Debates

WEEKLY HANSARD

SEVENTH ASSEMBLY

Legislative Assembly for the ACT

23 JUNE 2011

www.hansard.act.gov.au

Thursday, 23 June 2011

Friday, 24 June 2011

Thursday, 23 June 2011

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.

Work Health and Safety Bill 2011

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

Title read by Clerk.

MS GALLAGHER (Molonglo—Chief Minister, Minister for Health, Minister for Industrial Relations and Treasurer) (10.02): I move:

> That this bill be agreed to in principle.

Today I introduce the Work Health and Safety Bill 2011. As the Assembly knows, the government are committed to ensuring the safety of all workers in the ACT. The government are determined to provide an environment for workers that is safe and healthy, protects them from injury and illness and provides for their physical and psychological needs. We are also committed to ensuring that businesses in the ACT are able to operate with confidence and reduced red tape and compliance costs while continuing to ensure the safety of their workers.

The bill forms part of the national reform agenda that will result in harmonised workplace safety laws across Australia and is particularly important for the businesses here that operate across the border into New South Wales and beyond. The bill is based on a model bill that was developed through consultation with industry, unions, all states and territories and the general public before being endorsed by the Workplace Relations Ministerial Council.

In the territory we are fortunate that we introduced the Work Safety Act in 2008. That act was developed in the knowledge of the work being done to harmonise occupational health and safety and, as such, the changes to our present regime will be minimal. Those businesses who are complying with the Work Safety Act will find that there will be no need to change their operations to comply with this bill. Reducing the complexity and duplication caused by Australia's multiple workplace health and safety regimes will benefit all businesses.

As is usually the case when a significant piece of legislation is implemented, amendments to other acts are needed to ensure consistency in both terminology and policy terms. Most importantly, this involves formally repealing the Work Safety Act 2008. I also intend to bring forward further bills that will see the repeal of the

Scaffolding and Lifts Act and the Machinery Act as both will be redundant following the commencement of the new bill.

The bill includes transitioning aspects of the current territory regime to the new regime, including the Work Safety Council. Existing workplace arrangements including work safety representatives and work safety committees are transitioned to become health and safety representatives and health and safety committees when the new act commences. The bill also ensures that enforcement and compliance action such as prohibition notices issued before commencement will remain valid in the new regime.

I would like now to take the opportunity to outline the key changes for the territory. Firstly the bill will remove the concept of crown immunity from prosecution. This will mean that sanctions will apply to all ACT government agencies in respect of their duties at work, as applies to all other workers and organisations. The second key change is that the bringing of prosecutions under the Work Health and Safety Act will be limited to WorkSafe ACT.

Employer and employee organisations will no longer have the statutory right of prosecution, as they do now. Persons will, however, as has always been the case in the ACT, still retain the right to bring a common law prosecution if they are able to establish standing before a court. There will also be the ability for persons to seek a review of a decision by WorkSafe not to prosecute a serious offence. That review will be undertaken by the Director of Public Prosecutions.

Another change to the territory is that the penalties available under the harmonised laws will be consistent across all jurisdictions. Under this bill, the maximum jail term will be five years, not seven years as is now the case. However, the financial penalties under this bill are significantly higher than what is now available in the territory, particularly where a duty holder has been reckless in not complying with their safety duties. Importantly, the industrial manslaughter provisions in the Crimes Act will remain unchanged. They are not affected by the introduction of this bill.

Lastly, the bill further clarifies the work safety duty of officers in both the public and private sectors. What this bill does is ensure that officers exercise due diligence as part of their company or organisation responsibilities, in turn ensuring the act is being complied with in their organisation.

As I have indicated, much of what is in this bill simply continues what the government introduced with the Work Safety Act. The concept that the central safety duty is owed to workers, as well as to other people at the workplace, remains. The importance of cooperation and consultation between employers and workers and the organisations representing them remain central to the bill. Protection of workers from discrimination or coercion if they raise work safety matters in a workplace remains. The notification requirement for serious incidents remains. The licensing of persons undertaking high-risk work remains.

The bill will make it simpler for businesses to ensure their workplace is safe while continuing to provide protection for their workers. The new, harmonised laws

contained in this bill will also reduce the duplication and time spent explaining cross-border differences, which will benefit both our regulator and companies that work on both sides of our border with New South Wales. The new regime will also reduce the need for ACT-specific guidance material and the time spent by our regulator on its production. I commend the bill to the Assembly.

Debate (on motion by **Mrs Dunne**) adjourned to the next sitting.

Land Tax Amendment Bill 2011

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

Title read by Clerk.

MS GALLAGHER (Molonglo—Chief Minister, Minister for Health, Minister for Industrial Relations and Treasurer) (10.09): I move:

> That this bill be agreed to in principle.

The Land Tax Amendment Bill 2011 amends the Land Tax Act 2004. The amendment to the Land Tax Act will require a trustee of the parcel of land to notify the Commissioner for ACT Revenue of a land tax liability where the owner is an individual. This is in line with current provisions that require an owner to notify the commissioner where a residential property is rented. Under the Land Tax Act, all commercial, rented residential and residential properties owned by a corporation or trustee are liable for land tax and are charged accordingly.

There is currently no requirement for a trustee to notify the commissioner that the property is held in trust and therefore liable for land tax. This has made it difficult for the commissioner to establish a land tax liability, particularly where the trustee is an individual. Under the proposed amendment, the trustee will be required to notify the commissioner that the property is held as a trustee. A typical example of where this would apply is where the property is held by an individual as trustee of a family trust.

The government recognises that there are circumstances when it would be inappropriate to apply land tax. Examples of such circumstances are in relation to a guardian of a person with a legal disability or when residential land is owned by a trustee under a will of a deceased person and is occupied by a life tenant. In these cases, the existing exemptions from land tax would continue to apply.

It should be noted that this bill does not impose any new taxation measures. Residential properties held by a trustee have always been liable for land tax. This amendment is a simple one that will improve the administration of the tax. I commend the Land Tax Amendment Bill 2011 to the Assembly.

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

Residential Tenancies (Databases) Amendment Bill 2011

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

Title read by Clerk.

MR CORBELL (Molonglo—Attorney-General, Minister for the Environment and Sustainable Development, Minister for Territory and Municipal Services and Minister for Police and Emergency Services) (10.11): I move:

> That this bill be agreed to in principle.

The presentation of this bill today is a move towards strengthening protections to tenants in the ACT. While strengthening protections for tenants, the bill recognises the rights of lessors to protect their private property interests. The Residential Tenancies (Databases) Amendment Bill 2011 aims to strike a fair balance between the rights of lessors and tenants.

The bill omits current part 6A of the Residential Tenancies Act 1997 and introduces new part 7. New part 7 puts into place model uniform provisions agreed to by consumer affairs ministers of the states, territories and the commonwealth in December last year which regulate tenancy databases.

Most real estate agents in Australia subscribe to at least one tenancy database. Tenancy databases are used by lessors and agents when screening tenancy applicants. Tenancy databases primarily contain comments about tenants relating to breaches or alleged breaches of tenancy agreements by tenants. Listings in tenancy databases can be entered anywhere in Australia and are accessible throughout Australia.

The model provisions are designed to regulate residential tenancy databases and to ensure consistency in how residential tenancy databases are regulated throughout the states and territories. National consistency in the regulation of tenancy databases is intended to not only provide sufficient protection to tenants but also to provide certainty to real estate agents and database operators in their collection, use and storage of tenants' personal information.

The draft model uniform provisions were released to the general public and to key stakeholders in the ACT in January last year, including the ACT Tenants Union, the Real Estate Institute of the ACT and to my colleague Minister Joy Burch, as the minister responsible for public housing in the ACT. My directorate wrote again to key stakeholders in January this year, including the Tenants Union, the Real Estate Institute of the ACT, Minister Burch and the Law Society, indicating that the government would be considering the final model provisions this year.

Residential tenancy databases need to be regulated for a number of reasons. Firstly, and most importantly, tenants whose personal information is stored in a tenancy database can experience difficulties in securing adequate housing. Listings should therefore be for only the most serious breaches of the tenancy agreement, which either

result in the lessor being left out of pocket once the bond has been released to the lessor or where the ACAT orders that the tenancy be terminated.

Secondly, it is essential that tenancy databases are regulated to ensure the integrity of the information listed in the databases. This is necessary not only for the protection of tenants but also to ensure that tenancy databases are a reliable and legitimate risk minimisation tool for lessors and agents when checking tenants' rental histories.

This bill ensures the integrity of information contained in tenancy databases by requiring that listings not only be for serious breaches of the tenancy agreement but that any listings must be accurate, complete, unambiguous and relate only to the breach.

Finally, the collection, storage and use of personal information by real estate agents and database operators are subject to the national privacy principles as set out in the commonwealth Privacy Act 1988. The national privacy principles place obligations on real estate agents and database operators to keep only personal information that is accurate, complete and up to date. The national privacy principles also provide a right of access for a tenant to his or her personal information held by real estate agents and database operators.

Although the national privacy principles provide some protections against the potential misuse of tenants' personal information, there is no requirement to put a tenant on notice about a listing or proposed listing of the tenant's personal information in a tenancy database. Therefore, under the national privacy principles by themselves, a person may only come to suspect that he or she is listed in a tenancy database after many unsuccessful attempts to secure a tenancy. He or she may then be put to the stress, inconvenience and expense of having to lodge several requests to access his or her personal information with a number of database operators. This would be needed to establish, first of all, whether he or she is listed in a tenancy database at all and, if so, which database his or her information is stored in.

These issues were addressed by the government through reforms introduced into the Assembly in 2005 that introduced part 6A of the Residential Tenancies Act 1997. Part 6A included a requirement that a former tenant be given written notice about a proposed listing and a reasonable opportunity to review the information to be listed.

This bill strengthens those existing protections for tenants in the ACT in relation to tenancy databases. It does this firstly by prescribing the breaches of the tenancy agreement by a former tenant that may give rise to a listing. Secondly, the bill requires that any listings be accurate, complete and unambiguous and that information not be out of date. The bill also sets out how a person may access his or her personal information in a tenancy database. These provisions are consistent with the commonwealth national privacy principles.

The bill also ensures that information is not listed indefinitely by requiring that information be removed after three years or any lesser time prescribed under the national privacy principles.

There are new administrative requirements placed on lessors and agents by this bill. Lessors and agents would need to give tenancy applicants notice of any tenancy databases usually used by the lessor or agency. Lessors and agents would also need to advise a tenancy applicant if the lessor or agent finds personal information about the applicant in a tenancy database. This is to strengthen existing protections to tenants by increasing the likelihood of a person becoming aware of a listing in a tenancy database.

Although these changes will impose new requirements on lessors and real estate agents, it is not anticipated that these requirements will be difficult to comply with. By amending tenancy application forms to include details of the tenancy databases usually used by the agency, the requirement for an agent to notify a tenancy applicant about the usual tenancy databases used is complied with. This is provided that the tenancy application form is returned by the applicant within seven days, which is usually the case. The real estate agent or lessor would only then need to notify a tenancy applicant if a listing about the person is found in a tenancy database in the process of the real estate agent or lessor carrying out a check of the person's rental history in the database.

No penalties have been introduced in the act for failing to comply with these requirements. However, the bill maintains the current provisions in part 6A which allow a tenant to make an application to the ACAT about a listing or a proposed listing of his or her personal information. An application may be made for a contravention of a provision in the new part, for the removal or amendment of personal information in a database, and for compensation for loss or damage caused by a listing.

I am confident that this bill strikes an appropriate balance between the rights of tenants and lessors. It recognises the relevance of tenancy databases as a legitimate risk minimisation tool for lessors and agents while ensuring that listings are only for the most serious breaches of the tenancy agreement, and that listings are accurate, complete and unambiguous. I commend the bill to the Assembly.

Debate (on motion by **Mrs Dunne**) adjourned to the next sitting.

Unit Titles (Management) Bill 2011

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

Title read by Clerk.

MR CORBELL (Molonglo—Attorney-General, Minister for the Environment and Sustainable Development, Minister for Territory and Municipal Services and Minister for Police and Emergency Services) (10.20): I move:

> That this bill be agreed to in principle.

Today I am introducing the Unit Titles (Management) Bill 2011, which aims to simplify our legislation in this area of the law. In particular, the bill will assist owners, managers and others involved in managing units plans to better understand their respective roles in the day-to-day activities of managing a units plan. This bill has been developed following extensive community consultation, both before and following the introduction of significant new consumer rights laws in 2008.

The amendments passed in 2008 provided access to an improved dispute resolution process through the ACT Civil and Administrative Tribunal. Other changes included requirements to disclose problems in the unit title plan to purchasers, new rules in relation to pets and sinking funds and the introduction of more defined functions and responsibilities for executive committees and office bearers.

Consistent with my undertaking to the Assembly in 2008, the Justice and Community Safety Directorate has undertaken an operational review of those amendments. The purpose of the review was to ensure that the legislation is operating effectively. The review also considered whether the Unit Titles Act 2001 should be amended to allow for sustainability measures to be incorporated into the unit title plan.

To facilitate consultation with the public, my directorate prepared a booklet containing information about unit titles, and particularly about the amendments, which was distributed to the last-known addresses of unit owners. The booklet contained an invitation to contact government about the implementation of and possible future changes to unit titles law. In addition, my directorate released a number of online resources about the amendments, including detailed fact sheets on all of the changes.

To provide stakeholders with an additional opportunity to comment, the government also called for further submissions by way of advertisement in the Saturday *Canberra Times* and through a media statement and also wrote directly to key stakeholders, including the Owners Corporation Network and registered owners corporation managers. The government also wrote to the shadow attorney-general and the Greens attorney-general spokesperson so that members of the Assembly would have the opportunity to pass on feedback received from constituents.

The opportunity for public comment was initially open until 31 October last year. However, as only a few submissions had been received at that stage, I provided additional time for the community to provide submissions—to the end of November last year. I also wrote a second time to registered owners corporation managers, asking them to draw the review to owners' attention and to reinforce the government's invitation that owners take the opportunity to make a submission to the review.

By the end of November last year, the Justice and Community Safety Directorate had received 39 submissions from 25 individuals as well as some organisations. These represent a wide cross-section of the community, including unit owners, the Property Council, owners corporation managers and you, Mr Speaker. Since the formal close of submissions, the directorate has continued discussions with interested stakeholders on various issues relevant to the review. A common theme in many submissions was the

difficulty in interpreting and understanding the Unit Titles Act, particularly in regard to the role and functions of the owners corporations and their executive committees.

The bill I am introducing today responds to those concerns by making the law of unit titles easier to read and understand. Unit titles management provisions have been relocated to a separate statute, to be known as the Unit Titles (Management) Act 2011, and reorganised to make the law more user friendly. Provisions concerning registration of units plans are retained in the Unit Titles Act. Having a separate unit title management statute is consistent with the approach taken in other jurisdictions, including New South Wales and Victoria.

Many provisions in the new Unit Titles (Management) Bill have been redrafted consistent with ACT drafting standards, making the provisions easier to read and understand. The substantive content of many provisions is unchanged. Guidance notes are included in the section headings to direct the reader to the corresponding section in the current Unit Titles Act to assist users with the transition to the new bill.

While most of the bill consists of a reorganisation and redrafting of unit title management provisions, some new provisions have been introduced. Key features of the new provisions are: removing unnecessary barriers to the adoption of sustainability measures and utility infrastructure, introducing a code of conduct for executive committee members, changing the resolution for annual administrative and special purpose fund budget approval from special to ordinary, which removes an excessive restriction on managing owners corporation funds, clarification of financial provisions to clearly link budgets, contributions and expenditure for each type of fund, providing guidance for the ACAT approval of developer control period contracts and clarification of insurance requirements.

As mentioned earlier, the operational review also considered whether the act should be amended to allow sustainability measures to be incorporated into the units plan. JACS received submissions highlighting the difficulties owners encounter when installing infrastructure for sustainability measures, such as renewable energy generation and the feed-in-tariff arrangements. Currently, an owners corporation would have to pass a series of resolutions in order to install sustainability or utility infrastructure on common property, such as solar panels, a communal clothesline, cabling et cetera. Separate resolutions may be required for financing, siting, easements. I note that owners may face similar hurdles when installing important utility infrastructure such as the national broadband network.

Therefore, a key feature of the bill is the introduction of streamlined procedures for the installation of sustainability and utility infrastructure. Under new section 23, by way of one ordinary resolution, that is, a simple majority, the owners corporation can decide to install sustainability or utility infrastructure on common property after undertaking a cost-benefit analysis of the proposed infrastructure. The new streamlined procedure removes unnecessary barriers to a units plan adopting environmental sustainability measures or utility infrastructure and will encourage the adoption of green initiatives, while ensuring that owners are presented with all the costing and other information required to make an informed decision.

Another key change in the bill is the simplification and clarification of the financial provisions. The financial provisions have been redrafted to clearly link budgets, contributions and expenditure for the general funds and sinking funds. The redrafted provisions create clear, express links to assist with the management of common funds.

The sinking fund plan provisions have also been redrafted and are now clearer and easier to understand. The amendments would change the resolution needed for annual administrative and special fund budget approval, from a special resolution, that is, less than one-third opposed, to an ordinary resolution, a simple majority. No other Australian jurisdiction requires a special resolution for approval of administrative funds and equivalents. The reduced voting requirement, in line with other jurisdictions, is intended to remove an excessive restriction on managing owners corporation funds.

The bill also clarifies insurance requirements for owners corporations. Consultation with stakeholders indicates that there is confusion about the extent of insurance coverage, the liability to pay excesses and liability to pay for events covered by more than one insurance policy. The redrafted insurance provisions seek to remove any doubt about these issues. A new feature of the bill is the compulsory disclosure of insurance details at the annual general meeting.

Importantly, the bill retains the consumer rights and protections that were introduced in 2008. While some stakeholders have recommended winding back these provisions, government remains committed to them—to protecting purchasers and owners. Measures such as ensuring appropriate disclosure to unit purchasers, regulation of managers and contractors and regulation of developer actions during the developer control period have been retained.

The provision requiring ACAT authorisation for contracts for terms of two years or more has been redrafted to give guidance to the ACAT in deciding what type of agreement should be authorised in these circumstances. The new section states that ACAT may authorise the owners corporation entering into the contract if satisfied that the terms of the contract are reasonable in all the circumstances. In making a decision, the ACAT must take into account any matter prescribed by regulation and may take into account any other thing it considers relevant. This may include short and long-term economic benefits and disadvantages of the contract, the existence of a financing agreement related to the contract and environmental sustainability measures provided for by the contract.

The content of a unit title certificate, former section 75, will now be determined by the minister in a disallowable instrument. This permits greater flexibility in modifying the requirements of the unit title certificate to better suit conveyancing and general disclosure requirements. New section 119 also provides that a fee may be fixed by the owners corporation of not more than an amount determined by the minister by disallowable instrument. This fee is currently fixed by regulation. Determining the fee by disallowable instrument gives greater flexibility in determining the fee in a way which reflects both the content of the certificate, as determined by the minister, and the costs that are incurred by an owners corporation in complying with the section.

These reforms together will provide greater clarity to owners and managers of unit titles about their rights and obligations and will enhance measures to improve the sustainability of the ACT's housing stock. I commend the bill to the Assembly.

Debate (on motion by **Mrs Dunne**) adjourned to the next sitting.

Coroners Amendment Bill 2011

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

Title read by Clerk.

MR CORBELL (Molonglo—Attorney-General, Minister for the Environment and Sustainable Development, Minister for Territory and Municipal Services and Minister for Police and Emergency Services) (10.32): I move:

> That this bill be agreed to in principle.

I am pleased to introduce today the Coroners Amendment Bill 2011, which will amend the Coroners Act 1997.

This bill flows from a detailed review of the operation of the coronial system in the ACT. It is the product of a comprehensive and lengthy consultation process, which began with public comments on a discussion paper and ended with 15 proposals for change that were developed through discussions with a working group of experts and community representatives.

The amendments in this bill, together with a range of important administrative changes, will significantly improve the operation of the ACT's coronial system, particularly for the families of deceased people.

In the ACT, coroners investigate the manner and cause of death of people who have died in particular circumstances. ACT coroners also investigate the cause, origin and circumstances of fires and disasters. The functions, powers and jurisdiction of coroners are set out in the Coroners Act 1997.

The government made a commitment to review the act after the December 2006 release of Coroner Maria Doogan's report into the 2003 Canberra firestorm. Coroner Doogan made a range of specific recommendations about reform of the act and the arrangements for conducting inquests and inquiries and also recommended a review of the jurisdiction of the coroner. This bill also responds to a number of areas of concern raised in connection with several recent and significant coronial inquiries.

The review inquired into the effectiveness of the act and considered whether it provides an appropriate framework for:

- the making of recommendations for the prevention of death and injury; and
- the provision of support to families and others affected by a death subject to a coronial investigation.

There has been extensive engagement with stakeholders, through a Coroners Act Review Working Group, about the proposed reforms. The working group consisted of representatives from a number of government and private organisations, including the Chief Solicitor, the Director of Public Prosecutions, Legal Aid, ACT Policing, the Coroners Court itself, ACT Health, the ACT Ambulance Service, and two members of the public who asked to remain anonymous. The Chief Coroner and Magistrate Peter Dingwall also assisted my directorate with practical guidance in relation to the development of some of the amendments in this bill, and I thank them for their advice.

Mr Speaker, it states here that I am going to table a copy of the review document but I do not have it to hand so I might do that at a later point. I will table, for the information of members, the paper *Reform of the ACT coronial system*, which sets out the 15 proposals for reform of the coronial system that arose from this consultation process, and I invite members to consider the issues discussed in that paper, along with the changes proposed in this bill.

As one would expect, the views expressed on these two important aspects of the coronial system were diverse, reflecting a range of perspectives about the operation of the system.

Turning to the overall content of the Coroners Amendment Bill 2011, the Coroners Act is amended to include an objects clause and some new provisions guiding the manner in which those objects are to be carried out. These provisions are inserted not because the government is critical of or dissatisfied with the Coroners Court of the ACT but to ensure that the act contains clear statements about the purpose and objectives of the coronial process. The intended beneficiaries of these amendments are the stakeholders in the coronial process—in particular, the families of the deceased.

The bill addresses much of the concern about the role of the Director of Public Prosecutions as counsel assisting the coroner, by clarifying the criteria for making that appointment. The coroner must be satisfied that the appointment is in the interests of justice, and that the lawyer has the appropriate skill and experience and does not have an actual or perceived conflict of interest.

The bill inserts a new section setting out the functions of counsel assisting the coroner. This is an important amendment because it provides information about what the public and other participants in the process may expect counsel assisting the coroner to do. The consultation process on this review revealed a significant level of confusion surrounding this area of the coronial system. An explanation of the role and functions of counsel assisting the coroner will help to address this confusion.

Coroners will be required to expressly state whether an inquest or inquiry raises a matter of public safety. In connection with this, section 57 of the act is amended to improve the requirements relating to reports following an inquest or inquiry, and the Attorney-General will be required to table a report, and the executive's response, within six months.

A number of amendments make procedural changes to improve the flow of coronial proceedings. In particular, the amendments address the concern that many matters are held up when criminal proceedings are commenced before an inquest or inquiry is complete. Other amendments aim to keep families better informed of the process and of the outcomes of coronial proceedings.

Much of the concern in the community about the coronial system relates to a lack of understanding of the purpose of coronial proceedings and the functions of the people who work within that system.

The amendments in this bill will be accompanied by a range of administrative changes, aimed at:

- improving case management in the Coroners Court;
- improving provision of information to families and friends of the deceased; and
- improved services to those people.

I note that the paper I have tabled includes discussion of a proposal to establish a dedicated coroner for the ACT. This was a proposal discussed by the working group. The government has decided to pursue a case management approach at this stage and review this matter in two years time. The Chief Coroner has already implemented a new management approach, and I am pleased to see signs of improvement at this early stage.

Overall, I believe that the amendments proposed in the bill present the most pragmatic position for the ACT. The implementation of these reforms has been carefully considered in the context of the Human Rights Act and these amendments achieve the policy goals of the reforms whilst maintaining proportionality with protection of individuals' human rights.

In particular, there was an examination of whether the proposed new section 68A of the Coroners Act, dealing with the provision of information to families, would intersect with the right to family under subsection 11(1) of the Human Rights Act. It was considered that, if the right focuses on interference with the family unit, it may not extend to communication with a member of the immediate family of a deceased person and that, even if the right is engaged, the limitation imposed is reasonable and proportionate having regard to the policy objective, particularly with the inclusion of a reasonableness standard.

