officer Amendment Bill 2008

Amendment moved by Mr Rattenbury

1
Clause 5
Proposed new section 5AA (4) and (5)
Page 3, line 2—

insert

(4) The model litigant guidelines may be enforced only by, or on the application of, the Attorney-General.

(5) The issue of non-compliance with the model litigant guidelines may not be raised in a proceeding (whether in a court, tribunal or other body) except by or on behalf of the Territory.