I would like to thank all of those stakeholders, magistrates, Chief Magistrate and agency representatives who contributed considerable time and effort in preparing submissions and participating in discussions about these reforms. The review process demonstrated widespread, strong interest in improving the way the ACT's coronial system functions.

The changes that I have discussed today will bring some important, timely improvements to our coronial system. As I have said, the government will keep the system under review, but I am confident that practitioners and the families of those

who have passed away will gain significant benefits from the changes proposed today. I commend the bill to the Assembly.

Debate (on motion by **Mrs Dunne**) adjourned to the next sitting.

Law Officers Bill 2011

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

Title read by Clerk.

MR CORBELL (Molonglo—Attorney-General, Minister for the Environment and Sustainable Development, Minister for Territory and Municipal Services and Minister for Police and Emergency Services) (10.41): I move:

> That this bill be agreed to in principle.

The Law Officers Bill that I am presenting today will enhance the ACT's position in the national arena by establishing the role of solicitor-general, a role that exists in every Australian jurisdiction except the ACT.

The bill creates a new Law Officers Act that establishes the separate offices of the Attorney-General, the solicitor-general and the Government Solicitor.

The office of the solicitor-general is the only new position created by this bill. The offices of the Attorney-General and the Government Solicitor have already been established under other separate legislation. The bill consolidates this existing legislation, and provides one act, the new Law Officers Act, to cover the three main legal offices in the territory.

In most Australian jurisdictions an independent statutory solicitor-general is appointed to provide written and oral advice on matters of significance to the jurisdiction's government and appear as counsel in cases of constitutional significance, international cases and other cases of special government interest.

Since self-government, the role of principal adviser to the ACT government in relation to legal matters has rested with the Chief Solicitor. Until recent times, the nature and scope of that advice was within relatively confined parameters and might generally be regarded as part of the ordinary functions of a traditional crown solicitor's office.

However, the increasing complexity of the constitutional framework in which the ACT operates and the introduction of the Human Rights Act 2004 has seen the present Chief Solicitor engage at the highest national levels in relation to legal advice provided to all governments. The Chief Solicitor has also, on behalf of the Attorney-General, appeared as counsel in interventions in the Supreme Court on a regular basis and in the High Court on occasions.

In addition to this, a range of controversial issues have emerged on which Australian solicitors-general have been called to give advice, including for the purposes of national ministerial councils. It is increasingly apparent that the ACT's position in the national arena would be enhanced by clear recognition of a role of solicitor-general, and accordingly the bill I am presenting here today establishes this position in the territory.

In establishing the new position in the ACT, consideration was given to the nature of the services to be required and the size of our jurisdiction. The nature of the ACT as a territory and its relationship with the commonwealth means that constitutional issues are different but equally significant in this jurisdiction compared to the Australian states. The size of the jurisdiction, however, also means that it is appropriate for the majority of legal issues to be handled on behalf of the territory without the need for two separate full-time, high-ranking legal officials.

On this basis, it was determined that the functions and duties of the two offices of solicitor-general and Chief Solicitor could appropriately be performed by one person. Accordingly, the bill provides that one of the functions of the solicitor-general would be to perform the role of Chief Solicitor as determined by the Attorney-General. The bill also enables the two offices to be filled by separate legal officials if the need arises for this in the future.

The position of solicitor-general must be filled by a person who is, and has been, a legal practitioner for five years or more. The person will be appointed by the executive and cannot be appointed for more than seven years. The conditions of the appointment will be set out in the appointment instrument and this instrument will be notified on the legislation register. Until a determination is made by the Remuneration Tribunal, the remuneration of the position of solicitor-general will be determined by the executive at an appropriate rate.

The solicitor-general's functions will be to act as counsel, at the request of the Attorney-General, for the Crown in the right of the territory, the territory, or any other entity. The person appointed to the position will exercise other functions as counsel as directed by the Attorney-General, and will exercise any function given to the position under a territory or commonwealth law. As I indicated earlier, the person filling the position of solicitor-general must also exercise the functions of the Chief Solicitor if the Attorney-General so directs.

In addition to establishing the role of solicitor-general, the bill also confers on the Attorney-General the power to issue legal services directions relating to the performance of territory legal work. The directions will provide a framework for the conduct of the ACT's legal affairs, but leave prime responsibility for the effective and efficient use of legal services with agencies.

The power to issue legal services directions is intended to enable the Attorney-General to protect the legal interests of the ACT in relation to the delivery of legal services. It is a mechanism used successfully in the commonwealth.

The bill specifically provides that the Attorney-General must issue a legal services direction setting out guidelines to ensure that proper standards in litigation apply to territory legal work. This particular legal services direction will be known as the "model litigant guidelines".

Since the commencement of amendments to the Law Officer Act in 2009 the Attorney-General has had the power to issue model litigant guidelines. This power will continue, but will be in the form of a legal services direction in the new Law Officers Act 2011. The legal services direction which will be known as the model litigant guidelines will operate in the same manner as the guidelines currently operate. Indeed, the existing guidelines made in 2010 will be preserved under the new Law Officers Act to be established by this bill. These guidelines ensure that litigation conducted on behalf of the territory is in accordance with the highest standards of fairness and honesty, as well as serving to protect the legitimate rights and concerns of opposing parties and the public.

The main purpose of the bill I am presenting today is to establish the role of solicitor-general for the ACT, a role which will enhance the territory's position nationally. Currently, the significant additional responsibilities assumed by the Chief Solicitor relative to other jurisdictions creates an anomalous environment and does not give the ACT equality in its representation nationally. I commend this bill to the Assembly.

Debate (on motion by **Mrs Dunne**) adjourned to the next sitting.

Justice and Community Safety—Standing Committee
Reference

MR HANSON (Molonglo) (10.48): I move:

That this Assembly:

(1) notes that:

(a) since the Alexander Maconochie Centre (AMC) opened in March 2009 there have been numerous superintendents or people acting in that position and the recent Hamburger review found this "lack of continuity of leadership" (p 28) "... created a potential risk to the safety, security and effectiveness of the centre ..." (Finding 15);

(b) the Hamburger review noted that in May 2010, the appointment of a "highly experienced officer to fulfil the role of Superintendent ...", Mr Doug Buchanan, "...provides the opportunity for continuity of appropriately experienced leadership";

(c) the superintendent of the AMC, Mr Doug Buchanan, had his secondment from New South Wales terminated at short notice in May 2011;

(d) the Attorney-General stated in Estimates hearings on 23 May 2011 that Mr Buchanan "had agreed to return to his substantive position in New South Wales Corrective Services";

(e) in response to a question during Estimates asking if Mr Buchanan was "pushed", the Attorney-General answered "no"; and

(f) Mr Buchanan has stated:

(i) publicly that his termination was not voluntary;

(ii) publicly that he is the "political fall guy" and was "shattered" by his termination;

(iii) to the media that he has been denied due process; and

(iv) publicly that he believed that the motivation for his termination was in part due to his opposition to a Needle and Syringe Program at the AMC; and

(2) refers the matter of the termination of the former superintendent, Mr Doug Buchanan, and the lack of continuity in the AMC superintendent position to the Standing Committee on Justice and Community Safety for inquiry.

I rise today to discuss a very serious issue with regard to the superintendent position at the Alexander Maconochie Centre. And I will be covering in my speech today both the systemic issues relating to that position and the lack of continuity that has led to safety and security risks at the jail, as well as whether due process has been afforded to the former superintendent, Mr Doug Buchanan. They are very serious issues, they are very grave, and my intent is to have this issue referred to the JACS committee for proper inquiry and investigation.

This is a matter that needs to be brought to the public light. It is a matter that Mr Doug Buchanan wants brought to the public light. He has already made public comments on a number of occasions in the media. He does not want it buried. He wants it brought forward and I think that the public also have an interest to make sure that what has occurred at the Alexander Maconochie Centre is brought to the public light. I give no judgement on what has occurred. I just want to make sure that due process has been followed and that it is properly brought to the public's attention.

Given the history of the prison, this is not an insignificant issue. We know that there have been a litany of problems, and I will not replay those at this stage. There is no need to. We are well aware of the problems that are being faced at the jail. But one of the most significant problems that have been faced is that of the position of superintendent.

I refer to the Hamburger report that was tabled in this place and its findings. It found, at finding 14:

> That in the critical first year of operation the AMC did not have continuity of experienced leadership in the key role of Superintendent to drive efficiency and effectiveness through mentoring and monitoring the performance of the leadership team and leading by example in daily interactions with staff and detainees throughout the centre …

Finding 15 was:

> That the lack of continuity and experience in the AMC leadership team during the first 12 months of operation … created a potential risk to the safety, security and efficient operation of the centre given the significant number of new inexperienced staff …

Finding 16 was:

> That on 31st May 2010 ACT Corrective Services arranged with another jurisdiction—

that is, New South Wales—

> to second a highly experienced officer—

that is, Mr Doug Buchanan—

> to fulfil the role of Superintendent. Such an arrangement provides the opportunity for continuity of appropriately experienced leadership in the role. There is evidence that he is mentoring the AMC leadership team and leading by example in his interactions with staff and detainees. Feedback from some external stakeholders is that the Superintendent is having a positive impact on AMC operations …

Indeed, in the lead-up to those findings there is a dissertation about the impact that Mr Doug Buchanan was having and it refers to some of the effects that he was having, including drug trafficking into the centre had been reduced, detainee management strategies had been enhanced and staff morale had improved significantly. Finding 17 makes the point:

> That the AMC is now at a critical point in its history. The AMC has negotiated its first year of operation without disastrous incident. However, to date it has not delivered to the standard required by its ambitious vision and objective.

It makes the point:

> Strong leadership with a clear plan of action from this point on is essential for safety, security and effective detainee rehabilitation outcomes …

That is the systemic issue, that we have had a revolving door of superintendents. This created safety and security issues, but someone with the right experience, Mr Doug Buchanan, was headhunted, that the Hamburger review found that he had done the job, but the AMC is at a critical point and it needs that continuing leadership, that continuing experience, to make sure there are not any safety and security problems.

Against this backdrop, Doug Buchanan was removed from his leadership position in the AMC. And the question is: why? Nobody can satisfactorily answer that question. And if he has been removed by the minister—and the minister will still assert that it was voluntary or he agreed to be removed, despite what Mr Buchanan says—was it

done in an appropriate way and was due process followed? Human rights and rights seem to be afforded to prisoners at the AMC but not necessarily to the superintendent.

I make the point again that Mr Buchanan supports this motion. Mr Buchanan wants this in the public light. Mr Buchanan is the person that wants to air what occurred and find out whether he has been treated fairly or not and make sure that that is properly investigated. He has made comments in the media. There is no desire from Mr Buchanan to have this covered up the way that the government wants to cover it up and the way, sadly, that the Greens want to cover it up.

So it is not just about an individual, although he is an important part of the process and an important part of what has happened, but it is the systemic problems that Hamburger warns about. If we do not have that continuity of leadership, there will be safety and security issues at the jail.

It is difficult for us to glean exactly what has occurred at the jail in this incident but it would appear that there was an incident involving the use of force, that a complaint was made by a convicted prisoner or two to the human rights commissioner and that, as we can understand from our questioning, prior to that being referred to any appropriate authority such as the police Mr Buchanan's employment was terminated. From what we have been able to glean, due process does not appear to have been followed.

We followed this up in the estimates process and we asked the minister repeatedly for an explanation. And I will give you some quotes. Mr Corbell said:

> Obviously, once the matter was drawn to ACT Corrective Services' attention the department engaged in a discussion with the acting superintendent and as a result of that discussion the acting superintendent has agreed to return to his substantive position in the New South Wales Corrective Services.

Mr Smyth, the chair, said:

> So he has agreed; he has gone voluntarily?

Mr Corbell refused to answer whether it was voluntary or not and continued with his theme, which was:

> He agreed to return to New South Wales, yes, so it was a matter that was dealt with with his agreement.

Mr Smyth continued:

> So was his secondment terminated by the ACT or did he choose to go of his own accord?

Mr Corbell said:

> He agreed to return …

I then questioned Mr Corbell:

> It would appear that he has been pushed. Is that the case?

Mr Corbell answered:

> No.

And so on:

> So he made that decision voluntarily without being pressured in any way?

Mr Corbell said:

> An agreement was reached between ACT Corrective Services and the acting superintendent about his return to New South Wales.

I make the point because he came up with the same pat answer that refused to actually answer the line of inquiry from the Liberals and the Green members of the estimates committee.

Ms Bresnan raised some concerns, as did Ms Hunter, about due process, which was the concern that we had. And she asked a number of questions about whether due process had been followed. There was no answer from Mr Corbell. Ms Hunter asked:

> So do you believe that the processes that have been undertaken will stand up to scrutiny?

Mr Corbell replied:

> I am confident that my officers have acted appropriately and sensitively at all times.

Ms Hunter asked whether they will stand up to scrutiny. I think what we are going to find out today in this Assembly and in this debate is that she is not going ask for the very scrutiny, which she was asking then as to whether this issue will stand up to, to be examined. So there will be no scrutiny of this. There will be no scrutiny of this if it is not supported in this chamber. It will not have one little piece of scrutiny.

Let me make it very clear that we inquired of Mr Corbell. I said:

> In light of the comments in the *Canberra Times* made by Mr Buchanan who allegedly has said that he is the political fall guy and made other comments, what process will you now follow to ensure that due process has actually occurred?

I asked, "What due process will occur?" And the minister's response was:

> As I have said to you, Mr Hanson, I am confident at all times my office has operated in a fair and sensitive manner.

So no due process will be followed. There will be no scrutiny. There will be no investigation. There will be no follow-up. I said again:

> So will there be no review of what has occurred in this case by an independent authority?

Mr Corbell said again:

> I am confident that the way my department has handled this matter has been both fair and sensitive to the concerns of the individual involved.

Ms Hunter was concerned about the scrutiny. She asked whether it would stand up to scrutiny. Mr Corbell has made it very clear that there will be no scrutiny of it. He wants it buried as deeply as he can because he says that it has been fair to the individual. But let us see what Mr Doug Buchanan, the superintendent of the Alexander Maconochie Centre, has said. I am quoting from the *Canberra Times*:

> The chief of the ACT's jail says he was axed after being accused by two convicted criminals of an act of violence. Doug Buchanan said he was axed as the jail's superintendent by Corrections ACT before police had even been called in to investigate the allegations he assaulted a young prisoner.
>
> Mr Buchanan, who calls himself a "political fall guy", said a detainee complained to the Human Rights Commission that during a search on a prisoner in December, Mr Buchanan held a man down by his head.
>
> A police spokeswoman said last night ACT Policing were assessing the complaint to determine whether the complaint warranted an investigation.

We still do not know the answer to that. I continue:

> Mr Buchanan said that on Wednesday, two days before the police had been notified of the allegations, he was stood down.

Mr Corbell, on one hand, is saying that it is fair, that Mr Buchanan has been treated appropriately, but Mr Buchanan, who is the subject of this matter, is saying that it is not fair and it is not appropriate. I continue:

> The next day he was called into a meeting with executive director … and her deputy … at which time his secondment was terminated.
>
> Mr Buchanan, 56, said he had been denied due process, and he was "shattered" by his treatment.
>
> "I've never been treated like this in my whole professional career that has spanned 34 years," he said. "There's a clear assumption of guilt here, allegations have been made and there's no evidence to support that. I feel like a political fall guy."

Doug Buchanan is very happy to go into the public domain to make his case and demand that scrutiny, appropriate scrutiny which Meredith Hunter wanted of this at one stage, comes to light. It is quite clear, from the estimates process and the answers provided by Mr Corbell, he intends for there to be no scrutiny.

Mr Buchanan also has made further damning allegations with regard to why he was pushed. I quote again from the paper:

> Meanwhile the former superintendent of the Alexander Maconochie Centre claimed yesterday he was axed in part due to his opposition to the needle-and-syringe program at the jail.
>
> The government has refused to divulge the reason for Mr Doug Buchanan's departure last month, citing privacy concerns.
>
> But Mr Buchanan has maintained his tenure was terminated against his wishes.
>
> Yesterday he broke his silence about his departure, saying he believed one reason for his axing was his opposition to the Government's proposed needle-syringe program.
>
> "I opposed a needle exchange in a correctional environment due to the safety of staff …
>
> What sort of message are we giving prisoners here that it's okay to bring drugs into a prison? My position was well known. I would have opposed it morally and that wasn't on the Government's agenda.
>
> "I support the union's position on this, and I'm a union member myself. It's dangerous enough without throwing syringes into the mix."

We can see a motivation here from those in the government and those on the crossbench that they do not want this brought to light because it appears, based on the inquiry that we have made and the statements by Mr Buchanan, that there needs to be an investigation as to whether due process was followed. There is certainly enough evidence to suggest that it was not, and it needs inquiry. And it is not for me to make a judgement on that, and it is not for anyone else to, other than an appropriate authority. In this case, the Justice and Community Safety Committee of this Assembly is the appropriate authority that can make those proper investigations. If necessary, they can hold some of that in camera.

But what we do not want to see is another iteration of the bullying review that was buried as deep as it could be by this government. When allegations were made, when people, in that case, at the hospital were resigning en masse because of the problems, it was buried as deep as it could be by the government. What you are seeing here is that Mr Corbell has no intention of bringing this to light.

He is saying, on the one hand, that there is nothing to see here, that this was not a termination, that Mr Buchanan agreed to leave the AMC. But we have Mr Buchanan saying something very different. What we know is that Mr Buchanan was brought in

to fix a problem. The report that the government commissioned by Mr Hamburger has actually found that Mr Buchanan was fixing that problem and if it were not for Mr Buchanan and if he did not continue, with the strong leadership that he was commended for, there will be safety issues. There will be security issues. So this is not simply about an individual. This is about the way the government has acted towards someone who is in a position of leadership and authority and, according to the government's own report, was proving to be very effective.

Mr Buchanan wants this to come to light. That is what is quite clear. Mr Buchanan does not want to hide. Mr Buchanan does not want a cover-up. But what we have seen here in this Assembly today, and what we have seen in the course of the statements by Mr Corbell, is that he does want it covered up. Something has happened. There are allegations, there are rumours, there are statements, there is speculation. Something has happened, and the government wants to bury it as deep as it can. I think that if we are going to see open and accountable government in this place, we have an opportunity here to make sure that this is investigated appropriately.

If the government does not support this today and if the Greens do not support this today, then any pretence by Katy Gallagher as Chief Minister that this government is open, is accountable and is open to scrutiny, is simply a myth.

MR CORBELL (Molonglo—Attorney-General, Minister for the Environment and Sustainable Development, Minister for Territory and Municipal Services and Minister for Police and Emergency Services) (11.04): The government will not be supporting this grubby political grandstanding motion today.

I want to put a few facts on the record for the benefit of members, and I will restate to members what I previously said in the estimates committee hearings. The former acting superintendent was on secondment from Corrective Services New South Wales to ACT Corrective Services. As such, he was not an employee of the ACT public service. His secondment was initially only for a few months, but had been extended on a number of occasions with the agreement of Corrective Services New South Wales. It was never intended that the secondment continue indefinitely. In discussions with the Executive Director of ACT Corrective Services, it was agreed with the former acting superintendent that his secondment would not be further extended, and so it was brought to an end after 12 months.

I am also aware that a matter relating to the former acting superintendent was brought to the attention of the human rights commissioner and that she referred her concerns about this matter to ACT Policing. I understand the matter is currently still with ACT Policing, and I know nothing further about their consideration of it.

This is a staffing matter. This is not a statutory office holder appointed by me or the executive. This is an officer of the New South Wales public service.

Members interjecting—

MR ASSISTANT SPEAKER (Mr Hargreaves): Order! Mr Hanson was heard in silence.

Mrs Dunne interjecting—

MR ASSISTANT SPEAKER: Let us return the courtesy, Mrs Dunne. I am not going to put up with it.

Mr Hanson: Mr Assistant Speaker, just on the point, and I am not—

MR CORBELL: Stop the clock, please.

MR ASSISTANT SPEAKER: Yes, please stop the clock.

Mr Hanson: I just want to make the point that I was not actually heard in silence, in regard to your ruling. There was significant interjection and noise emanating from the crossbench, and I accept not from the government. But your claim that I was heard in silence is not entirely correct, I would assert, Mr Assistant Speaker.

MR ASSISTANT SPEAKER: Mr Hanson, I was listening very closely to the debate upstairs and I did not hear that interjection. As far as I am concerned, there is a discourtesy at play here. I do not give a monkey's who is going to dish that discourtesy out; I will stop it. Thank you. Minister, you have the floor.

MR CORBELL: Thank you, Mr Assistant Speaker. The former acting superintendent was an employee of the New South Wales public service on secondment to the ACT public service. The former acting superintendent has returned to his substantive positions in New South Wales Corrective Services.

This is a staffing matter. I could perhaps understand Mr Hanson's position if this was an appointment made by me as the minister, but it is not. I had no role in the appointment or in the management of employment arrangements within my directorate. Those are the responsibilities of my director-general and her relevant senior executive officers.

I would draw to the opposition's attention the absurdity of their position that they argue that a standing committee of this place should be appointed to review a public service staffing matter. Is it going to be the new standard of those opposite that every time a public servant is aggrieved in relation to an employment matter there be a full-blown Assembly inquiry into it? It is an absurd and stupid proposition, and it shows how grubby this approach from the Liberal Party is in relation to this matter. I would draw, Mr Assistant Speaker—

Mr Seselja: A point of order, Mr Assistant Speaker.

MR ASSISTANT SPEAKER: A point of order. Stop the clock. Mr Seselja?

Mr Seselja: The minister has now apparently withdrawn the word "grubby". I would ask you to get him to stick to the facts because it is the second time he has used that word.

MR CORBELL: There is no point of order. What is the point of order?

Mr Seselja: You withdrew as I got to my feet, so obviously there is a point of order.

MR CORBELL: I have not withdrawn anything.

Mr Seselja: I would ask you, Mr Assistant Speaker, to ask Mr Corbell to withdraw the word "grubby".

MR CORBELL: I said "I draw to your attention".

Mrs Dunne: No, you didn't.

MR CORBELL: I know what I said.

MR ASSISTANT SPEAKER: Mrs Dunne! Mr Corbell, resume your seat.

Mrs Dunne: I know what I heard.

MR ASSISTANT SPEAKER: Mrs Dunne, you are warned. The rest of you are warned as well. If you want to make it official, I will. Mrs Dunne, this is an official warning. I will not put up with it. Understand this: I will not put up with it. You want to challenge my ruling, do you, Mrs Dunne?

Mrs Dunne: No, I am actually seeking clarification, Mr Assistant Speaker. Have you warned Mr Hanson, Mr Smyth—

MR ASSISTANT SPEAKER: No, I have warned you and I have told these people—

Mrs Dunne: Thank you. I just want to make that perfectly clear.

MR ASSISTANT SPEAKER: they are on the brink. But I will not put up with it. Before you resume, Mr Corbell, Clerk, your advice please. Minister, I will invite you to withdraw the word "grubby".

MR CORBELL: I withdraw, Mr Assistant Speaker. This is a tawdry attempt by those opposite, Mr Assistant Speaker—tawdry. I would draw to members' attention the fact that there is a process available for any public employee who is aggrieved at the way their employment arrangements have been managed or handled. I would draw to members' attention that none of those avenues have been exercised by the former acting superintendent; none of them. If the complaint is serious, if the complaint needs to be investigated, why have those avenues, clearly available under relevant public sector management legislation, not been exercised? And that, I think, is an issue that members should bear in mind.

If the former acting superintendent is aggrieved by conduct arising under the secondment arrangement, he has available to him the following avenues: first of all, a complaint to his direct supervisor, the Executive Director of ACT Corrective

Services; secondly, a complaint to the Director-General of the Justice and Community Safety Directorate; thirdly, a complaint to the Commissioner for Public Administration; fourthly, a complaint to the Director of Human Services in New South Wales Corrective Services; fifthly, a complaint to the Commissioner of New South Wales Corrective Services.

Should the former acting superintendent remain unsatisfied with the result of decisions taken following a complaint to all or any of the people I have just mentioned, he would have available to him review mechanisms, including those available under both New South Wales and ACT industrial relations jurisdictions. I regret to inform the Assembly that I am advised that the former acting superintendent has not availed himself of any of these avenues or mechanisms for resolving the issues of complaint, either in New South Wales or in the ACT.

This is about a dispute between a New South Wales public servant who was on secondment to the ACT government and his supervisors within the ACT government. There are mechanisms for resolving, mediating and investigating such a dispute, should the person aggrieved wish to make a complaint. They have not done so. If they do, the appropriate mechanisms will be exercised. That is how this matter should be handled. That is how the government will handle the matter, should it be raised. But to date, no complaint has been made.

To suggest that there should be a referral to a standing committee of this place just shows the absurd political, base grandstanding we see from those opposite. If they had any understanding of the way public sector management issues were dealt with in this place, they would not have embarrassed themselves by suggesting that there should be an inquiry by a standing committee of this place. The government will not be supporting this motion today.

In relation to the amendment proposed by Ms Bresnan, I think I have just outlined to the chamber what the industrial framework is and what avenues are available for public servants who have a grievance in relation to their employment and the manner in which they can pursue it. In those circumstances, I am not inclined to support Ms Bresnan's amendment, because the public sector management arrangements and framework are quite clear. I have outlined to members what they are and outlined that those avenues remain available to the former acting superintendent should he choose to avail himself of them. In those circumstances, I do not see any need for the amendment proposed by Ms Bresnan and the government is not inclined to support it.

MS BRESNAN (Brindabella) (11.15): In speaking to this matter today I do feel a major sense of responsibility for the welfare of Mr Buchanan and do not want to take any steps that will cause adverse outcomes for him. I have spoken to Mr Buchanan and several other parties in preparing for this motion and I will say on the record that I greatly appreciate the views and advice that have been provided to my office and to me. I appreciate what has passed has stemmed from an initial complaint that has been made and the outcome of that complaint is yet to be decided upon.

There is a problem, I believe, in that because Mr Buchanan was on secondment, rather than employed directly through the ACT public service, he did not have adequate

access to workplace rights, as would be available to others. While I do appreciate that Mr Corbell has outlined a number of steps, I think the issue is still about being on secondment and what rights are available to someone if a situation like this arises. That is why we will be standing by the amendment, which I will move later.

While I do not wish to pass judgement about the complaints made and believe it is inappropriate to do so, I am concerned that there appears to be perhaps a hole in ACT industrial relations policies that needs to be considered further.

There is a question of how to proceed on two distinct matters, I believe, in this situation and in what we are discussing today. The first is how to resolve concerns about Mr Buchanan's industrial relations case specifically and the second is how to address any gaps in industrial relations policy applying to people on secondment.

With regard to Mr Buchanan and the suggestion that the JACS committee look into this matter, I appreciate that Mr Buchanan says this is something he wants to happen, and I have talked to him about it. It was quite apparent, however, from my conversation with Mr Buchanan that what was involved with the committee process had not been explained to him. The process of privilege had not been explained to him, in that while he was protected by privilege, so were other witnesses, including government and departments. Nor had it been explained to him who would be doing the questioning and the actual reporting process.

I would have thought this was something Mr Hanson would have explained to him quite clearly. It was quite clear that it was not explained to him at any point, because he asked me a lot of questions about this process and he did not know anything about the committee process. That was apparent to me.

It does raise major concerns for me in that Mr Hanson would be using an individual, in a very vulnerable position I might add, for political ends. It also seemed that proceeding with a committee inquiry had been suggested to Mr Buchanan and it was not something he had specifically asked for. However, I will stand corrected on that, if that is not the case.

Likewise, I am concerned about what the government would do in a committee inquiry, in terms of what information would be provided on this person's case. I have told Mr Buchanan that I am very concerned about using that process, as everything will be public and go on the record. While he has been in the media, he was not aware of the fact that whatever was said in the committee would go on the record and would be there to be used at any point in time during his lifetime, basically. I am also concerned that there is little protection or support for him in that process. I do believe that a process needs to be pursued that is fair and provides protection to all parties. An Assembly committee is not going to do that. Information that comes out of this process, as I have already said, could cause long-term damage.

What is more likely to work is the public interest disclosure process, which provides much stronger protections to Mr Buchanan if he needs or wants it, while ensuring his access to natural justice. A public interest disclosure process could take longer than an Assembly inquiry, but it is a safer option. It provides legal protection which an Assembly inquiry does not.

I will be moving an amendment to Mr Hanson's motion along those lines, asking for the government to facilitate a public interest disclosure process with Mr Buchanan if that is something he wishes to do.

Going to the systemic matters, I will also be moving an amendment to Mr Hanson's motion calling on the government to outline what industrial relations rights are available to public servants who are on secondment to the ACT public service and whether they differ greatly from that available to permanent employees. It asks the government to investigate this matter and report to the chamber by the last sitting day in August this year.

My primary concern in this matter is for the individual in question and his welfare. Mr Buchanan could basically, I believe, be hung out to dry in a committee inquiry and become the victim of a political point scoring exercise. Public interest disclosure legislation was created for the very purpose which is involved in this case. I know there are disagreements about this process, but I firmly believe it is the most appropriate course of action in this situation; not something that would be played out through the media with no protections offered to the individual at the heart of the matter.

I was going to say that I could predict what Mr Hanson has to say, but he has already said it. But this is a highly sensitive matter and, as I have said before on other such matters, my concern is not for the Canberra Liberals or for the government; it is for the individual who will be put in a very vulnerable position. Yes, the Greens have asked questions about this, and we did ask questions in estimates, but the question again is: what is the appropriate process to apply scrutiny to give an individual redress without having a very vulnerable person dragged through the mud in public?

I will just go back to the public interest disclosure process again. It can actually be facilitated through the ACT Ombudsman or the Auditor-General, so not through a government agency. So there is scrutiny through that process but it is not scrutiny via a committee, not scrutiny via the Canberra Liberals or the government. We have chosen that for a reason, as we are concerned about the manner in which, as I have already said, both the Liberals and the Labor Party would scrutinise this situation and how it would impact on Mr Buchanan.

There have already been quite a lot of comments made, but I am very concerned that we are dealing with someone who is very vulnerable. As I have said, I have spoken to him. I am quite concerned for his welfare and that is why we are not supporting the process that has been put forward by Mr Hanson. I am disappointed to hear that the government will not be supporting it. While Mr Corbell outlined processes that are involved, I do think we need more clarity in terms of people on secondment in terms of actual industrial relations rights. I spoke to the CPSU about this and that was something that they noted as well.

In terms of public interest disclosure, I think this would have been the most appropriate process. Again, I am disappointed that we will not have this process facilitated. We cannot support what the Liberals put forward. So it is, I think,

disappointing that we will not be getting anything out of today. Again, this is about the welfare of Mr Buchanan.

I note that Mr Corbell said that there had not been any processes exercised. My concern in relation to what Mr Corbell said, about not using avenues, is that it seemed to me from speaking to Mr Buchanan that nobody has actually explained those processes to him or told him about them. Again, I will stand corrected if that is not the case, but that seems to be what has happened.

The motivation of Mr Hanson is quite clear to me, if not blatant. The question I put to Mr Hanson is: what skills do members of this place and the committee in question have to deal with someone who is in a very vulnerable position and then deal with the consequences of what might come out of that process? In fact, should we be putting them in that position? That is something we should be thinking about. So we will not be supporting the Liberals' motion. I move the amendment circulated in my name:

> Omit all words after "That this Assembly", substitute:
>
> "Calls on the ACT Government to:
>
> (1) facilitate the public interest disclosure process for the former Superintendent of the Alexander Maconochie Centre about the termination of his secondment to the ACT Public Service, if that is a process which the former Superintendent wishes to pursue; and
>
> (2) report back to the Assembly by the last sitting day in August 2011 about:
>
> (a) what industrial rights are available to workers seconded to the ACT Public Service;
>
> (b) how they compare with the rights of permanent ACT public servants; and
>
> (c) if action needs to be taken to raise the level of rights available to people on secondment.".

I have already spoken to it and what it entails. I urge the Canberra Liberals in particular to rethink what they have already said and to support this so that we can have an appropriate process that protects the individual and gives him redress.

MR HANSON (Molonglo) (11.25): We will not be supporting the Greens' amendment, because what it does is remove any scrutiny of this incident. We know from previous examples, such as the bullying case at the Canberra Hospital, that the Public Interest Disclosure Act will just serve to bury this as deeply as it can go and the minister will be able to claim deniability. We will all be banned from talking about it ever again and we will all go about our business. No-one will know what has occurred.

The Greens have got this fake concern about Mr Buchanan's welfare as their excuse for not supporting this. They are saying that this is where they are going. I have spoken to Mr Buchanan and I am aware of the conversation between the Greens and

Mr Buchanan. That conversation opened up with the Greens saying, "We are not inclined to support this motion." This is where the conversation started. I do not speak to the detail of it but it was probably an attempt to say: "We don't want to do this committee process. Don't do that."

You have got to remember that Mr Buchanan has spoken publicly already. He has been on the public record. He wants to be on the public record. He has spoken to the *Canberra Times* on two occasions. He is proud of his service. He is very proud of his record and he thinks that his actions will stand up—

Members interjecting—

MR ASSISTANT SPEAKER (Mr Hargreaves): Just a second, Mr Hanson. Stop the clock, please. Members of the crossbench will stop interjecting. Thank you. Mr Hanson, you have the floor.

MR HANSON: He believes very firmly, as I understand it, that his actions will stand up to scrutiny. The problem is that if this is buried, if this is rejected by the government and Greens or buried because of our Public Interest Disclosure Act, then nobody will ever know. And all we will have is this tainted reputation of Mr Buchanan.

This is someone who, after 34½ years service and having been called on by the ACT government to sort out the problems at the ACT jail, is now under a cloud and has been terminated from his employment. And if we do not have a public inquiry, if we do not know what occurred, and have it out in the open, then what will remain—and this is far more damaging for Mr Buchanan—is a cloud over his good name. After 34½ years of dedicated service in corrections, both in New South Wales and the ACT, what will happen is that Mr Buchanan will be left with a tainted reputation because the government and the Greens will refuse to have this matter out publicly, as Mr Buchanan himself wants.

Mr Buchanan's concerns are in part about what happened to him—and yes, he certainly feels aggrieved and so he should—but his principal concern, as he put it to me, is for the staff of the Alexander Maconochie Centre. As was found in the Hamburger report, when he arrived there were problems. There was inexperience. There was a lack of leadership. He came to that jail and resolved a lot of those problems. And Mr Hamburger found that. The government was applauding him not so long ago. He resolved a lot of those problems. And he is very concerned that what has happened is that he has been terminated and there is a cloud over him.

The allegation that I have heard is that prisoners out there are giving each other high fives. That is the word coming back from the corrections officers out there. If you are a convicted criminal—and this is what appears to have happened, on the surface—you can make a complaint about the superintendent and before an investigation is started the superintendent gets the flick.

Hamburger was saying there were problems with security and safety out at the jail because there was not good leadership and the government has created the situation

here, it would appear, that has actually exacerbated that problem. The prisoners are emboldened. They know that they can make a complaint against the person who was actually leading the jail and, according to Mr Hamburger, was resolving these problems and the government will give him the flick before any investigation commences.

What the government wants to do, and what the Greens want to do, by their amendment, is bury it as deeply as possible. Ms Bresnan said there were no protections under the inquiries process. That is ridiculous. If Mr Buchanan did choose to come forward and give evidence, he would do so under privilege, just as we do in this place. And there are significant protections for him to do that. So to say that there are no protections for him is ridiculous.

What skills this committee would have is a point that was raised by Ms Bresnan. "Does the committee have the requisite skills for this specific matter?" That is a ridiculous argument. Why have committees at all if you have got to have specific skills in that area before you can conduct an inquiry?

Ms Bresnan interjecting—

MR ASSISTANT SPEAKER: Order!

MR HANSON: Ms Bresnan is the chair of the education committee.

MR ASSISTANT SPEAKER: Mr Hanson, I do not need your help, thank you very much. Stop the clock. Ms Bresnan, I have been patient. No more, please. Otherwise I will be forced into a corner I do not want to go into. Mr Hanson.

MR HANSON: Thank you. Does Ms Bresnan have an education qualification that I am unaware of? We could say that about all members of all committees. Of course that is ridiculous. This process that is followed in the Assembly committees is one that has stood up to extensive rigour in testing times.

Mrs Dunne, who is the chair of the JACS committee, has conducted an extensive number of inquiries, including an inquiry into the Alexander Maconochie Centre. I think there are few people in this place that would understand the workings of the committee process and the Alexander Maconochie Centre better than the chair of the JACS committee. So to say that there are not the requisite skills within that committee to deal with this matter—a very experienced politician, such as Mrs Dunne, a very experienced chair of a committee, someone who has conducted inquiries into this matter and numerous others in the course of her duties—is ridiculous.

So what we are seeing here in this amendment from the Greens is a desire to bury this matter. And in doing so they are going to leave a tainted mark against Mr Buchanan, because that is the way this matter will stand. If they are concerned about any damage to Mr Buchanan, then that is going to be far more damaging than giving this man the ability to speak publicly, as he wants to, to put his case forward and say: "I am proud of my actions. I am proud of my service. I stand by what I did." I do not make judgement on that but that is what he wants. And the Greens, by their amendment to my motion, are going to deny him the ability to do that.

MR CORBELL (Molonglo—Attorney-General, Minister for the Environment and Sustainable Development, Minister for Territory and Municipal Services and Minister for Police and Emergency Services) (11.32): There are, regrettably, days when I come to this place and I do not feel particularly proud of the conduct of this place. And this is one of those days. I do not think I have heard the Assembly stoop lower than what I have heard today.

What we are talking about is the private employment circumstances of a seconded public servant who has come to the ACT and performed a period of service here and then returned to New South Wales. Clearly the person involved feels aggrieved.

But it is one thing to feel aggrieved and it is another for those opposite to seek to use it for their base political motive, to try to use it to further their political agenda and their political critique of the government. It is just disgusting. I have to say it is just disgusting. Is it going to be the case that every time there is a public servant who is aggrieved about some employment matter it is going to be used to further some base political, partisan argument in this place?

I would have thought they were better than that, but they are not. They are not better than that. They are just tawdry and unprincipled and are prepared to use a person's name and a person's claim in whatever way suits their base political motives. It is just grubby.

It being 45 minutes after the commencement of Assembly business, the debate was interrupted in accordance with standing order 77. Ordered that the time allotted to Assembly business be extended by 30 minutes.

MR CORBELL: It is just grubby and—

Mr Seselja: Point of order—

MR CORBELL: I withdraw "grubby"—

Mr Seselja: A point of order, Mr Assistant Speaker.

MR ASSISTANT SPEAKER: Stop the clock. A point of order—

Mr Seselja: Point of order—

MR CORBELL: I withdraw.

Mr Seselja: No, I am moving a point of order so that you can see—

MR ASSISTANT SPEAKER: Mr Seselja, if you want to have your point of order heard, do not address it across the floor. Address it to the chair, please; otherwise we will sit you down. Now what was it?

Mr Seselja: Thank you, Mr Assistant Speaker. It was in relation to the use of the word "grubby" on more than one occasion just in the last minute or so. After being forced to withdraw it before, he used it twice. I think that the use of warnings which have been thrown at this side of the Assembly should be used for Mr Corbell if he is going to continue to use unparliamentary language and then belatedly withdraw it.

MR ASSISTANT SPEAKER: On your point of order, Mr Seselja, I did not hear the second—I think you said a couple of times in the recent speech from the minister, largely because there were people yelling and I could not hear it. I will invite the minister, if he did in fact say that, to withdraw. If not—

MR CORBELL: I withdraw it, Mr Assistant Speaker, as I indicated.

MR ASSISTANT SPEAKER: And I would also ask the minister not to use the phrase again, please.

MR CORBELL: Thank you, Mr Assistant Speaker.

Mr Hanson: Well—

MR ASSISTANT SPEAKER: Mr Hanson—

Mr Hanson: On the point of order, then he is—

MR ASSISTANT SPEAKER: I have ruled on the point of order, Mr Hanson. It has been done; it has been dealt with. Thank you. Minister, you have the floor.

Mr Smyth: On a point of order, Mr Assistant Speaker—

MR ASSISTANT SPEAKER: Okay. Mr Corbell, hold the phone for a second.

Mr Smyth: Under standing order 73, would you give us a ruling on how many times a member can defy the seat of the Speaker and persist with using the word that he had already been warned to stop using? I am just interested as to what the standard of defiance is before action is taken against somebody in the government.

MR ASSISTANT SPEAKER: I think, Mr Smyth, it is an interpretation of the chair, as I understand it. Also, standing order 202, subparagraph (e), refers to "persistently and wilfully disregarded the authority of the Chair". I do not see the persistence at this point and each time I have asked the minister to come to order, he has done so. I have to say if anybody has been persistent in ignoring my requests for calm, it has been your side of the chamber at this stage of the game, at this stage of this morning's proceedings. Mr Smyth, if you still want me to get you a statement under standing order 73, I will—

MR SMYTH: Standing order 73.

MR ASSISTANT SPEAKER: I will return to you once I have received that advice. I will tell you once I have got that advice, possibly between the debates. Mr Corbell, you have the floor.

MR CORBELL: Thank you, Mr Assistant Speaker. They know what I mean and they know what I am saying, Mr Assistant Speaker. To drag the personal circumstances of an individual into this place, to force the government to have to engage in this debate and to put it in an adversarial position over a matter which is clearly the cause of some grievance but which has avenues available to it to be resolved, it sickens me; it just sickens me, Mr Assistant Speaker.

We should be able to prosecute our political arguments about corrections policy, management of facilities or whatever it might be, without dragging in the name and reputation of individual officers. The government has never drawn, and did not at any time draw, the circumstances surrounding the former acting superintendent to anyone's attention. And it was not because we were embarrassed about it. It was not because we were defensive about it. It is because it is a private employment matter, as it is for every one of the other 20,000 ACT public servants and people on secondment to the ACT public service.

We did not put it in this place. We did not put it on the front page of the paper. We did not do any of those things. We are very happy for any grievance to be investigated and, as I have indicated, there are avenues and there are mechanisms to do that should the person aggrieved choose to exercise them, and that remains the case.

I would ask members to reflect on what road they are going down today and what low standard they are setting for the future if they support this proposal today.

MR ASSISTANT SPEAKER: Before you rise, Mr Seselja, I will give you the call to speak to the amendment in a second. I have had an opportunity to look at standing order 73, Mr Smyth. Your question was, under standing order 73, how many times must a person wilfully disobey the authority of the chair before getting a warning. I would like to read, for the benefit of members, standing order 73. The subtitle is "Proceedings on question of order". It states:

> Upon a question of order being raised, the Member called to order shall cease speaking and sit and, after the question of order has been stated to the Speaker by the Member raising it, the Speaker shall rule on the matter. The Speaker may at his/her discretion direct the clock to be stopped.

It has nothing to do whatsoever with the number of times a person repeats a possibly unparliamentary term. There is nothing in that standing order which refers to your original question, Mr Smyth. I will refer you back, however, to my comments around standing order 202(e), about the Speaker's discretion as to how far the string must be stretched. Mr Seselja, do you wish to speak to the amendment?

Mr Smyth: Just on your statement, Mr Assistant Speaker, what I simply asked was: could you tell us what the rules are here? What is your ruling in regard to how many times a member—Mr Corbell said "grubby" earlier. He was asked to withdraw it. It was repeated before I moved that Assembly business be extended. He repeated it after Assembly business was extended. You told him not to say it. So my simple request is: what are the terms of defiance? How many times can one defy the Speaker before one gets warned?

MR ASSISTANT SPEAKER: Thank you very much, Mr Smyth. My recollection in terms of people not complying with a request of mine to desist from interjecting is that it can be as many as five, six, seven, eight, even as many as 10, before I get to the stage of advising people I am about to warn somebody. I believe that if the minister has said something a second time after being asked to withdraw it, that still does not fit into the definition of persistent misbehaviour when judged against your own example.

MR SESELJA (Molonglo—Leader of the Opposition) (11.41): The minister's argument against this motion appears to be based on the fact that if we were to support this motion or if this motion were to get up, there would be some sort of flood of inquiries into employment relations within the ACT public service. That is based on the fact that we are going to see significant numbers of high ranking senior public servants in senior, critical positions in the ACT government be dismissed and then go public with their concerns.

I am not aware of any recent examples other than Mr Buchanan of that actually occurring. And that goes to the point, Mr Assistant Speaker, that it is a very rare thing for someone who is dismissed from a senior government position to go public with their grievances because we have seen how the government treat people who criticise them publicly. They seek to smear them and besmirch them and it takes a lot of courage. We see just how rare it is. Does that mean there are not other circumstances where people are unfairly treated or pushed or treated badly? Of course, it does not. All it means is that it is a rare thing indeed for a senior public servant, in this case with over 30 years experience, to go public with their grievances.

That suggests to me that we are dealing with something pretty significant here. It suggests to me that this would not have been done lightly. I think that is at the heart of Mr Hanson's motion. It is not the Canberra Liberals who chose to go public with this. It is Mr Buchanan who chose to go public with this. The message from the government and the Greens is "get back in your box". He has come here and, according to the government's own independent review, has helped to turn the place around. He helped to turn the prison around. The Hamburger review said that it was dysfunctional and things actually started to improve under him—and, lo and behold, he is pushed.

It is no wonder that Simon Corbell does not want any scrutiny of that process. You have a fellow who has come with impeccable recommendations, with significant years of experience in corrections. You have your review which says that you set up the prison and in the first year it was a completely dysfunctional prison, for all sorts of reasons coming from the very top, and you then bring in a fellow who has experience and he helps to turn it around.

What did the Hamburger review say that he did? It said that he "demonstrates strong experience in management of secure correctional facilities". It states:

> There is evidence that he is mentoring the AMC leadership team and leading by example in his interactions with staff and detainees. Feedback from some external stakeholders is that the Superintendent is having a positive impact on AMC operations. ACT Corrective Services say that since this appointment:

> Staff morale has improved significantly
> Sick leave has reduced
> Sick leave management strategies are in place
> Regular staff meetings are conducted
> Additional staff training programs have been implemented
> Drug trafficking into the centre reduced (supported by intelligence) and
> Detainee management strategies have been enhanced.

And this is the bloke that they want to get rid of. I think what is disgraceful and what is low is the position of both the Labor Party and the Greens on this where they are looking to sweep it under the carpet.

I will deal with Ms Bresnan's amendment. There is a pattern of behaviour here from the Greens. They are all into transparency except if it is to do with their coalition partners or themselves. When it is about their dealings, when it is about the dealings of the government, it is "Let's do it behind closed doors; let's not have any sort of public process here." We saw that with the disgraceful covering up of the bullying allegations in Canberra Hospital. Here we have it again. When there is an issue of concern, instead of actually having an inquiry that can get to the bottom of it, it is "Let's do it quietly and secretly."

When it came to issues at Bimberi, when we wanted to have a full and public inquiry, "No, let's appoint a handpicked person to do it quietly." And here we have an amendment by Ms Bresnan which is effectively telling Mr Hamburger to shut up. It is telling him, whether he likes it or not, "Well, what would be better for you?" So he has come out publicly and said, "I don't believe I've been treated fairly." He said, "I've been pushed when I shouldn't have been pushed." He has been prepared, courageously, to express those concerns publicly.

The Greens are saying to him: "No, you don't know what's good for you. What's good for you is to do it quietly. You can quietly express your concerns through the Public Interest Disclosure Act."

What a disgraceful suggestion—that we should be telling someone who has shown the courage to come out publicly and criticise how things have occurred that he should shut up; that we should tell him what we need is a secret process, a secret inquiry. This is the pattern of behaviour from the Labor Party and the Greens. Every time there is a difficult issue, "Let's look to sweep it under the carpet. Let's not have any sort of scrutiny on it; let's sweep it under the carpet. Let's do it behind closed doors. Let's do it in secret."

We saw it in the hospital. We saw it with bullying; now we are seeing it again and the Greens are leading the charge in this amendment, which would suggest to Mr Buchanan that what he should be doing is shutting up.

The government has questions to answer on this process. We do not know the answers to those questions. I was not in the room. What we do know is that a senior public servant who has served his community for over 30 years in the field of corrections, who was praised by the government's own report as having helped to turn a

dysfunctional prison around and improve outcomes at that prison, has felt the need to go public and say that his treatment has been shabby. That is what we do know.

He has put that on the public record, and just because the government do not want to answer those questions it does not mean that we should not ask them. Just because the government are sensitive on this issue and want to sweep it under the carpet it does not mean that we should support them in sweeping it under the carpet. That is why Mr Hanson's motion should be supported, because what we know of this process does not look good. And the facts that are on the table are not ordinary facts. This is a very rare event indeed—that we see a public servant speaking out publicly about their treatment by the ACT government.

What the Labor Party and the Greens are saying today is: "We're going to sweep that under the carpet. We don't want to know. We're going to block our ears because he doesn't know what's good for him. What's actually good for him is to do it quietly and do it under the public interest disclosure." Mr Corbell's answer to him as to what he should be doing is that he should maybe be going to the people who sacked him and seeking a review. Both of those paths are unacceptable, but they have one common theme. The common theme is that the Labor Party and the Greens want to sweep this under the carpet. They want to cover it up. They want to cover it up like they did with the bullying inquiry, and they continue to cover up the bullying inquiry. They continue to cover that up; now they want to cover this up. I think that is disgraceful. I think that is low. I think that is shocking politics.

Of course, there are a number of other ways Mr Corbell may choose to describe that kind of politics. It is disgraceful. That is why this motion should be supported. That is why we will not be supporting the "sweep it under the carpet" amendment that has been put forward by Ms Bresnan.

MR ASSISTANT SPEAKER: I remind members that the time for Assembly business today will totally conclude at 12.04. That is for the consideration of the number of speakers who may wish to continue to speak on the motion. The question now before the House is that Ms Bresnan's amendment to Mr Hanson's motion be agreed to. Mr Smyth, do you wish to speak to the amendment?

MR SMYTH (Brindabella) (11.53): Yes, Mr Speaker. I am quite concerned that in this place in particular, when an individual of long standing and with a great deal of support from his community actually asks for something to occur—not inside a particular process, the public interest disclosure process which we all know, after the bullying inquiry, is a closed process where there is no light of day—members here, in light of what the Chief Minister said earlier this week about being more open and more accountable, would simply say that they are not going to agree with it. We have heard Mr Corbell's defence, which is simply, "You are all a bunch of grubs." Nice words! But they do not mean anything. And that is the defence. You know Mr Corbell is stretched when he repeats the same thing over and over again during his allotted time.

But what is it that Mr Buchanan is asking for? He is simply asking for a public airing of his dilemmas with the system that he feels has betrayed him. And what is Mr

Corbell asking for? He is asking for Mr Buchanan to simply trust that system to give him the justice that he has been denied. It is a silly argument, and I think it is an argument that shows that the government is afraid of this issue being aired publicly, with all the protections and all the privileges that are offered by a hearing in this place. There are protections there, despite what the Greens say. There are the privileges that are attached to being in the Assembly. And I think it is very important that it occurs.

I want to reiterate a couple of the findings that Mr Hanson read out from the report on the review of the operations of the Alexander Maconochie Centre. There are two that are worth hearing:

> That the lack of continuity and experience in the AMC leadership … created a potential risk to the safety, security and efficient operation of the centre given the significant number of new inexperienced staff;
>
> That on 31st May 2010 ACT Corrective Services arranged with another jurisdiction to second a highly experienced officer to fulfil the role of Superintendent. Such an arrangement provides the opportunity for continuity of appropriately experienced leadership in the role …

What was the outcome of that secondment? The findings continue:

> Feedback from some external stakeholders is that the Superintendent—

the man we are discussing here—

> is having a positive impact on AMC operations;

The report also notes:

> ACT Corrective Services say that since this appointment:
> Staff morale has improved significantly
> Sick leave has reduced
> Sick leave management strategies are in place
> Regular staff meetings are being conducted
> Additional staff training programs have been implemented
> Drug trafficking into the centre reduced (supported by intelligence) and
> Detainee management strategies have been enhanced.

This guy was a success, and he got sacked for his success and for the things that he believed in and stood by. And we should be supporting him today.

Amendment negatived.

MR HANSON (Molonglo) (11.55), in reply: I thank members for their contributions. I am very disappointed that we will not have support for this from the crossbench. I expected nothing less from the government, but I am deeply disappointed that we will not have an opportunity for Mr Buchanan to clear his name, to have his day in court, because the facts are quite simple here. Mr Buchanan has gone public. And he has gone public to say that he is the political fall guy. He said that it was because of his opposition to an NSP, in part, and he said that he feels that due process has been denied.

It is quite clear that the fact is that Mr Corbell has failed to provide any reasonable explanation of why he was sacked and explain whether due process was followed or not. It is also a fact that the Hamburger review found that there was a leadership vacuum at the AMC, that Doug Buchanan filled that leadership vacuum and that the jail is at a critical point.

It is a fact that no inquiry will mean that Mr Buchanan's reputation will now be questioned. And it is a fact that he will be denied his day in court, to put his case forward. It is a fact that Mr Buchanan has alleged that he was in part removed because of his opposition to an NSP. It is a fact that the Greens support an NSP. It is a fact that the government support an NSP. And it is a fact that both of those parties will significantly benefit from the removal of somebody who is in opposition to an NSP. It is a fact that the government has no intention of investigating whether due process was followed. It is a fact here today that the government and the Greens have rejected scrutiny.

It is a fact that this government are not open and accountable, as was attested to by Ms Gallagher. It is a fact that they have denied Mr Buchanan a chance to clear his name, and it is a fact that because of the actions of the government and the actions of the Greens Mr Buchanan is going to be denied the opportunity to have his say as he had wanted to, and as he has already done.

Mr Corbell has described his actions as grubby. They are not. I think the question remains: what happened? What is it that has driven the government to bury this, to cover this up, and why is it that the Greens, again, will refuse to shine a light on the cover-ups and the behaviour of this minister, Simon Corbell, and his Chief Minister who is not open, not accountable?

MR ASSISTANT SPEAKER (Mr Hargreaves): There is a pair in order, for the information of Hansard. Ms Porter and Mr Seselja are paired. Mr Hanson, did you want to leave Mr Seselja as a pair or did you want to swap?

Mr Hanson: Yes, we will leave Mr Seselja as a pair.

Question put:

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

Ayes 5		Noes 10	
Mr Coe	Mr Smyth	Mr Barr	Ms Gallagher
Mr Doszpot		Dr Bourke	Mr Hargreaves
Mrs Dunne		Ms Bresnan	Ms Hunter
Mr Hanson		Ms Burch	Ms Le Couteur
		Mr Corbell	Mr Rattenbury

Question so resolved in the negative.

Motion negatived.

Justice and Community Safety—Standing Committee
Statement by chair

MRS DUNNE (Ginninderra): Pursuant to standing order 246A I wish to make a statement on behalf of the Standing Committee on Justice and Community Safety performing the duties of a scrutiny of bills and subordinate legislation committee. The committee reviewed the Administration (One ACT Public Service Miscellaneous Amendments) Bill 2011. The bill would amend a large number of pieces of legislation in consequence of the single-agency structure for the ACT public service as proposed by the Public Sector Management (One ACT Public Service) Amendment Bill 2011. The committee examined the bill and offers no comment on it.

Public Accounts—Standing Committee
Statement by chair

MS LE COUTEUR (Molonglo): Pursuant to standing order 246A I wish to make a statement on behalf of the Standing Committee on Public Accounts in relation to reportable contracts under section 39 of the Government Procurement Act 2001. The Government Procurement Act 2001 requires agencies to provide the public accounts committee with a list of reportable contracts every six months. Reportable contracts are defined, with some exceptions, as being procurement contracts over $20,000 that contain confidential text. Agencies provide the committee with the names of the contracting parties, the value of the contract and the nature of the contract. The committee is aware that the information chief executives, now directors-general, provide in relation to reportable contracts is readily available in the public domain on the ACT Government Contracts Register.

The former Minister for Territory and Municipal Services informed the committee that consideration was being given to changing the process for the reporting of reportable contracts. As an interim step in this process, the committee again welcomed receiving the list of reportable contracts for this period in one consolidated report.

The committee believes that there is value in the provision of a consolidated report for the six-monthly reporting periods. However, the committee is of the view that the purpose of scrutiny would be served by a report which combines the two current six-monthly reporting periods.

The committee wrote to the former minister in June 2010 to convey its views on this matter. The minister subsequently advised that while he welcomed the committee's willingness to reduce the frequency of reports on reportable contracts, he believed that the new register rendered the reporting of reportable contracts redundant. As a consequence, the former minister indicated he intended to change the legislation to remove the requirement for chief executives to report to the committee on reportable contracts.

The public accounts committee believes that this information should be available to all members and the committee will continue to table these lists until such time as the

legislation is amended. I therefore seek leave to table the list of reportable contracts for the period 1 October 2010 to 31 March 2011 as received by the public accounts committee.

Leave granted.

MS LE COUTEUR: I present the following paper:

> Reportable contracts—Agencies reporting reportable contracts for period 1 October 2010 to 31 March 2011—Table.

Planning, Public Works and Territory and Municipal Services—Standing Committee
Statement by deputy chair

MS LE COUTEUR (Molonglo): I now have the 246A statement for the planning committee and, as deputy chair, I would be happy to present it. The 246A statement is on the inquiry into the Tidbinbilla revised draft plan of management 2011. The Planning and Development Act 2007 requires all public land to have a plan of management which details how land management objectives prescribed in the act are to be met.

In May 2010 the Department of Territory and Municipal Services released the Tidbinbilla draft plan of management for public comment. Following the public consultation process, a revised draft was prepared and referred, along with the accompanying consultation report, to the Standing Committee on Planning, Public Works and Territory and Municipal Services for its consideration.

The committee has decided to conduct an inquiry into the revised draft plan of management, which sets out directions for the management of Tidbinbilla for the next decade and covers a range of issues, including community and corporate involvement, natural and cultural values, recreation and tourism, education, research, environmental planning, protection and management, and a proposed master plan to consider more detailed or site planning.

The committee's inquiry will allow for comment on any one or more of these issues covered by the Tidbinbilla plan of management. Written submissions are due by 22 July 2011, with the committee expecting to complete its inquiry by the end of September.

Standing committees
Membership

Motion (by **Mr Corbell**), pursuant to standing order 223, agreed to:

> That:
>
> Mr Hargreaves be discharged from the Standing Committee on Climate Change, Environment and Water and Ms Porter be appointed in his place.

> Ms Porter be discharged from the Standing Committee on Education, Training and Youth Affairs and Dr Bourke be appointed in her place.
>
> Ms Porter be discharged from the Standing Committee on Health, Community and Social Services and Dr Bourke be appointed in her place.

Planning and Development (Lease Variation Charges) Amendment Bill 2011
Detail stage

Clause 1.

Debate resumed from 21 June 2011.

MS GALLAGHER (Molonglo—Chief Minister, Minister for Health, Minister for Industrial Relations and Treasurer) (12.08): Ms Hunter is due to speak to this particular part. I think the lease variation charge coming on has surprised all of us; it has come on a little earlier than expected. Ms Hunter is now here to move, as I understand it, amendments 1 to 25.

MR SPEAKER: Not just yet, Ms Gallagher, you will find, but thank you for your assistance.

MS GALLAGHER: Sorry, I was just trying to provide some assistance there.

MR SPEAKER: We appreciate it.

Clause 1 agreed to.

Remainder of bill as a whole, by leave, taken together.

MR SESELJA (Molonglo—Leader of the Opposition) (12.09): I move amendment No 1 circulated in my name *[see schedule 1 at page 2546]*.

In accordance with my statement at the in-principle stage, there are a number of significant elements of this bill that we have concerns about. There are three that we will be focusing on with our amendments and this is the first of them. I touched on this in my speech in principle and it goes to this issue of improvements. At the moment section 277A as drafted provides:

> In working out ***V1*** and ***V2*** under section 277, an improvement in relation to the land comprised in the lease must not be taken into account.

It gives some limited exceptions to that—improvements by way of clearing, filling, grading, draining, levelling or excavating the land. We have significant issues with that clause as drafted, and that is what my amendment goes to. My amendment says that these improvements should be taken into account because it is completely

contradictory for the government to have a V1 and V2 system which is based on the fact that you get additional value as a result of the lease variation.

If the principle that is at stake here is that you have some value that you have presumably paid for—you might have an office building on a block of land; you have paid for the office building and you have paid for the land—the lease variation allows you to do different things which may have more value to you. It is absurd to suggest that in working out what is the windfall that will be taxed—because that is what we are talking about here; we are talking about taxing a windfall gain that goes to someone as a result of the lease variation—and in taxing that windfall we should not have regard to what value the person has prior to the change.

We put this to the officials during our briefing and the officials suggested to us that this was a purer way of doing it. I am not exactly sure what was meant by that, but when it was suggested that it would discourage someone who may have an office block from developing a residential development which we may well want, we were, of course, put back to: "Well, that allows us the levers. This legislation allows us the levers."

So in most cases we will have a situation where, indeed, it may be not viable and not commercial, as a result of this clause, to redevelop. And in many cases it will not be, because someone who owns that office building, who has paid for that value, who has some economic value there, is being told: "If you change, we will disregard the value that you have at the moment. We will assume you have no value, that there is no economic value in that building."

That does not make sense. It actually undermines the philosophical underpinning of the legislation, which is that you get a windfall as a result of a lease variation. You have existing property rights, you get additional property rights as a result of the lease variation, and we tax those additional rights. The only way to do that in the case of V1 and V2 is to have a situation where we consider what that existing value is. That is what the "V" is. The "V" is about value. To suggest that if we redefine it we could pretend that there is no value in that building undermines the whole basis and the rationale for levying this tax.

My amendment would actually ensure that that value is taken into account. I have not heard from officials, I have not heard from the minister, I have not heard from anyone, justifying why it is that we would not take that value into account. We are dealing with two different issues here. We are dealing with codification, but in the case of V1 and V2, of course, it is not codified and it cannot be codified. So in certain circumstances under this legislation we are going to be applying a similar approach to what is applied now, that apparently applies well under rectification, according to the government.

If we are serious about that then we have to have a fair dinkum value in the first place and then look at the new value—look at the new value, minus the old value, get the difference and put the tax on that. That is the principle of this legislation. That is the principle underpinning change of use. Whether or not the government calls it a charge or a tax, that is what we are talking about.

It is important that this amendment goes through because it would actually ensure that we do not create these kinds of market distortions through having such a disincentive to redevelop, particularly at a time when we know that we want to see some of these empty offices redeveloped. We do want to see a changeover at present. There might be times in the future when that might not be as much the case, but regardless of that, we should not be putting roadblocks in the way of that kind of redevelopment. We should actually see that as a plus for our city.

Of course, the only way you can argue that we are not putting roadblocks in is if you then revert to the remission. It all then becomes about the remission. And we go back to this argument about what that will mean. So much of this legislation is set up on the assumption that it will only work if there are lots of remissions. What kind of a tax system is based on that? If we look at other areas of taxation, things like income tax, people can see some of their taxable income come down because of legitimate expenses. Imagine if the income tax was set in such a way that the government said, "Look, we're going to charge you 60 per cent, but the really good news is that we're going to halve it for the first couple of years. So 60 per cent might look bad, but we're only going to charge you 30 per cent." What if they had an income tax regime which said: "If you can make your case to the tax office—okay, most people will have to pay 60 per cent, but you might only have to pay 30. You might have to pay 40"? It would be absurd if we were to go down that path. Yet that is where we are going with the way this legislation is set up.

Always, when issues are raised as to how it will work, we are told: "It's okay because most of it won't be charged, at least in the first couple of years. In the first couple of years we'll charge less and then we'll charge more." But if that does not work, "Well, you can always lobby the Treasurer for a remission, just to see, if that's not working.'

It is critically important that we get this right. On the fundamental principle here, which is that, if you are going to go down the V1 and V2, if you are going to maintain V1 and V2, as the government has accepted, it has to be a genuine V1 and V2. To be a genuine V1 and V2, it has to take account of the value that you have, as well as the value that you will get. Anything less than that says that we are not serious, that that is not what is at stake here; that what is at stake is a tax grab at any cost. Regardless of the principle, regardless of the stated principles, regardless of the stated reasons for the legislation, it comes down to being a tax grab.

I commend this amendment to the Assembly because it will go some way towards improving what is a very bad piece of legislation.

MS GALLAGHER (Molonglo—Chief Minister, Minister for Health, Minister for Industrial Relations and Treasurer) (12.20): The government will not be supporting the amendment being put forward by the Leader of the Opposition today. I think it is clear that, by putting it forward, the Leader of the Opposition simply does not understand the legislation that he is dealing with today. Indeed, the name of the legislation is "lease variation charge". The V1 and the V2 relate to the value of the lease, not what is on it. The issue of looking at improvements has been extensively examined through the last two years of analysis; not just by the Property Council,

which is the position that Mr Seselja seeks to promote, but by the reports done through Macroeconomics and other eminent experts who have looked at this issue in particular.

The issue has been the subject of considerable discussion with industry. I accept that, and I accept that the property industry in particular would like improvements to be considered and included in the V1 valuations. The issue here is that the lease variation charge is about the value of the land and purchasing of additional rights, property rights, through the changing of a lease. What needs to be captured through this is the value of the land. That is the principle. Inclusion of improvements in valuations will create distortions in the market and it will result in the taxpayer effectively subsidising the property developer.

We have seen examples of this in the residential housing industry where you have two bidders for a property and one is a person who would like to live in a house and one is a developer who would like to demolish the house and put up additional housing. We have seen the results of that in that the developer will outbid the person who wants to live in the house in order to change the purpose of that lease and gain significant economic benefits from changing that lease.

What Mr Seselja asks us to do is to support a system where the taxpayer subsidises the use of that improvement for the time that the developer is considering an alternative improvement and then compensates the developer for the demolition of that improvement in order to gain further, additional economic benefits from putting a new structure on that lease. This is something that the government will not support.

Another example is, say, an office building, which has an economic value based on future rental streams. If this is to be taken into account, the taxpayer will effectively pay for the economic value of that building and the developer will then demolish that building and put up another building which he or she has changed the lease for. So, in effect, the taxpayer will subsidise or pay for the demolition of that structure. This was not intended as part of the policy and the government believes that these costs should not be borne by government. The government opposes the amendment.

Mr Smyth: It is insane.

MS GALLAGHER: It is not insane, Mr Smyth. It is not insane at all. Think about the example I just gave, where developers are prepared to pay hundreds of thousands of dollars more for a perfectly good house because of the redevelopment opportunities. If there is somebody who wants to purchase that house, it might be quite reasonable for that dwelling to remain as a residential dwelling, but because of the economic opportunities and benefits from changing the lease, the developer is keen to and will distort the market by paying much more than the value of the lease in order to gain the benefits, particularly when they are subsidised by the taxpayer in relation to the improvements, in order to deliver another outcome.

The government will not support this. It is not central to the betterment principle. This is around varying a lease. We accept that the property industry want to minimise the charges that they have paid, and I think we are all here with our eyes open about that.

This is one way that they seek to minimise the true costs of redevelopment and seek to have those costs paid by the taxpayer. This government will not support that.

MS HUNTER (Ginninderra—Parliamentary Convenor, ACT Greens) (12.25): The Greens will not be supporting the Liberals' amendment. On the question of improvements, the Greens also have an amendment to clarify the issue of improvements which is almost exactly the opposite of what the Liberals are seeking to do.

The lease variation charge is premised on the idea that proponents are paying for the value of the development right that is being assigned to them by the community. As I said in the in-principle debate, this is a gain that does not come about because of their enterprise or ingenuity; rather, it is a recognised value that accrues to the lease because of new development rights granted by the lease, and that value belongs to the community. The gain that belongs to the developers is the one that comes about from building a product that people want to buy. The fundamental basis for the charge is very sound and made abundantly clear in the Macroeconomics report.

What the Liberals are seeking to do blurs the line and takes us away from an objective assessment of the value of the right to an indeterminate moving feast of what is and what is not included, to distort the value and, ultimately, the amount of charge payable. This is of course exactly what this amendment is seeking to do. This is a mechanism that is trying to artificially inflate the V2 value to reduce the proponent's liability. This is not in the public interest. It is certainly not in the interest of transparency and a robust and easily determinable charge.

I would also suggest that perhaps one unintended consequence of the amendment is that it does not just inflate the V2 value but it may also arguably inflate the V1 value, as the prospective development improvements might also be considered under this proposal. This would of course mean that potentially proponents might be paying the charge on their enterprise as well as the development rights, which of course would be most inappropriate.

I hope that illustrates that the best course of action is to omit improvements entirely and deal with any commercial realities in a different, much more transparent manner. Therefore we will not be supporting this amendment.

MR SESELJA (Molonglo—Leader of the Opposition) (12.27): Meredith Hunter took about 10 seconds to contradict herself during her speech. It just shows how we are pretending the real world does not exist for the purposes of this debate. Ms Hunter's position in opposition to this amendment is that there will be a windfall for the developer but there might not be a windfall because not only will V2 go up, but V1 will also go up, in which case there would not be a windfall because the tax is on the difference. We are being asked to support the argument from the Greens in opposing this amendment that the reason we should not oppose it is that there is a windfall or that there is not a windfall but V1 and V2 both go up. It is absurd.

If this is going to be the level of debate, I can understand why the government and the Greens do not want to debate these amendments separately, because the last thing

they would want to do is have a rational debate about any of this. I note that the Greens, who dropped their latest version of the amendments, about five minutes ago, want to move them all together—the whole range of amendments all together. I think we see why. We see why, as a result of just debate on the first clause, because at the first hurdle we see the Greens and the Labor Party giving ridiculous reasons as to why this should not occur, as to why this amendment should not be supported.

Ms Hunter's reason is that actually there will be a windfall but there will not be a windfall. And Ms Gallagher's reason is this sort of lack of real—in fact, the examples she uses we are not even talking about. Ms Gallagher seemed to be making a case, and maybe this is the true rationale behind this legislation, that there should not be any residential infill development, that we should not see the redevelopment of sites, say, in the inner north along Northbourne Avenue.

Ms Gallagher: No, that is not what I said.

MR SESELJA: Well, that was the very strong implication. She is saying: "Well, it is terrible. It is terrible that these things happen. People come in and they bid more and then they redevelop. It is terrible. It is terrible stuff." But if that did not happen, I guess we would not see the redevelopment occurring. I think she has just reinforced the argument that we have been making, which is that of course this will discourage infill. Of course it will, and Ms Gallagher has now acknowledged that.

Ms Gallagher: No; it just means people have to pay—

MR SESELJA: You have acknowledged that. What she wants in that case—in fact, I think she may have just made the Property Council's case on the reduction of the value of those properties.

MR SPEAKER: Just one moment, Mr Seselja. I am conscious of time. Do you want to vote on this before lunch? What would you like to do?

MR SESELJA: I am easy, Mr Speaker.

MR SPEAKER: Did you want to keep speaking?

MR SESELJA: How long do I have to go? Six and a half minutes.

Ms Gallagher: You have made your point. I reckon we get it.

MR SESELJA: I think I will keep going, because Ms Gallagher appears to be enjoying it so much. Shall I continue to speak?

MR SPEAKER: Yes.

MR SESELJA: Thank you, Mr Speaker. We have this situation now where Ms Gallagher, in the case of one amendment—this is why they have to put the amendments together, because I can only imagine how much they would undermine their case if we had to debate each of these amendments separately.

We have had Ms Hunter demonstrate that she is arguing in a completely contradictory manner in the space of 10 seconds and we have got Ms Gallagher saying, "Actually we will." What happens now, and what we are trying to fix, according to Katy Gallagher, is that people come in and they pay more. They pay more for these blocks. They pay more for these sites in the inner suburbs so that they can redevelop them than would be paid for someone who just wanted to live in them.

If I am the landowner in one of those areas, I might be inclined to take Ms Gallagher at her word. She seems to have now just endorsed the position that has been put out by industry in relation to inner suburbs—that there will be a reduction in land value for existing owners.

Ms Gallagher: No.

MR SESELJA: There is no other way to read that. There is no other way to read what Ms Gallagher said in her speech just then than that land values will be undermined. Two of the critiques have now been endorsed by the Treasurer. We have said that this will discourage redevelopment. She said, "Yes, because what is happening now should not be happening because people are coming in and they are paying more so they can redevelop."

The other critique has been that in some areas we will actually see land values drop. That has been put out there publicly. The government said, "No; no evidence of that." But Ms Gallagher just made the case for it. She just made the case for it because—

Ms Gallagher: It is not land value.

MR SESELJA: It is not land value. So the person who is sitting there in Turner and would have expected to get, say, $800,000 for their house and will now get $700,000 for their house—it is not land value; they have not lost $100,000. They are not $100,000 worse off. Again we see the internal contradictions.

What is important is that we have seen Ms Gallagher starting to finally, as we get to the detail stage, acknowledge things she has failed to acknowledge before. I can only imagine, if we were to debate all 25 of the Greens' amendments separately, how many of the other critiques would be endorsed by the Labor Party and the Greens. It is important that we do that; I think we should debate them separately.

This amendment should be supported. This amendment is very important because it has highlighted Ms Gallagher's endorsement of many of the critiques that have been made. She has endorsed two of the critiques. Yes, it will discourage infill development. Yes, it will affect the value of some properties. I look forward in the debate to Ms Gallagher endorsing the other aspect, which is that it is a dog's breakfast of a piece of legislation and that it will be a tax on units, which hurts people looking to buy a unit and hurts people looking to rent a unit.

I commend the amendment to the Assembly.

Question put:

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

The Assembly voted—

Ayes 5		Noes 10	
Mr Coe	Mr Smyth	Mr Barr	Ms Gallagher
Mr Doszpot		Dr Bourke	Mr Hargreaves
Mrs Dunne		Ms Bresnan	Ms Hunter
Mr Seselja		Ms Burch	Ms Le Couteur
		Mr Corbell	Mr Rattenbury

Question so resolved in the negative.

Amendment negatived.

Sitting suspended from 12.38 to 2 pm.

Emeritus Professor Jack Richardson AO
Statement by Speaker

MR SPEAKER: Before we commence question time, I would like to advise members of the death of Emeritus Professor Jack Richardson AO on 13 June 2011. Professor Richardson made a lasting contribution to the community as Dean of the Australian University's Faculty of Law during its establishment years. As the first commonwealth and ACT Ombudsman, Professor Richardson established a strong ethic of care and professionalism which continues to influence how these offices conduct their business today.

After his retirement as Ombudsman in 1985, Professor Richardson spent time in legal practice and was responsible for establishing the ombudsman's office in Samoa, where he held the position of ombudsman from 1990 to 1992. At the time of his death, Professor Richardson had just completed working on a book on Australian federal government and constitutional law.

As a mark of respect to the memory of Professor Richardson, I ask members to rise in their places.

Members rising in their places—

MR SPEAKER: I thank members.

Matters of public importance
Statement by Speaker

MR SPEAKER: Before we proceed with question time, there is just one other matter. I would like to make a brief statement regarding matters of public importance. This

morning, six proposed matters of public importance were lodged on the topic "The importance and competence of leadership in government". *House of Representatives Practice*, the fifth edition, at page 578, stipulates that a matter submitted "must be definite—that is, single, specific and precise in its wording". It also requires the Speaker to "have regard to the extent to which the matter concerns the administrative responsibilities of Ministers". Similarly, the *Companion* states that the Speaker must take into account whether the matter submitted is "within the scope of ministerial action".

Whilst I ultimately concluded that the six MPIs submitted on this topic are in order, I would like to make the observation that the requirement that the matter be definite—that is, single, specific and precise in its meaning—was something that I had to consider for some time when deciding whether the matter was in order or not. It was also not clear to me which minister was able to take action in this matter, although I made the assumption that it was the Chief Minister who was responsible for leadership and competence in government in the ACT.

I remind members, when framing their matters for submission, to have regard to the two issues I have mentioned.

Questions without notice

Alexander Maconochie Centre—planned prisoner revolt

MR SESELJA: My question is to the Attorney-General. Attorney-General, are you aware of any incidents at the Alexander Maconochie Centre involving a planned armed revolt by prisoners? If so, how many have there been and when were they discovered?

MR CORBELL: A range of security incidents emerge as a result of intelligence operations in the prison from time to time. I would have to take advice in relation to the specific type of circumstance that Mr Seselja is referring to, but it is the case that the government maintains a strong watch on what occurs in relation to the security status of the prison and has an intelligence-gathering capacity established at the prison for that purpose.

MR SPEAKER: A supplementary, Mr Seselja?

MR SESELJA: Attorney, what action was taken on 17 December 2010 in regard to a possible armed revolt by prisoners?

MR CORBELL: I am not going to discuss the specifics of security arrangements at the prison, for obvious reasons.

MR HANSON: A supplementary, Mr Speaker?

MR SPEAKER: Yes, Mr Hanson.

MR HANSON: Attorney-General, is keeping this incident secret at direct odds with your leader's pledge for open and accountable government?

MR CORBELL: I think it is entirely reasonable that at all times the government maintains confidentiality in relation to intelligence-gathering activities at the prison to ensure that the safety and good order of the prison is maintained at all times.

MR SPEAKER: Yes, Mr Hanson, a supplementary question?

MR HANSON: Attorney-General, would a planned, armed revolt by prisoners at the jail be defined as a problem?

MR CORBELL: It is not a problem if it is prevented as a result of intelligence gathering, Mr Speaker.

Environment—car use

MS HUNTER: My question is to the Minister for the Environment and Sustainable Development and concerns the most recent data from the Bureau of Infrastructure, Transport and Regional Economics. It reveals that, of all Australian capital cities, Canberra has the highest amount of car driving per capita and the lowest per capita use of public transport. It also reveals that while other Australian cities are sharply increasing their rates of public transport usage, Canberra's is in decline. Minister, to what do you attribute Canberra's worsening transport statistics, and are they also attributable to the government's transport planning policies?

MR CORBELL: I thank Ms Hunter for the question. The issue of the modal split in terms of transport in Canberra is an issue that the government is paying close attention to. Indeed, the Chief Minister has indicated in relation to her statement of priorities that the delivery of improved mass rapid transit for the city is a priority for her administration. The Chief Minister and I have already made a number of announcements in relation to how we intend to progress that issue.

In relation to the reasons for the modal split that occurs in the city, it is the case that Canberra has always had a very high level of journeys undertaken by private motor vehicle. That is a consequence, of course, of the design of the city over many years, and the provision of a very efficient and extensive road network which has focused opportunities for travel overwhelmingly on private motor vehicle use. The objective for this government is to identify those opportunities and those corridors in particular where we can strengthen public transport provision, where we can improve reliability and frequency of services, where we can improve infrastructure development to support public transport activity.

That will be this government's focus as we move forward and as we focus on the delivery of those projects—for example, the delivery of new park-and-ride facilities at a number of locations around the city, including at Erindale and at the Exhibition Park location in Mitchell. It will continue to be the government's focus as we deliver new bus station capabilities at the ANU City West exchange. It will continue as we roll out the new, enhanced and additional frequencies as part of the funding provided in the most recent budget to support more frequent bus services to key employment locations. This will continue to be the approach that the government adopts, in the

same way that the government has also foreshadowed that we are providing a renewed focus on opportunities on the Northbourne Avenue corridor, having regard to how we can have greater reliability and greater frequency of services along the Northbourne Avenue corridor and how either bus rapid transit or light rail can be delivered along that corridor.

These are the areas of emphasis for the government, and that is where I will be directing my energies between now and October next year.

MR SPEAKER: Ms Hunter, a supplementary?

MS HUNTER: Minister, what analysis have you done on the impact the building of a new Majura freeway will have on Canberra's transport modal shift targets, and what are those impacts?

MR CORBELL: Again, the Greens continue their opposition to this road. And it is disappointing that they continue this approach because it is important to recognise, as the Assembly has already debated this week, that the delivery of the Majura Parkway is not an either/or proposition. I just wish that the Greens paid greater attention to that fact.

The fact is that delivery of an enhanced Majura Road is important for the delivery of improved freight connections. It is important in terms of improved connections for the region, the connection of two major regional roads, that is, the Federal Highway and the Monaro Highway, to support the growth of freight activities that will occur in that part of the city around the airport, around Hume, around Symonston, around Fyshwick. That is what this project is about. That is why it has been assessed as a project of national significance by the commonwealth government.

Ms Hunter: On a point of order, Mr Speaker, maybe Mr Corbell was just getting to it as I rose but it was a very specific question about what analysis had been done on the impact of Canberra's modal shift targets of building the freeway. I ask you to get Mr Corbell to actually answer that question.

MR SPEAKER: Minister Corbell, if you could come to the question.

MR CORBELL: The delivery of this road is not part of the government's strategy to achieve its modal shift targets. The delivery of this road is about improving freight capacity, about improving regional linkages, about supporting the economic activity that will occur around the airport, around Fyshwick, around Hume and so on.

The Greens seem to live in this world where they say, "Don't build a road because we don't want the idea of the airport growing because we don't like the idea of freight coming in by the airport." Freight does come in by the airport and it is going to continue to come in by the airport. Either we have a road that is safe and that has a capacity to manage that freight task or we do not. That is the government's position in relation to that road.

In relation to modal shift targets overall, the way to achieve improved modal shifts is to continue to focus on opportunities to improve the delivery of public transport provision in the city. That is what the government is doing. *(Time expired.)*

MR SPEAKER: Ms Le Couteur, a supplementary question?

MS LE COUTEUR: Thank you, Mr Speaker, Minister, what analysis have you specifically done on the impact that building a new Majura freeway will have on Canberra's 40 per cent greenhouse gas reduction target? What is the impact it will have?

MR CORBELL: We do not anticipate any further deterioration in relation to modal shift as a result of this road. This road is about dealing with—

Ms Le Couteur: Point of order, Mr Speaker. I asked about greenhouse gas, not modal shift.

Mr Hargreaves: On the point of order, Mr Speaker. The original question was on public transport.

Ms Le Couteur: No, it was not.

MR SPEAKER: Stop the clocks, thank you.

Mr Coe interjecting—

MR SPEAKER: Mr Coe, thank you!

Mr Hargreaves: The original question was not about Majura Parkway. It was about public transport—the original question.

MR SPEAKER: There is no point of order, Mr Hargreaves, because the standing order allows supplementaries to be evolved out of the answers as well. The minister has clearly spoken about the Majura Parkway. Minister Corbell, you have the floor.

MR CORBELL: The point I was making, Mr Speaker, is that the government does not in any way believe that construction of the Majura Parkway will lead to any change in modal shift. That is not what the project is about. It will not therefore be a material factor in relation to greenhouse gas emissions in the city. The fact is that the modal shift will change as a result of other factors. This project is not about achieving modal shift. To suggest otherwise is just wrong.

MR SPEAKER: A supplementary, Ms Porter?

MS PORTER: Minister, how does the population density of the ACT compare with a similar area in Sydney, for example, from Hornsby to Sutherland, in terms of providing public transport and the use of the car?

MR CORBELL: I thank Ms Porter for the question. It certainly is the case that the per hectare density in Canberra is much lower than in many other cities around the country and, indeed, many other cities overseas. Density is a factor in relation to whether or not people are able to effectively access public transport and whether they are able to live close to facilities and services that are conveniently located. I would say, though, that there is a growing body of evidence that suggests that density on its own does not achieve improved public transport.

It is certainly my view that the way to address the density question is to focus on the fact that density is about providing opportunities for people to live close to services and facilities, but you can continue to provide—indeed, you can provide—a better quality of public transport without relying solely on density. That is why this government's focus is on recognising that density in key locations is a good thing in terms of liveability and in terms of access to services and facilities, including access to public transport. But density alone does not deliver public transport. You have to invest in frequency. You have to invest in improved service delivery. You have to invest in improved infrastructure delivery to get the modal split that you need to achieve to help make your city more sustainable.

Alexander Maconochie Centre—governance

MR HANSON: My question is to the Attorney-General. Attorney General, in your speech to the Assembly when you tabled the Knowledge Consulting review of the Alexander Maconochie Centre, better known as the Hamburger report, you stated:

> … as mentioned in the report, a number of prisons commissioned in Australia over the period 1992 to 2005 have had significant problems in the immediate period post commissioning … I am pleased to say that none of this has occurred in relation to the AMC.

Attorney General, have there been any incidents at the Alexander Maconochie Centre since its opening that have required the police riot squad to attend?

MR CORBELL: Not that I am aware of, Mr Speaker.

MR SPEAKER: Mr Hanson, a supplementary?

MR HANSON: Thank you. Attorney-General, can you rule out any significant problems occurring at the Alexander Maconochie Centre on 20 December that required police riot squad personnel to attend?

MR CORBELL: The police do not have a riot squad. The police have the SRS capability, the specialist response capability, which includes officers trained in public order response capabilities to deal with issues such as riots. There have been no riots at the AMC. There have been no armed insurrections at the AMC. There have been no incidents of that type at all.

I was asked earlier in question time today whether there had been intelligence that led to the discovery of a plot for an armed uprising of some sort, and I have indicated to

this place that I will not go into the details of specific security matters at the prison, for the obvious reasons.

MR SMYTH: A supplementary, Mr Speaker?

MR SPEAKER: Yes, Mr Smyth.

MR SMYTH: Minister, do you categorically deny that the police SRS squad or any officers trained in riot squad duty have been called to the Alexander Maconochie Centre?

MR CORBELL: Officers of the SRS have attended the Alexander Maconochie Centre. That is a normal part of their training, their coordination and the delivery of services with Corrective Services and response to the Alexander Maconochie Centre as required in relation to any requests for assistance.

There is a standing protocol in place should Corrective Services staff require assistance from police in relation to public order matters. But there has been no riot at the AMC, contrary to the very thinly veiled suggestions being made by those opposite. There has been no disturbance that has required police to be engaged in relation to those matters—that is, to be deployed to deal with such an incident. But precautions are taken if intelligence suggests that there may be an incident arising. That is entirely responsible, but there have been no incidents of the type mentioned by those opposite.

MR SMYTH: A supplementary, Mr Speaker?

MR SPEAKER: Yes, Mr Smyth.

MR SMYTH: Minister, apart from training, have the SRS or any other officers trained in riot squad duty responded to requests from the Alexander Maconochie Centre, particularly on 20 December 2010?

MR CORBELL: I will have to take advice about the specific date that Mr Smyth is referring to but it would not surprise me if police have been requested to attend as a precaution in relation to a range of matters at the AMC.

Mr Smyth: So there were responses?

MR CORBELL: I said I would take it on notice. That is a normal protocol between Corrective Services and our police, particularly if they believe there to be incidents of such a nature as to require police assistance.

I reiterate—I do not know how much more clearly I can say it—there has been no armed uprising at the AMC. There has been no riot at the AMC. There has been no disturbance of the nature suggested by those opposite. There have been instances, of course, where our intelligence-gathering capability identifies that this may be in the planning stages and appropriate steps are taken in those circumstances.

Planning—community space

MS PORTER: My question is to the Minister for Territory and Municipal Services. Would the minister advise the Assembly how the government ensures that community public spaces such as the community park in Holt are maintained so that Canberrans can continue to get great benefits from them.

MR CORBELL: I thank Ms Porter for her question. I know of her strong interest in issues affecting her electorate and I am very pleased that she is raising this issue today.

The government has an extensive program to make sure that public parks and other spaces for the community are well maintained. The territory has 489 playgrounds and nine skate parks spread fairly evenly across the city. All of our urban parks are inspected and maintained for safety and cleanliness at least once a week. Any maintenance, vandalism or cleanliness issues are attended to as soon as is feasible. Indeed, any playground or other equipment that is assessed as unsafe is cordoned off and made safe until such repairs can be carried out.

Many of the urban parks, rural reserves and campgrounds in the ACT have barbecue facilities, and there are around 90 in Ms Porter's electorate of Ginninderra. They also see electric barbecues out in these parks, and gas barbecues. These are well maintained and are very popular facilities.

In relation to parks in Holt, as for the rest of the electorate of Ginninderra and indeed right across the city, the government has a very effective and responsive program in place where we see all of these parks inspected on a regular basis.

MS PORTER: A supplementary.

MR SPEAKER: Yes, Ms Porter.

MS PORTER: Thank you. Will the minister please provide an update on progress to provide mulch to the Holt community park and support to the proposed Holt community park carers and its foundation member, Mr Harry Redfern?

MR CORBELL: I thank Ms Porter for the question. I was very pleased to learn of the efforts of Ms Porter's constituent, Mr Harry Redfern, and the Holt community park carers. This is a great example of our community working to enhance their local amenity.

Mr Harry Redfern, who lives in Holt, became concerned at the state of the Holt community park. As members of the Assembly would be aware, this summer we had a period of prolonged unseasonable and very wild weather. Weeds had sprouted in each of the newly established gardens at the two main entrances. Mr Redfern contacted his local member, Ms Porter, and proposed that if the government could provide the mulch, he would weed and mulch the garden himself and would also approach other retirees in the area to participate.

I am very pleased that the previous Chief Minister, Mr Stanhope, wrote to Mr Redfern in February this year and advised him that we would arrange for this mulch to be delivered and spread over the site. That mulch has now been delivered, and in the meantime Mr Redfern and his small group of volunteers have been going from strength to strength. On 9 July the Ginninderra landcare catchment group will be hosting a morning tea to welcome the Holt community park carers to this growing body of volunteers who are interested in improving the amenity of our city.

This is a great example of the partnership between government and the community in improving the local amenity of our neighbourhoods and the type of approach that we will continue to undertake. I am sure that I join with other members, and indeed with Ms Porter, in congratulating Mr Redfern on taking the time to be interested in his local community and to invest some of his time and energy in his neighbourhood. I think it means that the Holt community park has a great future when we have strong and interested communities, such as those epitomised by Mr Redfern.

MR SPEAKER: A supplementary question, Mr Coe?

MR COE: Minister, what progress has been made with regard to the maintenance of the land between the Illawarra Retirement Trust at Kangara Waters and Lake Ginninderra foreshore with regard to the transition from the building development to completion?

Members interjecting—

Mr Corbell: Can you say it again? I did not hear the last part of the question.

MR SPEAKER: Order! Let's hear Mr Coe's question.

MR COE: It was in regard to the maintenance of the public land after the construction process is finished.

MR CORBELL: I understand that that issue is being resolved between Territory and Municipal Services and the developer at this time, but I would be happy to get some further advice on it.

Lake Burley Griffin

MS LE COUTEUR: My question is to the Chief Minister, and it concerns heritage and memorial issues around Lake Burley Griffin. The Canberra National Memorials Committee is the body that will make the decision about the proposed lakeside memorials. The National Memorials Ordinance of 1928 states that this committee should include two members who are residents of the ACT. There are currently no ACT representatives on this committee. What is the government doing to encourage the federal government to appoint ACT members to the committee?

Mr Smyth: On a point of order, Mr Speaker, the Chief Minister is not actually responsible for the National Memorials Committee, and I seek your guidance as to

whether she can answer a question for something she is not responsible for, based on the very clear precedent you set yesterday.

MR SPEAKER: One moment, Mr Smyth. Mr Smyth, I believe the question is in order. Whilst the delegates, it is my understanding, to this body are appointed through some federal act, the Chief Minister, through her intergovernmental relations, clearly has the ability to influence or at least advocate for the ACT on this.

Mr Smyth: On the point of order, it is a federal government function over which the ACT has no control. Which part of her portfolio covers the placement of memorials on the foreshore of the lake?

MR SPEAKER: I was explicit about that—the Chief Minister, in her role as Chief Minister and through her intergovernmental relations, has the ability to advocate on behalf of the ACT. Ms Le Couteur has asked her whether she is doing that.

Mr Coe interjecting—

MR SPEAKER: Order, Mr Coe! Chief Minister.

MS GALLAGHER: Thank you, Mr Speaker. As I understand it, this is a committee appointed through—

Mr Hanson: Double standards.

MR SPEAKER: Order! Chief Minister, one moment, please. Stop the clocks, thank you. Mr Hanson, would you like to withdraw the suggestion?

Mr Hanson: I shall withdraw today, Mr Speaker.

MR SPEAKER: Thank you, Mr Hanson. Chief Minister.

MS GALLAGHER: Thank you, Mr Speaker. As I understand it, this is something that is managed through the National Capital Authority. I have received a letter around this matter, and I am taking further advice about in what capacity I can influence appointments to that committee.

MS LE COUTEUR: A supplementary.

MR SPEAKER: Yes, Ms Le Couteur.

MS LE COUTEUR: Chief Minister, what is the government's position on the proposed war memorials by the lake side?

Mrs Dunne: Mr Speaker, I think that now we are trespassing into the remit of the commonwealth. It is well beyond the Chief Minister's remit.

Ms Hunter: She is asking for the ACT government's position.

Mrs Dunne: She has also asked for an expression of opinion.

MR SPEAKER: Yes. The question is out of order.

MS HUNTER: A supplementary?

MR SPEAKER: Yes, Ms Hunter.

MS HUNTER: Chief Minister, has the government considered the proposals to nominate Canberra, and specifically Lake Burley Griffin, for heritage listing? If so, does the government have a position on these nominations?

Mrs Dunne: On a point of order, Mr Speaker, the original question and the question which was ruled out of order were about memorials. It is a big jump to move from that to heritage listing, which is, again, the remit of the commonwealth.

MR SPEAKER: I do not believe there is a point of order. As I understand Ms Le Couteur's question, she asked about matters affecting the lake foreshore. I think it is entirely within the interest of the ACT government whether Canberra receives a heritage nomination or not.

Mr Hanson: On the point of order, Mr Speaker, I seek your guidance because yesterday a question was ruled out of order. It related to private school funding here in the ACT. Today a question relating to heritage issues on the lake foreshore, controlled by the federal government, is ruled in order. I do not understand the difference between the two. Could you explain that to me?

MR SPEAKER: Mr Hanson, I believe that I have just been verballed. I have made my ruling on this quite clear. Chief Minister.

MS GALLAGHER: I can answer the question?

MR SPEAKER: Yes, Ms Hunter's question on the ACT government's view on the heritage nomination of Canberra.

MS GALLAGHER: I think this is an issue that has been raised fairly recently and falls within, again, the responsibilities of the National Capital Authority. It is a matter that I will take some further advice on, including from the minister with responsibility for heritage, before the government reconsiders their position on this. But it is outside our jurisdiction as well. Canberrans would expect the government and the Assembly to have a view on this. I think that is reasonable. But we are taking further advice.

MS BRESNAN: A supplementary.

MR SPEAKER: Yes, Ms Bresnan.

MS BRESNAN: Thank you, Mr Speaker. Is the government aware of the proposal to create a peace study centre at the ANU or otherwise a peace and reconciliation park as

an alternative war memorial instead of the proposed war memorials at the lake side, and does it support the proposal?

Mrs Dunne: Mr Speaker, we have gone from the sublime to the ridiculous. We have now moved from war memorials beside the lake to peace studies institutes at the Australian National University. It is well and truly outside the remit of the Chief Minister and therefore out of order.

Mr Corbell: Mr Speaker, on the point of order, I think the government would have to concur with Mrs Dunne on this one. Mr Speaker, whilst the territory will have engagement with the commonwealth, particularly in relation to planning matters, and obviously it was entirely valid for you to permit the previous question to be asked, this now is taking it a step further. It is about matters that are indirectly linked to those planning issues but then relate to programs and activities in commonwealth institutions. That really is stretching it in terms of the government's ability and the Chief Minister's ability to comment on these matters. I think the question is out of order.

MR SPEAKER: Yes; the question is out of order.

Alexander Maconochie Centre—governance

MR SMYTH: My question is to the Chief Minister. I refer to the list of ACT government priorities for 2011-12 that you outlined this week. You stated that one of your priorities was to improve governance of corrections services, including the AMC. Chief Minister, what are the failures of governance at the AMC that you wish to correct?

MS GALLAGHER: I think this is an issue we went to yesterday. In fact, I think the same question was asked yesterday by the Liberal Party. And you are right, in the sense that on our government priorities we have indicated that we would like to see improved governance of corrections services, including at the Alexander Maconochie Centre and at Bimberi. I think the work that both the Attorney-General and Minister Burch will do around implementing the recommendations in justice through the Hamburger review will be an important part of that work, working again to improve, across the directorate of Justice and Community Safety and the Health Directorate, services provided to prisoners at the Alexander Maconochie Centre. Also, improvements in terms of throughcare and post release into the community will feature as part of that work.

The government has been very clear. We have got the review, we have got recommendations as part of that review, we have got a task force implemented. Minister Burch has made some announcements today; indeed, she will go on further this afternoon—

Mr Hanson: On a point of order, Mr Smyth's question was directly about the AMC, not about Bimberi or responsibilities of Ms Burch. I would ask that the Chief Minister refer her comments directly to the failures in governance at the AMC.

MR SPEAKER: Yes, Chief Minister, if you could focus on the AMC.

MS GALLAGHER: Thank you, Mr Speaker. Part of implementing those recommendations from the Hamburger review and the task force that has been set up to do that will, we have no doubt, improve the systems in place at the Alexander Maconochie Centre. But I am not going to stand here and accept that there has been failure at the AMC. What we have—

Mr Seselja: Why did you need a review so quickly?

MS GALLAGHER: Well, the review—

Mr Seselja interjecting—

MR SESELJA: Thank you, Mr Seselja.

MS GALLAGHER: You forget so easily, Mr Seselja. The review that was commissioned was organised as part of the commencement of this facility—very up front. This was a new thing for the ACT to manage. We had not previously managed a jail before, and we were very clear that we would review the operations of that jail, and if that review found there were ways and measures to improve in terms of our systems and processes, we needed to act on that. And that is exactly what the Attorney-General and this government will do. This is not around apportioning blame or admitting failure. I know that is something that the opposition are obsessed with. This is about being open, being transparent, reviewing your services, reviewing your systems and, where there is opportunity to improve, you work hard to do that.

I think that we as a community should be very proud of the fact that we have brought prisoners home to the ACT. They are able to serve their sentence in the ACT. Our community is looking after members of the community who have been sentenced for a crime or are on remand, so that those people can be cared for in their community. That is something that we should be very proud of.

I accept that the opposition is very interested in the salacious nature of correctional settings and all the excitement that that brings. We accept that. But I think that when we look at the principles around why the AMC was established, the fact is that we implemented a review to check what we were doing and how we were faring. From there, if there are improvements to be made, Hamburger went to some very, very fine detail of improvements that he believed needed to be made at the jail, down to—*(Time expired.)*

MR SPEAKER: Mr Smyth, a supplementary question?

MR SMYTH: Yes, thank you, Mr Speaker. Chief Minister, who is responsible for the failures of governance at the AMC today?

MS GALLAGHER: Again, this is where we get stuck with the opposition—just stuck on the politics of negativity, of failure and of apportioning blame when the

whole reason behind the review was to examine what was working, what was not working, what needed to be improved.

It was not a witch-hunt. It was not about going out and trying to identify failure and then blaming people for that failure. That is not the purpose. The review is to have a look at how things are going and, where there is opportunity to improve things, to improve them.

For example, I think the report indicated that the food served at the prison needed to be improved or looked at from a nutritional point of view. Those sorts of things need to be responded to and will be responded to.

The work on making sure people are cared for appropriately in a correctional setting is an ongoing piece of work. It will never be finished. It will require ongoing, hard, persistent work from the government and from the staff that work within that setting. I think there is a lot to be proud of but there is a lot more work to be done.

MR HANSON: A supplementary, Mr Speaker?

MR SPEAKER: Yes, Mr Hanson.

MR HANSON: Chief Minister, if you are going to be open about the government's problems at the AMC, why did your government reject an inquiry into the sacking of the former superintendent, Mr Doug Buchanan?

Mr Corbell: On a point of order, I ask for your consideration, Mr Speaker, whether Mr Hanson is reflecting on a vote of the Assembly in relation to that matter.

Mrs Dunne: On the point of order, Mr Speaker, Mr Hanson is clearly not reflecting on the vote; he is asking for the government's motivation in the position that it took.

MR SPEAKER: There is no point of order. I do not think Mr Hanson has commented on the—what is the word I am after?

Mr Hanson: Vote?

MR SPEAKER: Yes, the actual vote. He is not putting a judgment on it; he is simply asking for the government's position, and I think that is a fair enough question in the context.

MS GALLAGHER: The government I lead will always make sure that matters, where appropriate, are investigated through the appropriate channel. I do not believe that the Assembly holding an investigation into a human resources matter is appropriate. We know Mr Hanson's deep and abiding interest in all things salacious, or things he would like to turn into being salacious, but we do not believe that the Assembly is the appropriate place for discussion of those types of matters.

We, as parliamentarians, have established laws and processes and ways of handling these matters, and they are there to be accessed and used by anyone who chooses to

use them. They are the appropriate channels for individuals who may have a grievance with the way that they are being treated—may or may not. There are appropriate avenues to pursue such things, and the Assembly is not one of those places.

MR HARGREAVES: A supplementary.

MR SPEAKER: Yes, Mr Hargreaves.

MR HARGREAVES: Thanks very much, Mr Speaker. Chief Minister, are you surprised at the current level of criticism from those opposite, given their 2004 election promise not to proceed to build the AMC, and have you heard anything positive by way of suggestions from them around that institution?

MR SPEAKER: The question is out of order. It is not for the Chief Minister to answer on opposition policies or its track record.

Mr Hanson: Following your ruling there, Mr Speaker—we have had occasions when Mr Hargreaves has deliberately asked vexatious questions simply to soak up the opportunity for supplementary questions to be asked. I ask that you monitor that and, if he is doing such a thing and if that is the case, you not continue to go to him for supplementary questions—if you consider that is the case.

Mr Hargreaves: On the point of order, Mr Speaker.

MR SPEAKER: Yes, Mr Hargreaves.

Mr Hargreaves: It was my intention not to soak up the supplementary question but rather—

MR SPEAKER: Mr Hargreaves, we are not debating the topic.

Mr Hargreaves: to draw a conclusion.

Mr Coe: You are not responsible for doing that; you are responsible for asking questions.

MR SPEAKER: Order!

Mr Hargreaves: Mr Speaker, I do not seek to debate the issue; I just make the point that I was seeking to show a conclusion from that question. Clearly it was your ruling—and I accept your ruling—that it was not in order.

MR SPEAKER: Thank you, Mr Hargreaves.

Mr Hanson: I just remind the member, through you, Mr Speaker, that question time is about asking ministers questions, not about showing conclusions.

MR SPEAKER: Thank you, Mr Hanson.

Education—efficiency dividend

MR DOSZPOT: My question is to the Treasurer. In delivering your budget in 2010 you said that the budget was "about meeting the community's needs". In October, the government tried to drive efficiency cuts in the Department of Education and Training. The cuts would have resulted in the loss of two early intervention preschool support teachers, two support teachers in early childhood English as a second language program, one early childhood support teacher for behavioural management, four school counsellor positions, two hearing support positions, losses in vision support teachers and a range of other unreasonable and unfair measures. As Treasurer, did you believe this efficiency dividend met the community's needs?

MS GALLAGHER: I thank Mr Doszpot for the question. It is interesting to see that the Liberals who criticised the budget recovery strategy in that we are not returning to surplus fast enough then also criticise attempts that are made to bring the budget back into surplus within a reasonable time frame.

Mr Doszpot: But why hit the disability community?

MR SPEAKER: Mr Doszpot, you have asked your question.

MS GALLAGHER: I would point that out as a preface to the rest of my answer. You cannot have it both ways. Either Mr Smyth or you have to change your position. If you want to spend more and not have efficiencies in government you cannot have the budget returning to surplus sooner than we have outlined in our budget papers?

The government has, in the last two budgets, implemented efficiency dividends as part of the budget recovery strategy. We believe that is reasonable. Agencies have been asked to go and implement those savings, with very clear instruction from the cabinet that, as much as possible, front-line services were to be exempt from the efficiency dividend.

Education undertook a process which outlined some efficiency savings which were not welcomed by the community. I think you can see the answer from this government in this year's budget, where we have provided additional funding to education to meet some of the budget pressures they were experiencing and where we exempted them for the efficiency dividend that they were not able to realise.

Yes, I think it is responding to the community's needs, very much so, in the sense that we have reviewed a decision taken. We have provided additional appropriation to meet the needs of the community in that instance. But I will not walk away from the fact that, as Treasurer, I need to run a very disciplined budget which will require savings. And those savings, particularly this year as we seek to ramp up those savings, are difficult to achieve. Every agency would like to not achieve them.

So we will maintain a fine balance between budget discipline and managing some of those additional cost pressures that have been faced, particularly by agencies like

education, health, justice and community services. Indeed, all of those front-line service delivery agencies are experiencing significant pressure on their budgets because of the rising demand for government services.

MR SPEAKER: A supplementary question, Mr Doszpot?

MR DOSZPOT: Thank you, Mr Speaker. My supplementary question to the Treasurer is: did you request the one per cent efficiency dividend from the Department of Education and why did you target the disability community?

MS GALLAGHER: Yes, as Treasurer, I outlined a one per cent saving across government; so, yes. You can see that in the budget papers. Agencies were then asked to go and implement those savings with a view to minimising any impact on front-line services. Education's response was: we cannot deliver that one per cent saving without impacting on front-line services because most of what we do is front-line service delivery.

They engaged in a process. There were some responses to that concern around delivering those efficiencies. But I think the department wanted to manage some reform of the way they provided services. That is fair enough too. We were all doing that across all agencies. But in the issues of education, Treasury engaged with Education very early in the budget process this year to examine why they could not meet their current efficiency dividend and what was going to be reasonable going forward.

I think you can see the government's response to that outlined pretty clearly in this year's budget, which no doubt you are going to support, Mr Doszpot, because if you do not you will be denying a lot more than what you are criticising me for. But we look forward to your support. It is very clear that it is coming.

MR SMYTH: A supplementary, Mr Speaker?

MR SPEAKER: Yes, Mr Smyth.

MR SMYTH: Minister, as Treasurer, when did you find out and what was your response when the education department announced it was unable to meet this year's efficiency dividend target?

MS GALLAGHER: Well, I cannot recall exactly when I found out. I am aware of and briefed constantly about cost pressures in agencies' budgets. It is part of my job as Treasurer. I was aware that education were experiencing some issues not just with the efficiency dividend but with their budget overall. I think you can see the government's response to that in the budget where we have reinstated the money for the efficiency dividend to education and, indeed, we have provided more funding to deal with some of those key areas of cost pressures, including supporting children with a disability to reach their full potential at school. Yes, it is something I do as part of my job.

Mr Smyth: So you'll take it on notice?

MS GALLAGHER: Well, Mr Smyth, it is a weekly discussion I have. So if you would like, every Friday at 9.30, every week—

Mr Seselja: A point of order, Mr Speaker. The question was a very specific one, and it was in relation to when she found out. So if the minister is unable to answer the question, she might want to take it on notice.

Mr Hargreaves: She's answered the question.

Mr Seselja: No, she hasn't. She has not said when she became aware.

Members interjecting—

MR SPEAKER: Order! Mr Seselja has the point of order.

Mr Seselja: I ask that she either take it on notice or give us the answer to the question.

MR SPEAKER: I do not think there is a point of order, Mr Seselja, in the sense that—

Mr Smyth: Answers must be relevant.

MR SPEAKER: Yes, but Mr Seselja is requesting that she take it on notice, and I do not believe the Speaker can direct that. Chief Minister.

MS GALLAGHER: Neither can Mr Seselja. I have answered the question. I choose what I take on notice, thanks very much. The answer is: 9.30 to 10.30 every Friday morning I have discussions with Treasury around cost pressures in budgets. That is the answer, Mr Smyth.

MR SMYTH: A supplementary.

MR SPEAKER: Yes, Mr Smyth.

MR SMYTH: Thank you, Mr Speaker. Minister, did Minister Barr seek support from you as the Treasurer and former minister for education before taking these measures?

MS GALLAGHER: I am not sure what measures you are talking to; are you talking to the measures that Mr Doszpot outlined?

Mr Smyth: The savings; the efficiency dividend across—

MS GALLAGHER: They were matters that were handled by the department in delivering the efficiency dividend, and proposals for the efficiency dividend to government.

Environment—sustainable transport

MS BRESNAN: My question is to the Minister for the Environment and Sustainable Development and concerns sustainable transport in Canberra. Minister, the National Capital Development Commission described the 40-year old plan which first proposed Majura Parkway as follows: the plan was influenced by the application of land use transport planning techniques which were popular amongst the engineers and town planners in the 1960s; it reflected the clear acceptance of the private car as the principal mode of transport for all trips, particularly the journey to work.

Minister, is this the model for Canberra you still accept and does building the new Majura freeway help to entrench this model?

MR CORBELL: No and no.

MR SPEAKER: Ms Bresnan, a supplementary?

MS BRESNAN: Thank you, Mr Speaker. Minister, are you aware of any negative impacts to Canberra, Canberrans and Canberra families because of the high level of car dependency in the city?

MR CORBELL: Car dependency can have adverse impacts, particularly if there are rises in oil prices, and vulnerability to that will be experienced by families and households that have less ability to respond to price movements. So there is no doubt that vulnerabilities do exist, and that is why the government is focusing much of its efforts on improving public transport provision in the city.

The Chief Minister has made clear that public transport provision is a priority for this administration and that the government is looking at a range of projects and activities to enhance, strengthen and deliver better public transport for Canberrans, so that as the impacts of both carbon pricing and rises in oil prices flow through over the coming years, we have greater capacity as a city to respond to those issues and provide households with viable choices in terms of transport for the city. That is the government's objective, and there are a range of projects and activities that the government is investing significant amounts of public money in to strengthen and improve those services.

MR SPEAKER: Yes, Ms Le Couteur, a supplementary question?

MS LE COUTEUR: Considering that the Majura freeway proposal does not include specific public transport provision such as bus lanes, are you planning for low public transport usage for employment destinations such as the airport and other eastern broadacre developments?

Mr Corbell: I am sorry. I did not hear the last part of the question. Could you repeat the last part of your question?

MS LE COUTEUR: Yes. Given that there is no public transport provision, are you planning for low public transport usage to employment destinations in the eastern broadacre area such as—

Mr Corbell: I am sorry. I cannot hear you.

MR SPEAKER: Ms Le Couteur, you need to speak into your microphone.

MS LE COUTEUR: Sorry, I will try again. There is no public transport provision. Therefore, does this imply that you are planning for low public transport usage at destinations on this road, such as those covered in the eastern broadacre study, such as the airport?

Mr Coe interjecting—

MR SPEAKER: The question was not to you, Mr Coe.

MR CORBELL: I thank Ms Le Couteur for the question. The fact is that a significant employment hub has been established at the airport. It has been established despite concerns raised by the government about the fact that a large employment hub has been created in a manner that has not been able to be supported by public transport in the same way that that sort of development in our town centres could have been.

Nevertheless, it has happened. So we need to respond to it and the government is investing additional service delivery for the airport in terms of public transport. We will continue to identify the best ways of doing it. But the fact is that the development and the location of that employment at the airport does present particular challenges in the context of the structure of Canberra.

MS HUNTER: A supplementary, Mr Speaker?

MR SPEAKER: Yes, Ms Hunter.

MS HUNTER: Minister, can you explain why, before the election in 2008, the government listed light rail as its number one bid to Infrastructure Australia, yet by July 2010 it had dropped from your list of priorities completely?

MR CORBELL: Because Infrastructure Australia rejected the proposal.

Planning—Scullin shops

DR BOURKE: My question is to the Minister for Territory and Municipal Services. Unlike Mrs Dunne, I am keen to advocate for community facilities in my electorate of Ginninderra—

MR SPEAKER: Dr Bourke, one moment, thank you. The references to Mrs Dunne are unwelcome in the question. Let's leave it out.

Mr Corbell: References to Mrs Dunne are always unwelcome.

MR SPEAKER: Thank you, Mr Corbell. Dr Bourke, let us start the question again without the reference.

Mr Coe: Are you going to ask him to withdraw that or not?

MR SPEAKER: Would you like to take a point of order, Mr Coe?

Mr Coe: Yes, I would. You have been very harsh—

MR SPEAKER: It is not a lecture, Mr Coe, but a point of order.

Mr Coe: Mr Speaker, over the last couple of days you have been quite firm in some of your rulings, yet here we have the situation where Mr Corbell has made a derogatory comment about one of the members here and all you do is say, "Please don't do that."

MR SPEAKER: Mr Coe, I will accept your point of order. I do not need it as a lecture. You can seek a point of order. Mr Corbell, I invite you to withdraw the point.

Mr Corbell: I am not quite sure what I said wrong, but I withdraw.

Mr Hanson: Mr Speaker, I am very clear about what Mr Corbell said; he said—

MR SPEAKER: Mr Hanson, sit down. Mr Corbell, it was quite clear—

Mr Corbell: I have withdrawn.

MR SPEAKER: Yes. It was quite clear that you were unparliamentary towards Mrs Dunne and I want you to withdraw it without qualification.

Mr Corbell: I withdraw.

MR SPEAKER: Thank you. Dr Bourke, let us have your question again from the start, thank you.

DR BOURKE: I am keen to advocate for community facilities in my electorate of Ginninderra. Can the Minister for Territory and Municipal Services—

Mr Coe interjecting—

MR SPEAKER: Mr Coe, you are now warned for continual interjection. Dr Bourke, your question from the start, thank you.

DR BOURKE: Mr Speaker, I am keen to advocate for community facilities in my electorate of Ginninderra. Can the Minister for Territory and Municipal Services give the Assembly some advice on progress with the upgrade of the Scullin shops.

MR CORBELL: I thank Dr Bourke for his very strong interest in matters affecting his constituents. If only we had more members like Dr Bourke who, even at an early stage,are passionate about the issues affecting their constituents in his electorate.

Forward design studies and preliminary sketch plans for the refurbishment and upgrade of the Scullin shops were completed in 2009. I am pleased to advise Dr Bourke and his constituents that funding of $1.1 million for construction has been identified in the local shopping centre upgrade program for the coming financial year. The government will be investing just over a million dollars in an upgrade of the Scullin shops. This includes, and I am sure that those opposite will be delighted to hear this, $120,000 allocated towards public art at the Scullin shops. Those who use the shopping precinct regularly will have a shopping place that is both practical and a pleasure to visit.

I am sure that Dr Bourke will also be pleased to hear that the government has a construction program for the 2011-12 financial year. We expect that construction to commence later in this calendar year and be completed by the middle of next year.

The residents of Scullin will benefit from an upgrade which will include improvements to car parking, better paved areas, a new shelter area and street furniture for the comfort of visitors to the shops. The upgrade will also add play sculpture for children who are at the Scullin shops with their carers as well as suitable signage and improved landscaping at the centre.

Also—it is a matter that often comes up from constituents—a new accessible toilet will be installed as part of the upgrade, which is being funded separately from the government's program for that purpose. This might seem a relatively small issue, but it is this type of practical delivery of services to residents in areas such as Scullin that makes a real difference to people's quality of life and maintains the emphasis this Labor government places on continuing to improve Canberra as a place to live and a place to bring up your family.

MR SPEAKER: A supplementary question, Dr Bourke.

DR BOURKE: Would the minister advise the Assembly what would be the other benefits of these improvements for the Scullin community.

MR CORBELL: I thank Dr Bourke for the supplementary. One of the issues that was identified as part of the design and community consultation in relation to the Scullin shops was the need to improve traffic management around the centre and, in particular, measures to calm traffic use. As a result, there will be improved traffic movement as traffic control and calming devices will be installed in the car park areas to slow the traffic, making it safer for all the users of the centre, particularly pedestrians who are moving to and from their cars as they visit the local shops.

The upgrade will also improve access. It will improve visibility. It will make the shops more obvious to people in the area and assist in attracting patronage to the centre. We know from the experience of shop upgrades in other parts of the city that it helps to instil improved community pride in the amenity of their local neighbourhood and, of course, we know that it helps to bring new life to shop owners as well, and indeed to the owners of the shop premises, who often respond in kind in upgrading and improving the quality of the assets that they own.

This is a very important project for Belconnen and a great outcome for people who live in Scullin.

MR COE: A supplementary, Mr Speaker?

MR SPEAKER: Yes, Mr Coe.

MR COE: Minister, is it true that the enrolled number of voters in Scullin is more than the total number of votes that Dr Bourke got across 27 suburbs?

MR SPEAKER: The question is out of order. Ms Hunter, a supplementary?

MS HUNTER: Minister, with your astounding knowledge of shops and parks across the electorate of Ginninderra, could you give us a schedule of upgrades of shopping centres across Ginninderra that you are planning to do in the next one to two years?

MR CORBELL: I thank Ms Hunter for the question, and the answer is yes.

Planning—north Weston ponds

MRS DUNNE: My question is to the Minister for Territory and Municipal Services. I refer to the Auditor-General's report on the north Weston ponds. The Auditor-General forecast that the revised design for the ponds will cost $43 million, which is 109 per cent more than originally budgeted and a much smaller pond will result than originally specified. Minister, why will ACT taxpayers be paying more and getting less in this project?

MR CORBELL: They will not be getting less. They will be getting a great project that delivers alternatives to potable water supply to irrigate our playing fields, sportsgrounds and parks in places like the inner north and around Mitchell. We will continue to get the outcomes we need from this project.

I note that the Liberal Party is seeking to inflate the figures associated with the total cost of this project by including about a third of the total cost as funding provided by the commonwealth government. So we have this situation where we have got this artifice being created by the Liberal Party where they try to assert the cost blow-out—

Mrs Dunne: No, not the north Canberra ponds, the north Weston ponds.

MR CORBELL: The north Weston ponds? I beg your pardon, Mrs Dunne.

Opposition members interjecting—

MR SPEAKER: Order, members!

Mr Hanson interjecting—

MR SPEAKER: Mr Hanson!

MR CORBELL: I beg Mrs Dunne's pardon. I note that there perhaps was an acknowledgement that there was an artifice in relation to the inner north ponds project.

Mrs Dunne: The Auditor-General's report on the north Weston ponds.

MR SPEAKER: Mrs Dunne, I remind you that you are on a warning from Assistant Speaker Hargreaves this morning.

MR CORBELL: I do apologise for the misunderstanding. In relation to the north Weston ponds project, of course this project is vital for the delivery—

Mr Seselja: He is a bit touchy on those other ponds. They are in his head.

MR CORBELL: Are you interested in the answer or is this just a joke?

Mr Seselja: I'm glad we are on the right ponds now.

MR CORBELL: I will conclude my answer.

Members interjecting—

MR SPEAKER: Order, members! Mrs Dunne, a supplementary question?

MRS DUNNE: Given the minister's incapacity to answer the first question, what guarantees can you, minister, give the Assembly and Canberra taxpayers that the cost of this project will not blow out further?

Mr Seselja: That is pathetic, Simon.

MR CORBELL: The only person who is pathetic in this place is you, Mr Seselja.

MR SPEAKER: Order! One moment, Mr Corbell. Mr Seselja and Mr Corbell, that was unnecessary and unparliamentary. Let us continue with the question, thank you.

Mr Hanson: Mr Speaker, if I could beg your indulgence—

MR SPEAKER: Is this a point of order, Mr Hanson?

Mr Hanson: It is a point of order.

MR SPEAKER: Yes.

Mr Hanson: This is about the fifth or sixth time now that Mr Corbell has been called to account for unparliamentary statements or interjecting. It just seems that there is a gross inconsistency where members of this side have been warned, whereas Mr Corbell relentlessly either does not accept the rulings of the Speaker or flouts the rules of this place and does not get warned. I just wonder if you could pay attention to consistency of the rulings between the government and the opposition.

MR SPEAKER: Thank you for your feedback, Mr Hanson. The question, Mr Corbell.

Members interjecting—

MR SPEAKER: Order! Let us just deal with the question.

MR CORBELL: Mr Speaker, they can deal it, but they cannot take it.

Members interjecting—

MR SPEAKER: Order! Mr Corbell, one moment, thank you. Mrs Dunne.

Mrs Dunne: Mr Speaker, Mr Corbell is required to answer the question directly, and he is not doing so.

MR SPEAKER: Minister, the question, thank you. Mr Corbell.

MR CORBELL: Mr Speaker, I would seek at some point your guidance in relation to how long ministers—

MR SPEAKER: Mr Corbell, the question.

MR CORBELL: have before they get to answer the question.

MR SPEAKER: The question, Mr Corbell.

MR CORBELL: Because I was—

MR SPEAKER: Sit down, Mr Corbell.

MR CORBELL: on my feet for five seconds—

MR SPEAKER: Thank you, sit down.

MR CORBELL: and I get accused—

MR SPEAKER: Sit down, Mr Corbell—

MR CORBELL: of not answering the question—

MR SPEAKER: Mr Corbell, you are now warned for not responding to the Speaker's direction.

MR CORBELL: Which direction, Mr Speaker?

Members interjecting—

MR SPEAKER: Order!

Mr Seselja: Here it is. Here's the test.

MR SPEAKER: Mr Seselja, you are now warned for repeated interjection when I am trying to get order in this place.

Mr Seselja: Sorry, warned for what?

MR SPEAKER: Repeated interjection, Mr Seselja. Mr Corbell.

MR CORBELL: Mr Speaker, no discourtesy is meant; I am simply seeking your clarification as to what you are requiring of me.

MR SPEAKER: Mr Corbell, I uttered your name at least four times then while you were looking directly at me asking you to sit down and you ignored me. I do not expect to have to do that. That is why you have now been warned.

MR CORBELL: Okay.

MR SPEAKER: Where are we up to? Mr Seselja, a supplementary question.

MR SESELJA: Minister, why have you failed to learn the lessons from other projects managed under your watch, such as the GDE, the AMC, the urban wetlands and the ESA headquarters, that were not delivered on time, on budget or to original specifications?

MR CORBELL: We have a comprehensive analysis of the issues surrounding the delivery of the north Weston ponds project, which the government has taken very seriously. The government is looking very closely at the issues raised in the Auditor-General's report. It was this government that commissioned the Auditor-General's report, to look into why issues around coordination between government agencies were not being appropriately addressed. We will be responding in a comprehensive manner to the issues raised in the Auditor-General's report.

MR SPEAKER: A supplementary question, Mr Seselja?

MR SESELJA: Yes, thank you. Minister, what are you doing to better equip yourself with the necessary skills to oversee the management of capital works projects?

MR CORBELL: I thank Mr Seselja for the question. I am confident that I will continue to receive the level of advice and information required to make appropriate decisions in relation to these projects in the same way that we are delivering very, very important projects such as improved emergency services facilities, improved public transport facilities, improved recycling facilities, improved facilities such as upgrades of local shops and all of the other important projects that are necessary to continue to make Canberra a good place to live for its residents.

Cabinet solidarity

MR COE: My question is to the Chief Minister. Chief Minister, you are on the record as breaching cabinet solidarity by making public statements that are contrary to cabinet decisions and government policy. You have explained to the media at the time of those statements that you did so because your party faction required you to do so. Now you are Chief Minister, will you in future, in any forum, maintain cabinet solidarity, or will you say one thing in this place and take a different position in other forums when your faction demands it?

MS GALLAGHER: I thank Mr Coe for the question. What we are seeing from the opposition is an attempt to look back—what is it, six or seven years—to try and dig up some dirt on Katy Gallagher, to discredit me as Chief Minister. It is a symbol of your performance as an opposition that you can only look back and you can never look forward. That is the big difference between the two of us.

Mr Coe: On a point of order, in actual fact the question was about the future, and it was about whether she will maintain cabinet solidarity in the future.

MR SPEAKER: Chief Minister?

MS GALLAGHER: Indeed, following question time, I will be giving a ministerial statement around how we can improve on bringing the community into our confidence earlier around cabinet processes. It is something I am very interested in. Whilst maintaining, of course, the integrity of cabinet, I think there are opportunities ahead about how we advise the community of the challenges and issues that cabinet is considering. I am leading that process, Mr Coe, and I know you are excited and interested, and that you will stay around in the chamber to hear that address from me later today. I expect the very strong solidarity that has existed in this government since 2001 to continue for many, many years. This has been a symbol of this government and the government's leadership on some very challenging issues—the fact that the seven of us can work as a team. The contrast between us and you is very clear.

MR SPEAKER: A supplementary question, Mr Coe?

MR COE: Chief Minister, how do you reconcile your public statements in defiance of cabinet solidarity if you are now pledged for openness and accountability? Will the paper that you are about to read out address your lack of cabinet solidarity in the past?

MS GALLAGHER: Cabinet solidarity is an important part of the cabinet process. Indeed, not ever having been in government, and probably not going to be in government in the future, you will not understand the—

Opposition members interjecting—

MR SPEAKER: Members!

MS GALLAGHER: Oh, yes; go on! I love it when all six of you start shouting. That is when you really know that you have picked the mark. All six—

MR SPEAKER: Chief Minister, thank you.

MS GALLAGHER: I have not got Mr Doszpot or Mrs Dunne going yet.

MR SPEAKER: Order! Are there any supplementary questions?

MS GALLAGHER: I have not quite peaked. I have not peaked.

Opposition members interjecting—

MR SPEAKER: Order! Members, this has been an unfortunate question time. Let's see if we can lift the standard for the last 10 minutes.

Mr Smyth interjecting—

MR SPEAKER: Mr Smyth! Mr Seselja, do you have a supplementary question?

Members interjecting—

MR SESELJA: Thank you. Minister, is it acceptable for a minister to make one decision in the cabinet room but make contrary statements at party functions when directed by factional bosses?

MS GALLAGHER: I love the Liberal Party's obsession with all the things that happen in the Labor Party through our own democratic processes. I have always maintained solidarity with my cabinet colleagues and I will always do so. It is an important and fundamental part of how government operates and works and it is an important principle that I certainly hold very dear. I think there are ways in which we can improve processes into the future, about how we bring the community into cabinet processes earlier and bring them into our confidence and share their expertise with us when we are discussing difficult issues. But certainly cabinet solidarity is a fundamental principle of this government and it is one that we have always followed.

Planning—community space

MR SPEAKER: Mr Hargreaves, a question without notice.

MR HARGREAVES: Thanks very much, Mr Speaker. I have been sitting here very patiently waiting for my turn.

Mr Hanson: Your turn to be in cabinet.

MR SPEAKER: Mr Hanson!

MR HARGREAVES: I have been there; you are never going to get there.

MR SPEAKER: Mr Hargreaves, don't rise to it.

MR HARGREAVES: It is so tempting, though, Mr Speaker.

MR SPEAKER: Mr Hargreaves, your question, thank you.

MR HARGREAVES: I will take your advice, Mr Speaker. My question is to the Minister for Territory and Municipal Services. The minister would be aware of my interest in community facilities, in particular playgrounds like that at the Wanniassa shops for example—a magnificent part of the world if ever there was one. Could the minister outline what the government has planned to improve the amenity of our community playgrounds, not only in my electorate but across the whole of Canberra.

Members interjecting—

MR SPEAKER: Order! I cannot hear Mr Hargreaves's question. I remind several members of the opposition that you are on warnings.

Ms Gallagher: You will warn them about their warnings.

MR HARGREAVES: Do you want me to do it again, Mr Speaker?

MR SPEAKER: Minister, did you hear the question?

Mrs Dunne: Point of order, Mr Speaker.

MR SPEAKER: Mrs Dunne on a point of order.

Mrs Dunne: I am seeking your direction, Mr Speaker. Do you think it appropriate for the Chief Minister to chip you about the way that you address the members of the opposition when she said it was about time you warned them about their warnings.

MR SPEAKER: Order, members! I receive constant commentary on my performance in this place. If I pinged it every time it happened, we would probably be having a very long question time. Minister Corbell, your answer, thank you.

MR CORBELL: Thank you, Mr Speaker. I thank Mr Hargreaves for the question and I am very pleased to advise Mr Hargreaves that the government is extending and providing additional support to improve playground areas, not just in his electorate but right across Canberra.

The government has announced the renewal of six playgrounds across the ACT, at a value of $1.2 million, to improve, upgrade and modernise important playgrounds in our community. These include playgrounds in Mr Hargreaves's electorate in Gowrie, Greenway and Macarthur. In addition, three are already underway in Kaleen, Chapman and Curtin. I was very pleased to announce this morning another 10 playgrounds around the ACT where we will be conducting community consultation to identify opportunities to improve the quality of those play spaces for young

Canberrans. The government will also contribute $300,000 to the upgrade of the playground at the Black Mountain peninsula, a very popular playground, one used by people from across the city.

Members may be interested to know how we determine which playgrounds are chosen for upgrades. First of all, urban parks are visually inspected for safety and cleanliness regularly, and maintenance issues are accordingly identified. We also have a more comprehensive maintenance inspection regime, and the outcomes of these assist in identifying those playgrounds that are suitable for an upgrade. The outcomes of those inspections are used to guide our ongoing maintenance and upgrade program. Of course, it is important that we make sure that playgrounds continue to meet the relevant safety standards, and upgrades also take these issues into account.

I am very pleased that the Labor government is providing $1.2 million to improve the amenity and the quality of playgrounds in our local neighbourhood, helping to make our city an even better place to live.

MR SPEAKER: Mr Hargreaves, a supplementary?

MR HARGREAVES: Minister, how has the community consultation contributed to the style and type of amenity, and did the member for Molonglo Mr Seselja contribute to the community consultation in the electorate of Brindabella, where he lives?

MR SPEAKER: Mr Corbell, the second half of the question is out of order. So do not bother to answer it.

MR CORBELL: Thank you, Mr Speaker. The consultation process undertaken by the government is very important in identifying the style and type of amenity that is delivered as a result of upgrades to play spaces. In the lead-up to the upgrade of the six playgrounds I mentioned earlier, a comprehensive community consultation process was undertaken with local residents and local schools.

We have listened very closely to the feedback we received from those communities. For example, in Chapman residents there and the school community there were seeking a play space for a wide range of ages as well as safe and more challenging play experiences. In response to this, the design at Chapman uses a fantasy castle theme, which will be very attractive to children of a range of ages, including a new plastic tunnel slide, climbing elements for both younger and older children and new swing sets.

This is just part of the ongoing program the government puts in place where we listen to what the community has to say and we respond with better services and better facilities for people in their local neighbourhoods.

MR SPEAKER: Yes, Mr Smyth, a supplementary question?

MR SMYTH: While we are considering the nature of parks, when will the Fadden Pines, which has been out of operation for some time now, be recommissioned?

MR CORBELL: I thank Mr Smyth for the question. I am aware that Fadden Pines is a valued space for the local community in that location and that they are keen to see that matter resolved as quickly as possible. I am very happy to seek some further advice from my officials in relation to that matter and I will provide an answer to Mr Smyth.

MR COE: A supplementary, Mr Speaker.

MR SPEAKER: Yes, Mr Coe.

MR COE: Minister, are you aware of considerable community concern at the removal of flying foxes across Canberra?

MR CORBELL: I know that these issues arise from time to time in relation to the replacement and renewal of play equipment. Obviously, these are matters where the government does have to have regard to public safety considerations, particularly where young children are involved, and the need to do everything reasonable to try and prevent accidents and injury that may result from the use of government play equipment. The government looks closely at these matters, and I can assure you that decisions to remove or replace play equipment are not taken lightly.

Ms Gallagher: It is with great pleasure that I ask that all further questions be placed on the notice paper.

Personal explanation

MS GALLAGHER (Molonglo—Chief Minister, Minister for Health, Minister for Industrial Relations and Treasurer): I seek leave to make a statement under standing order 46.

MR SPEAKER: Yes, Chief Minister.

MS GALLAGHER: Thank you, Mr Speaker. Yesterday in question time you ruled a question from Mr Smyth to me out of order following a series of points of order. Following that, yesterday afternoon the Leader of the Opposition, Mr Seselja, put out a press release which says "Gallagher refuses to answer questions on defunding non-government schools". In that media statement it clearly says twice—indeed, counting the headline, three times—"Katy Gallagher has refused to answer questions". That is in one section of the media release. Then the media release goes on to say, "The Chief Minister refused to answer questions". Again, this is clearly not an accurate reflection—

MADAM ASSISTANT SPEAKER (Mrs Dunne): Chief Minister, could I just remind you of what standing order 46 says. It says that, having obtained leave to explain matters of a personal nature, you can do that but you must not debate the issues. Could I ask you to come to the point where you claim to have been misrepresented.

MS GALLAGHER: I was just coming to that, Mrs Dunne. Clearly, that is not an accurate reflection. A check of the *Hansard* makes it very clear that I did not refuse to answer questions. Indeed, I stood up to answer the question.

Mr Seselja: No, you just had your team—

MADAM ASSISTANT SPEAKER: Mr Seselja, please. Chief Minister, you are not supposed to debate the question. You have to say where you have been misrepresented.

MS GALLAGHER: I am saying, Madam Assistant Speaker, that I did not refuse to answer the question, as is being alleged in the media statement issued by Mr Seselja.

MADAM ASSISTANT SPEAKER: So that is the point that you are trying to make? Okay.

MS GALLAGHER: And I think that statement issued by Mr Seselja, as Leader of the Opposition, is misleading, and any check of the *Hansard* would indicate that that is correct.

MADAM ASSISTANT SPEAKER: Chief Minister, you are now wavering from standing order 46.

2010-2011 annual report directions
Paper and statement by minister

MS GALLAGHER (Molonglo—Chief Minister, Minister for Health, Minister for Industrial Relations and Treasurer): For the information of members, I present the following papers:

> Annual Reports (Government Agencies) Act—Annual Report (Government Agencies) Notice 2011 (No. 1)—Notifiable Instrument NI2011-311, dated 21 June 2011, including a copy of the Chief Minister's 2010-2011 Annual Report Directions.

I seek leave to make a statement in relation to the paper.

Leave granted.

MS GALLAGHER: In 2008 the government issued *Annual report directions* that applied for a three-year period from 2007 to 2010, thereby reducing the resource impact upon agencies resulting from changing requirements each year and ensuring greater consistency for the Assembly and the ACT community in comparing performance and outcomes over time. The government remains committed to developing and issuing directions on a three-yearly timetable. However, given the new administrative arrangements and directorate structure introduced on 17 May 2011, I have determined that interim directions should continue for a single financial year, 2010-11.

The 2010-11 directions largely replicate the *2007-2010 Annual report directions*. However, some minor and technical amendments have been made, including changes that both reflect the new administrative arrangements and provide proper accountability for those agency-based operations that were in place up to 17 May. Of some particular note are the amendments which have been made to sections A.10, triple bottom line report, and C.21, ecologically sustainable development, following recommendations from the relevant policy areas in directorates to improve the usefulness of the information reported.

In short, the amendments align the common reporting elements across these sections. The amendments were provided to the Standing Committee on Public Accounts for consultation in accordance with section 8 of the Annual Reports (Government Agencies) Act 2004. The committee considered the proposed changes and advised on 15 June 2011 of its agreement with the changes to the directions.

The *Annual report directions* require responsible ministers to provide reports to the Speaker, who in turn is required under the act to provide them to members of the Legislative Assembly before the end of September. At this time, annual reports will be made publicly available. As there are no sitting days of the Legislative Assembly in the last seven days of September, reports will be presented to the Assembly on 18 October 2011 and all reports will include an audited financial statement and performance statements.

MS LE COUTEUR (Molonglo), by leave: It is very pleasing to see that the Chief Minister's *Annual report directions* are slowly being improved over time, but I confess I have to emphasise, unfortunately, the word "slowly". The Greens believe that the *Annual report directions* are extremely important because they give us the framework for what data the Assembly, and indeed the ACT community, have to see what the government is doing and how the government is reporting.

There are two areas where the Greens are pushing very much for improvement: ESD, ecologically sustainable data, and triple bottom line data. With the ESD data, I have to say that there has been continual improvement over the last six-plus years, but there are still a lot of problems with consistency of the data collection and reporting. As you sift through annual reports, you go through seeing this being reported differently by different departments, or different directorates now. It is depressing that it has not all been resolved as yet. The Auditor-General in 2005 inquired into this and made recommendations for improvement, but not all of them have yet been implemented.

I note that the commissioner for the environment also looked into this in 2010. Her report, I understand, is still with the Chief Minister. It would be very informative if other members of the Assembly could see the commissioner for the environment's report, particularly before next year, when I understand that there will be a major update of the Chief Minister's *Annual report directions*.

The other area that I would like to mention is triple bottom line reporting. This is another issue which the Greens ensured was inserted into the parliamentary agreement. It has been very slow; we have watched the government grappling with this issue and

working out how best to deal with it. This is an area where we could get advice from other jurisdictions. This is an area where we have suggested that the government and the previous Chief Minister might contract an outside expert in this area, someone who has applied triple bottom line reporting in another jurisdiction. We hope that this proposal is taken up.

Another issue from the parliamentary agreement where it would be nice if it were part of the Chief Minister's *Annual report directions* and where we have been moving very slowly is gender disaggregated data. The budget papers and annual reports should clearly show a breakdown of this data, but the only work completed to date is with regard to pay equity.

Thank you, Chief Minister, for the *Annual report directions*, and we are looking forward to more changes next year.

Paper

Ms Gallagher presented the following paper:

South Tralee—Proposed residential development—Government response.

Financial Management Act—instrument
Papers and statement by minister

MS GALLAGHER (Molonglo—Chief Minister, Minister for Health, Minister for Industrial Relations and Treasurer): For the information of members, I present the following papers:

Financial Management Act—

Pursuant to section 17—Instrument varying appropriations relating to Commonwealth funding to the Treasury Directorate, including a statement of reasons, dated 19 June 2011.

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

Leave granted.

MS GALLAGHER: As required by the Financial Management Act 1996, I table an instrument issued under section 17 of the act. The direction and a statement of reasons for this instrument must be tabled in the Assembly within three sitting days after it is given.

Section 17 of the act enables variations to appropriations for any increase in existing commonwealth payments by direction of the Treasurer. The Treasury Directorate has received $861,000 in additional funding from the commonwealth for the first homeowner boost. This increase in funding is due to higher than expected first homeowner boost payments being made by Treasury during the current financial year. The increase in appropriation is required to fund the additional first homeowner boost payments being made by Treasury. I commend the instrument to the Assembly.

Papers

Mr Barr presented the following paper:

> Education, Training and Youth Affairs—Standing Committee—Report 5—Needs of ACT Students with a Disability—Progress report on recommendations—Question taken on notice budget estimate hearings, dated June 2011.

Mr Corbell presented the following paper:

> Coroners Amendment Bill 2011—Reform of the ACT coronial system.

Open government
Ministerial statement

MS GALLAGHER (Molonglo—Chief Minister, Minister for Health, Minister for Industrial Relations and Treasurer): I seek leave of the Assembly to make a ministerial statement concerning open government.

Leave not granted.

Standing and temporary orders—suspension

MR CORBELL (Molonglo—Attorney-General, Minister for the Environment and Sustainable Development, Minister for Territory and Municipal Services and Minister for Police and Emergency Services) (3.30): I move:

> That so much of the standing and temporary orders be suspended as would prevent Ms Gallagher (Chief Minister) from making a ministerial statement on open government.

The government of course always endeavours to try to provide an advance copy of these statements prior to their being presented in this place. Regrettably there was an error on the part of the Chief Minister's office this afternoon that saw that the statement was not circulated within the time frame that has been agreed by convention between all parties in this place. I would simply ask for members' forbearance in relation to that matter and allow the Chief Minister to make the statement. I am sure members would consider that a statement about the government's approach in relation to accountability and open government would be of interest and it would be valuable for members to hear the Chief Minister's position and statement on future directions in relation to this matter.

There has been an error. The government apologises for it and asks members to suspend the standing orders so that this can occur.

MS GALLAGHER (Molonglo—Chief Minister, Minister for Health, Minister for Industrial Relations and Treasurer) (3.31): The Leader of the Opposition about five

minutes ago indicated across the chamber that he had not received a copy of this ministerial statement. I was certainly under the impression that it was going to be circulated during the lunch break. I checked with my office and I understand that a mistake has been made, that they were not circulated in accordance with the convention of this place, and I apologise for that. It was a breakdown in my office and I cannot do anything more than respond that I was unaware of it until Mr Seselja made that comment five minutes ago.

In the interests of being able to outline the issues in the ministerial statement, I would ask that members accept my most genuine apology.

MR SESELJA (Molonglo—Leader of the Opposition) (3.32): It certainly would have been much better if we had got it. That is why we did not grant leave. I will accept the Chief Minister's word that she meant to get it to us and that there was a breakdown. So on the basis of that explanation we will not push the point on suspension of standing orders.

MADAM ASSISTANT SPEAKER (Mrs Dunne): I think now that there is a motion we have to actually proceed with that.

MR SESELJA: I understand that. We will let it go through.

MS HUNTER (Ginninderra—Parliamentary Convenor, ACT Greens) (3.33): I would also take that same view that it is most regrettable that we did not receive this in a timely way. I think it just highlights how important it is that that convention be followed. Certainly I know there is another ministerial statement to be made by Minister Burch. We have had a few little issues in the past but I can certainly say that Ms Burch's office did deliver that in a very timely way today.

I just highlight that it is important to follow this convention but I also echo Mr Seselja's words.

MR HANSON (Molonglo) (3.34): I will make the brief comment that it is ironic that the MPI this afternoon is on competence in government.

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

MS GALLAGHER (Molonglo—Chief Minister, Minister for Health, Minister for Industrial Relations and Treasurer) (3.34): I do genuinely thank members for the opportunity to begin a discussion today on increasing the openness of government in the ACT. Through this statement I will outline the practical steps the government will take over the coming weeks and months towards greater openness. This statement will outline what we intend to do as the first measures in promoting greater transparency in government. It will not stop here and we will continue to look at and examine all the opportunities available to us to build upon this commitment.

Let me define exactly what is meant by open government, why it is important and what benefits it offers Canberra's citizens. Open government is considered to rest on three principles: transparency in processing information, participation by citizens in

the governing process and public collaboration in finding solutions to problems and participation in the improved wellbeing of the community. Open government refers to a way of working. It is a way of managing information and of participation and collaboration that enhances democracy, as it places the community at the centre of governance.

As I explained on Tuesday, our own government here in the ACT has developed a strong foundation upon which to further develop open government. For example, the parliamentary agreement with the Greens includes a number of reforms of the parliamentary system which contribute to making government more open, more accountable and transparent.

As a result of the Allan Hawke review we have created an ACT government information office to coordinate and focus our efforts in open government and strengthen government accessibility and transparency. The recently updated performance and accountability framework also identifies measures and opportunities to strengthen and build on existing practice, improving the transparency and openness of government operations. Each of the documents I have mentioned here, I am pleased to say, is publicly available and is posted online.

As a government we are taking a broad approach to enhance the openness of the way we govern, encompassing transparency, participation and collaboration. We already boast the most open legislative framework for access to cabinet documents of any state or territory in the country, where the Territory Records Act makes cabinet papers available to the public after just 10 years, unlike the standard 20 years in the commonwealth. We also have a proactive approach to communicating government information through initiatives such as the ACT government notice board and community cabinet meetings.

As Chief Minister, I believe that, as a first principle, information available to the government should be made available for use by the community. In order to support this principle, an open government website will be created which will provide a single gateway for access to government information and provide greater opportunity for public involvement in the governance of the ACT. I have asked that this website be operational in the next three months. This website will provide public access to a range of government information, including government material released through freedom of information applications.

Members will understand that there will of course need to be guidelines to manage the release of information to ensure that personal information and copyright information are not released and accordingly an FOI web release policy will be finalised as the website is being developed. I am happy to consult with members in both the development of this policy and any subsequent reviews that occur.

The government responded to 579 requests for freedom of information in the 2009-10 financial year and I anticipate that a large majority of the documents provided would have been suitable for public release. The open government website will be a central point for accessing a range of further information also, such as background reports and government reviews.

The government is in the final stages of developing the protocols and principles that will guide the release of this material. Again, questions of privacy and copyright, as well as matters of national and territorial security, will need to be taken into account as a part of these protocols. Whilst there will always be some restrictions here, the default position will be that government information becomes available to the community.

Over the coming months the government will also develop a knowledge map of government information, policies and accountability indicators for publication on the open government website. We will also progress development of the government's knowledge management framework to assist ever-more informed decision making and collaborative practice across government and the community. The knowledge management framework will also be accessible on the open government website.

Equally important to providing more government information to our community will be the further opening up of our own consultation process. I believe that any submission made to a public consultation process being managed by the government should be made public, unless the author specifically requests it not to be or there is a specific and valid reason to protect a submission.

In addition to this, we will review government consultant contracts to include the general assumption that reports to government will be made public. The intention here is to be clear from the outset that work commissioned by the government will, as a default position, be released to the community unless there is a specific and valid reason by the consultants that their work or elements of their work should not be released. The government's overall policy will clearly be to make as much government information available online as possible and to open up new possibilities for the use of this information by the community.

In addition to these changes, I am keen to examine ways to make government processes more transparent. I would, for example, like to provide ways to inform the community about the challenges and issues being considered by cabinet. Whilst our thinking in this area is in its early stages, I think it is important to make some changes immediately.

As such, the government has decided that I will provide a weekly Chief Minister's report on key issues discussed and decisions taken by cabinet. It is the intention that this will start in the first week of July, following the completion of this sitting fortnight. This summary document will be made public and uploaded onto the open government website for easy access by the community. Some caution will need to be taken to ensure we protect the integrity of cabinet processes but I think this will be a good first step to bring the community up to date with the range of issues being managed by the cabinet.

The cabinet regularly meets with the community, whether it be through our own individual portfolio work or as members of the community ourselves. We are all approached at the shops, at our children's schools, by members of the community who are actively engaged and keen to put forward their views. Cabinet also has a regular

round of community cabinet meetings where we take time out on a Saturday morning to meet Canberrans in different parts of our city to discuss local issues.

The government is aware of the importance of harnessing the capabilities of new technology to deliver improved access to government information and decision making. The cabinet will, in the next month, hold a virtual community cabinet where all ministers will be available to answer questions and respond to issues on Twitter. If this is successful, we will look at other online mechanisms to promote direct engagement with the community.

We will also complete the renewal of our community engagement manual in the next month. The manual includes many useful tools, techniques and checklists to support effective management for all government agencies. The revision of this manual follows through on our close engagement with the community in 2010 on how it wished to be consulted.

Thank you, members, for the opportunity to outline the government's ideas in improving transparency in government processes and to encourage participation by the community in the everyday business of government. I am excited at the opportunities before us as we implement the steps I have outlined here today and as we continue to identify new ways of promoting openness and transparency in government. The initiatives I have outlined are all about bringing a closer partnership between my government and the citizens of Canberra. This partnership will be an essential feature of my government and I hope that Canberrans will welcome the ever-increasing opportunity they will find to participate in the government of this place. I present the following paper:

> Open government—Ministerial statement, 23 June 2011.

MR SESELJA (Molonglo—Leader of the Opposition) (3.42), by leave: Not having had a chance to read the report, I will not go into the detail too much.

Madam Assistant Speaker, if you are going to talk about openness and transparency, again you have to judge the actions as much as the words. I think that it is time we put the challenge out. Instead of saying, "We'll put some stuff that's already released on a website and we'll give some briefings in terms of what happened in cabinet," let us look at what the government has suppressed over the last few years. There is now an opportunity for the Chief Minister to do things differently, to do things genuinely differently.

We can look at things like the Costello review, which remains suppressed. We can look at the bullying review, which remains suppressed. We remember all the documents that were suppressed and blanked out in relation to the Tuggeranong power station. We have seen the ongoing attempts of the Flynn community to get access to documents in relation to why their school community had its heart ripped out and why their school was closed. We have seen, indeed, the report into Enlighten just recently.

We can go right through the last 10 years of government. We can talk about shutting down the coronial; we can talk about all of the ways that this government has not lived up to that promise that Jon Stanhope made, because we all remember that Jon Stanhope made the same promise. He was going to be open and accountable, and we know that he was not. There are thousands of examples of how he was not.

Let us focus on what this Chief Minister can do differently. Here is the challenge. If Katy Gallagher wants to be taken seriously on being open and accountable, here are a couple of tests: release the Costello review. The Costello review is still having an impact. The Costello review was at the heart of many of the tax increases that people face, many of the changes, including things like school closures. So why not just open it up? It has now been several years. There are parts of the world where cabinet documents would be released in less time. The Costello review is now a few years old. There is no reason why it cannot be released.

With respect to the review into bullying at Canberra Hospital, the Chief Minister is capable of having either an open inquiry or releasing the information. There is the capacity to do that. She can now have the open inquiry that she refused to have. So there is another test, if the Chief Minister is serious about this.

I have not seen what the latest is in relation to the Flynn action, but I understand they are still seeking access to documents. Why doesn't the Chief Minister order that the Flynn community get access to the documents that demonstrate why its school was closed down?

So there is an opportunity. We can talk about the election promises that Katy Gallagher broke over the last couple of elections. We can talk about what has happened over many years, but here it is. Here is the chance right now. If you are fair dinkum about it, release the Costello review. Be open about bullying in Canberra Hospital. Support open inquiries in areas such as Bimberi and in relation to Doug Buchanan. There are areas and opportunity. Just today we have been debating it. There is an opportunity right now to be fair dinkum.

If you do not do those things, we can only assume that your promise to be open and accountable will be just as empty as Jon Stanhope's. Jon Stanhope's promise to be open and accountable was an empty promise. He did not back it up. He did everything he could to shut down the coronial inquiry. He did everything he could to suppress the documents in relation to the power station. He failed that test.

Katy Gallagher has the opportunity not to fail that test. In the last few years she has failed that test. She is now Chief Minister. She now says she has a renewed commitment to openness and transparency. Well, here are the tests. If you release those documents, you will show that you are doing things differently. If she does not, we can assume that this is nothing more than spin. Say a few words in the chamber and then say: "We're now open and accountable. We've got a website. We're open and accountable. We are on Twitter, so we're open and accountable." That is rubbish.

If you are genuine, you will do things differently. You will release some of these documents, you will be open about these inquiries, you will be open about the

problems, and then the community may well have some restored faith that this government will be open and accountable. We have not seen it to date but the challenge is there, and it is a challenge that can easily be met and easily be measured.

MADAM ASSISTANT SPEAKER (Mrs Dunne): Chief Minister, could you move that the paper be noted?

MS GALLAGHER (Molonglo—Chief Minister, Minister for Health, Minister for Industrial Relations and Treasurer) (3.48): I move:

> That the Assembly takes note of the paper.

MR HANSON (Molonglo) (3.48): Madam Assistant Speaker, Mr Seselja, in saying that Ms Gallagher should start tabling documents, is showing a deal of graciousness, because any reasonable observer of Katy Gallagher and this government over the last 10 years would lead you to only one conclusion, and that is that she is not open and she is not accountable.

It is remarkable that she made a statement in this place when, only a few hours ago, given the opportunity to be more open and more accountable in the matter of Mr Doug Buchanan, the former superintendent of the Alexander Maconochie Centre, her government flatly refused to have any form of inquiry—an inquiry that Mr Buchanan wanted to have so that he could put his case forward. It would shine a light on what has happened at the Alexander Maconochie Centre, why he was terminated by Corrective Services. This government and this Chief Minister have made the decision—and I assume that this is a collective decision—not to have an inquiry.

So she cannot stand here and make some comment about how she is going to be open and accountable when a few hours earlier she was on the record as voting against an open inquiry. Now she is scurrying off. She did deliver the paper to Mr Seselja's office, as required, within the two-hour time frame. She made her speech and now she has moved. I hope she does return to her chair.

It is not just the fact that her government refused to have an inquiry into Mr Buchanan. We have seen repeated incidents where she has either not been open or has done everything she can to essentially bury the truth about issues.

I think the most stark is the bullying at the Canberra Hospital. She said in relation to that that there were no complaints made. On radio 666 she said there had been no complaints. That was proved to be false because the clinical review that was conducted at Calvary hospital found a significant number of complaints were made. I will quote from the clinical review:

> … medical and midwifery staff reported that they discussed their concerns about disruptive behaviour within the unit with their line manager and with various executive team members; however, they did not believe these issues were addressed.
>
> Management team members …acknowledged that they had received complaints about inappropriate behaviour by a senior clinician over a number of years.

But Katy Gallagher refused to acknowledge in the media that any complaints had been made. And even after that clinical review was tabled, four days after that clinical review was tabled that said categorically complaints were made, Katy Gallagher said on WIN News: "You can't investigate allegations that don't exist." So she was still denying and still trying to suppress any evidence that complaints were made. It is absolutely outrageous.

I think everybody understands that there were problems at the Canberra Hospital, despite Katy Gallagher's denial, and we had to drag her tooth and nail through that process. There are even allegations that have not been proved that when the people that wrote that clinical review, that produced it, gave it to the government, the version that they got back was so outrageously modified that they threatened to go to the media. That has not been proved, and we will never get to the bottom of that either. But it just goes to show what lengths this government will go to to hide any fact.

We can look even further back to this minister's behaviour over Calvary. This open and accountable government, this open and accountable minister, that went to the last election saying—and I quote from 7 October 2008, which is 11 days before the election:

> Government needs to govern and leaders need to lead. Governments must also put their plans on the table. We have put our plans on the table.

We know that was not true. We know that Katy Gallagher had been seeking a heads of agreement with the Little Company of Mary over very detailed plans to purchase Calvary Hospital—very detailed plans, because we have seen that correspondence. When it comes to that heads of agreement, she was not even up front about that. I will quote from some further evidence. This relates back to a question that was asked by me in the Assembly. I said:

> Minister, would you table for the Assembly any document relating to the purchase of Calvary hospital which was released to the electorate prior to the election of 2008 despite the fact that you had a draft heads of agreement that you were trying to have signed with Calvary hospital?

She said in response to that:

> Talk about rewriting history! I was not attempting to have rushed through a heads of agreement. Little Company of Mary at the time requested that a heads of agreement be signed so that discussions could continue …

I will say that again: she said in this place on 10 March that Little Company of Mary requested that the heads of agreement be signed. But let us look at the letter that pre-dated the election. I will quote from it. This is Katy Gallagher's letter that she signed:

> In summary, as we embark on the total redevelopment of the system, I find the prospect of retaining the existing separated governance of Calvary Bruce in perpetuity highly problematic. I would like to propose a different arrangement. Should the board be supportive of this proposal, I propose that the Little

> Company of Mary Healthcare and the ACT government enter into a heads of agreement.

So she was denying at the election that there was any plan on the table, and then when we do catch her out, on the fact that she had an agreement, she said: "No, it's the Little Company of Mary." And we have evidence that it was not. She continued:

> To enable further development of the proposal past the commencement of caretaker period, which takes effect on 12 September, my preference—

my preference—

> is that the heads of agreement be signed on that date.

But she said, without knowing perhaps that we have a copy of that letter, in this place:

> Talk about rewriting history! I was not attempting to have rushed through a heads of agreement. Little Company of Mary … time requested that a heads of agreement be signed …

This is the honest Katy Gallagher, the open Katy Gallagher, who hid her plans for Calvary and, when she was caught, tried to blame it on Little Company of Mary, and we have written evidence that that was not true.

There is the issue also of elective surgery waiting lists. A lot of allegations were made about the lists and whether they are being manipulated, whether there were problems with the lists. She attacked me in this place and accused me of besmirching the staff. Because I said there were problems with the lists and the way they were being handled, she said: "No, there isn't. You're besmirching the staff." But it turns out that that is not true, because what the Auditor-General found, despite Katy Gallagher not wanting the review, saying that there were no problems, is:

> … the classification of clinical urgency categories did not always reflect ACT Health's policy and procedures, and therefore raised doubts on the reliability and appropriateness of the clinical classifications for patients within the waiting list.

We can go further and look at the bush healing farm. You might remember that one, Madam Assistant Speaker, where there was an FOI document that came out of her department which had been deleted in part, quite clearly with the intent of covering up the fact that a vineyard or cellar door was proposed for that location. I then received a letter that was, in my view, a threatening letter from the chief executive of her department, after I had released a press release claiming a cover-up. So rather than responding to the FOI and saying, "It looks like a mistake has been made and here's the document,' the response was to get a threatening letter and then Katy Gallagher fighting that all the way. That is absolutely disgraceful. It was a cover-up and Katy Gallagher did everything she could to make sure that that occurred.

Also, when I was fairly new to this place I started making comments about the fact that Katy Gallagher was holding the Treasury and the Health portfolios. I said that that was a lot of work and I thought that Health was missing out because of her

attention to Treasury, particularly with the impact of the GFC at the time. She then said that that was sexist. This is a minister who says: "No, it's open and accountable. We're open for scrutiny. We don't mind." But if you make a complaint or put some scrutiny towards her, instead of saying, "Yes, I'm open to that," her response is, "You're being sexist." Does that sound like someone who is willing to run and to lead an open and accountable government?

What about the promise for a secure adult mental health facility? Where has that gone? Is that a broken promise? What happened with that? We have heard about the schools promise—that there would be no schools closed in her life in government—and she just ignored that. I think that when it comes to the point of honesty, when it comes to this government being open and accountable, we saw it with the last quarterly health report, where Katy Gallagher was called on by this chamber to provide a more accurate and honest summation of public health services. This Assembly voted on that because she had been so misleading in her summation of the statistics arising out of our health system. It is very difficult for anybody in this place or for the public to take anything seriously when she says that she is going to be running an open and accountable government simply because she is going to have a website.

MS LE COUTEUR (Molonglo) (3.58): I welcome this paper, because clearly the Greens have always been in favour of open government. What Ms Gallagher is talking about—transparency, participation and public collaboration—are things which the Greens are strongly in favour of. However, I am not totally going to be saying positive words here. On page 3 Ms Gallagher mentions three things which have informed this. Maybe I am showing a bit of ego here, but I am really surprised.

In March this year, this Assembly passed a motion on Government 2.0. I do note that the Labor Party voted against it; I will admit that. But a lot of the things that are talked about in this are things that were talked about in the Government 2.0 motion and, more to the point, it was passed by the Assembly. So the government was given instructions by the Assembly that we wanted to see a more open government and we wanted to see the government use Web 2.0 tools to achieve that. I think that it would behove the government to realise that the Labor Party is one of three parties here and the Assembly does matter. And taking into account what the Assembly said on this would be, at the least, courteous.

Going to two of the actual details—and had the Chief Minister distributed this earlier, I would have had a more detailed response—she is intending to produce yet another website, an open government website, as a single gateway to access government information and provide a greater opportunity for public involvement in the governance of the ACT.

This leads to the obvious question: what of the current ACT government websites? Are they all going to be part of this website? How is the information management framework going to work? Or will this make it even harder to find things because you will not know this came out from TAMS and therefore it will be on the TAMS website or the open government website? She said the website will be operational in three months time. I sincerely hope that somebody is actually doing some work on the

information management of this so that it adds to open government rather than to confusion. If no work is done, I am sure it is just going to add confusion.

The second point I would like to make is that she does say—and I thank you very much for this, Chief Minister—that the default position is that government information becomes available to the community. This was one of the key points of the Government 2.0 motion. In that, we actually talked about using creative commons licences. I very much hope that the government will answer under what licence they intend to make this available. Do they intend to make it, as you could possibly assume from this, totally copyright free? If not, what licence do they plan to use? I would point Ms Gallagher and the chief information officer, or whoever is going to be implementing this, to the Government 2.0 motion and suggest that they seriously take on board the issues which were discussed in that.

As a whole, I very much welcome this. I hope that, by using this and the guidance that the Assembly gave with the Government 2.0 motion, we will see more open and transparent government, and one which will be better accountable to the citizens of the ACT and produce better outcomes for all concerned.

MR SMYTH (Brindabella) (4.02): I have been here long enough to be able to say that I think I have heard this all before. You can go back to Mr Stanhope's speech in 2001 where he made exactly the same claim: "We are going to be more honest, more open, more accountable." And here we are, 11 years later, being more honest, more open, more accountable. The proof of the pudding is in the eating. I am sure all Canberrans—certainly the Canberra Liberals—will be viewing this commitment with a great deal of, let us say, healthy scepticism to start with. But it is open to the Chief Minister to prove her case.

Mr Seselja makes a very good point. There are a number of reports that would inform how this Assembly works and our understanding of what the government is trying to achieve if they were made public. First and foremost, there is the Costello review. The Chief Minister could stand and close this debate now if she wanted to by saying, "I will release the Costello report." She could stand now and say, for instance, "I will release the Enlighten report for public consumption." There is nothing commercial-in-confidence inside the Enlighten report, but we are hiding behind commercial-in-confidence because it throws a bad light on the government's achievements in regard to Enlighten.

Mr Seselja's starting point is "Prove it." Don't just say it; prove it. Prove that you are a better leader. Prove that you are not just a continuation of the Jon Stanhope closed government years by doing something positive. If Ms Gallagher was to do that, people might start to take her seriously with regard to the promises that she is making.

Let me look back to the things the Labor Party have promised over the years since they came to office. Here is one of my favourites. It is a code of good government that they put forward in 2001. I want to read a couple of paragraphs. It says:

> Labor understands that good government does not bully.

Perhaps Mr Corbell should remember that line. "Labor understands that good government does not bully." When you are held to account, it is not personal, but you have an obligation to answer and not bully back. So often, particularly with Mr Corbell, he thinks he is a bully but it is not bullying. Let me continue:

> Labor understands that good government does not bully. It leads. Good government accepts criticism. Good government has the courage to allow itself to be closely scrutinised.

It did not this morning. Good government died this morning with the opportunity to scrutinise Mr Corbell's department and his behaviour over the case of Mr Buchanan. It was not courageous at all, this morning. Let me continue:

> It conducts its operations in an open, honest and accountable manner, not in secret.

We conducted the inquiry into bullying in the obstetrics ward in secret, because nobody has seen those reports and they still remain secret. If Ms Gallagher is serious about what she is proposing here, she will stop acting in secret and start acting in the open.

What happens if we look at things like the open government website? In a way Canberra Connect is already there. What we did when we set up Canberra Connect was a start. There were many things to follow, including all government transactions online—lots of government information online: policy, legislation and regulation all linked and online. That has not happened. It has not been followed through. They did not like Canberra Connect because the Liberals set it up. They had to keep it because they knew the people of Canberra enjoyed having it there.

But in effect, the open government website is already there. It is called Canberra Connect. Perhaps we can utilise it better. Ms Le Couteur, you would know this. There are some great Canberra firms. In particular, for instance, SoftLaw has some exceptional software which would allow you to put exactly what Ms Gallagher was talking about into one spot. The SoftLaw software allows you to link the policy and the supporting documents—link the policy to the black-letter law, to the schedules, to the regulation. So if you want to know about government and how government behaves, you can know it right from what was the government's thinking when it started the process all the way through to how it affects you as an individual. You can then cross-reference that to the budget documents. Local firms like SoftLaw have good software. There are a number of bits of software that you could use.

If you are serious about this, we will see the calibre of the website. I am surprised to say that, since she has taken over, we can do this in a couple of months—have this up and running properly. You raised concerns, Madam Assistant Speaker; I have similar concerns about what will be the quality of this.

Let me turn to FOI. It is interesting to hear yet again that Ms Gallagher, leading a Labor government, is going to reform FOI. Guess what? Under the code of good government back in 2001, what was the Labor commitment? No 15: overhaul the FOI

Act. I have to tell you that I have two FOIs in, Chief Minister. If you want openness and accountability, you can go and get me my FOIs today. I have been waiting for them for months. I have got an FOI in with Chief Minister's and I have got an FOI in with the emergency services authority. What was the government's initial response? "Here is a bill for 3,000 bucks." There is openness and accountability for you—a member of the Assembly has to start paying for information that should be made available in the public interest.

One of the issues was some of the work that was done at the headquarters of the ESA at Fairbairn, and there is a lot of public interest in that. I do not know how you can say that it is not in the public interest to release those documents, but that is the standard fall-back line of this government. I hope the Chief Minister is listening. If she is fair dinkum about what she is doing, she can go and get my two FOIs, get them cleared and get them to my office as quickly as possible. They have been there for months and months.

The other thing that the Chief Minister will fix if she is really genuine is this. Again, it was Labor's commitment No 16: "In government, Labor will restrict the use of commercial confidentiality in government contracts." So we will get rid of the commercial-in-confidence. But go straight to the Enlighten report, Chief Minister. If you are serious about this, go and read the Enlighten report, if you have not read it. There is nothing commercial-in-confidence in there. There is no personal information; there are no lists of vendors or users; there are no secret formulas for the coating on chicken or a soft drink; there is no commercial process in it; there is no industrial process in it. There is absolutely nothing commercial-in-confidence in the Enlighten report. If you are serious, again, bring it and table it. You could have it here this afternoon. We will give you leave to table it this afternoon. If you are serious, make a good start. Make a sign of good faith. Go and table the things that you, as a cabinet minister, have helped restrict. Live up to the promises of 2001.

If you really want to make a new start in 2011 and do not want to just be the shadow that Jon Stanhope was, you have got a real opportunity here. But it is up to you to prove it. It is up to you to show that you are up to it by making decisions that back up what you say. Words are cheap. I have heard just about everything you have said in one form or another, shy of the technological changes that are in this document.

Let me move to perhaps the last bit: "complete the renewal of our community engagement manual". Community engagement has been overhauled several times since the Labor Party has been in office, but it is never adhered to. There are time frames and guidelines and all sorts of things set out for discussion, but we always find extenuating circumstances, such as "This is a quick decision." For Calvary I think there was a six-week consultation period when the guidelines said you need a minimum of 12 weeks on a major issue. If the sale of Calvary was not a major issue, I do not know what is. But the government does not adhere to its guideline. There is always a back door, a bolthole or a get out of jail free card.

That is the problem with believing anything that is in this document. If we are going to do it, let us make sure we do it properly and let us make sure that it does occur.

And then, Madam Chief Minister, let us go back and look at all the documents that the previous government used to table and that your government chooses not to—or where your government modifies or deletes information to make them near irrelevant. I go back to the health statistics. For years Liberal health ministers tabled, on or about the 21st of each and every month, the health updates with the numbers in them. They were here for discussion. We were not afraid; we tabled them. Your government stopped that. If you want to be known as a Chief Minister who insists on openness and accountability and as a Chief Minister who is running an open government, bring back the monthly reports on the health stats. Bring them back. Enhance them. Put more in them, if you are fair dinkum. But I do not think you are. They are cheap words. Prove it. I say, "Prove it."

The quarterly capital works report stopped for about three or four years under a government in which you sat in the cabinet, Chief Minister. It stopped because we know of the failures in the delivery of capital works. The report that is currently being put out has less information than it used to. If you are serious, Chief Minister, reinstate the pieces of information that have been deleted from the capital works report that you table and go back to the expanded version—and be a little bit brave: go even further.

I have to say that I have heard it all before. I think I can say that. I go back to another speech from Jon Stanhope, on 14 March 2001. He was going to insist on a government being fair, open and responsible. He said:

> These are part of Labor's core values—fairness, openness … responsibility. And they are the qualities that will characterise the Stanhope Labor government …

Well, they did not. They did not, because we hid reports that should have been made public. Significant reports that detail how things were going to change are still hidden by this government.

You can have a brave government, Chief Minister. You can have a government that changes things. You can make those reports available now as a good start to achieving openness in government. *(Time expired.)*

Question resolved in the affirmative.

Towards a Diversionary Framework for the ACT—interim response

Ministerial statement

MS BURCH (Brindabella—Minister for Community Services, Minister for the Arts, Minister for Multicultural Affairs, Minister for Ageing, Minister for Women and Minister for Aboriginal and Torres Strait Islander Affairs) (4.13), by leave: I table the following papers:

> Towards a Diversionary Framework for the ACT Discussion Paper—
>
> Interim response to the consultation report—Ministerial statement, 21 June 2011.

> Consultations report, prepared for the Department of Disability, Housing and Community Services by Noetic Solutions Pty Ltd, dated April 2011.

I move:

> That the Assembly takes note of the papers.

I am pleased today to be tabling the consultation report on the *Towards a diversionary framework for the ACT* discussion paper and the government's interim response.

When I launched the discussion paper *Towards a diversionary framework for the ACT* on 14 February, my intention was to promote discussion about how we can better divert young people away from the justice system so that fewer young people are brought into the system, and particularly into detention. I am pleased to say that we have stimulated considerable discussion as evidenced by the report.

Diversion is generally understood as any process that prevents a young person from entering or continuing in youth justice. It is also described as removal from criminal justice processes and, frequently, redirection to community support services.

National data published by the Australian Institute of Health and Welfare highlights some of the challenges that the ACT youth justice system faces, including the number of young people involved in the system; the nature of their involvement, including frequent periods of short-term incarceration; and their extended duration in the system.

Alongside other jurisdictions, the ACT also has the challenge of unacceptably high rates of over-representation by Aboriginal and Torres Strait Islander young people within our youth justice system.

In February this year the Community Services Directorate engaged Noetic Solutions, a local company, to undertake consultation on the discussion paper. The process sought feedback on strategies to divert young people away from the criminal justice system, particularly in relation to diversion from custody. Feedback was also sought to understand what programs and practices are working well and where services could be improved at all points in the youth justice system.

Consultation took place during March and April and involved a series of individual and group meetings as well as two larger forums. I also hosted a roundtable to hear directly from stakeholders about their experiences and to discuss their ideas. I am pleased that so many people took the time to participate in these discussions and I thank all those who contributed. Written submissions were invited, and I am pleased to advise that 15 written submissions were received in total. These submissions were well researched and the comments contained were substantial. I acknowledge the commitment that the authors provided to this input, and I thank them for doing so.

The feedback obtained from the broad range of stakeholders who participated in the various consultation mechanisms is reported in the consultation report which I am publicly releasing today. The consultation report and, where the author has consented,

the written submissions will be published on the Community Services Directorate's website.

The release of the discussion paper *Towards a diversionary framework for the ACT* represented a commitment by this government to engage the community to look seriously at these issues. However, I must caution that the consultation report is just that—it is a report on what was said to Noetic by the various participants and stakeholders during the consultative process. Nevertheless, the consultation report provides very useful advice for the ACT government on the opportunities identified by those consulted to strengthen current diversionary responses.

Based on the initial advice from the consultation process, the ACT government has already invested in an approach to strengthen diversion as part of the 2011-12 budget. A funding commitment of approximately $2 million over four years has been allocated for the establishment of an after-hours bail support service to assist young people already on bail and those young people facing fresh charges outside business hours, where bail is being considered. The service will operate each evening and into the early hours of the morning to provide advice to police and young people about options to support young people to be placed on bail and to support young people already on bail.

I am very aware of the current inquiries into Bimberi and the youth justice system being undertaken by the Human Rights Commission and that the report on these inquiries is due to be tabled in the near future. The ACT government is supportive of the review process currently being undertaken and I can assure the Assembly that it will be given detailed consideration after it has been tabled. I note that the terms of reference for the Human Rights Commission inquiries include consideration of the effectiveness of diversionary strategies. A copy of the Noetic report was provided to the commission.

Today I am announcing the government's interim response to the consultation report on the diversionary framework discussion paper in areas where the way forward is already clear. The government will provide a final response to the consultation report at a later stage, in conjunction with the government's response to the Human Rights Commission's Bimberi inquiries report.

I am pleased to announce that, in addition to the after-hours bail support service initiative that I have already mentioned, the government will be developing a diversionary framework for ACT youth justice, including diversions at all points in the youth justice system—primary, secondary and tertiary.

Primary diversion includes services, supports or interventions delivered universally across populations or to groups known to be at risk of developing a problem. The diversionary framework will look at a service system approach to primary diversion and early intervention.

The diversionary framework will also bring together our efforts around secondary diversion strategies that target those people who are considered at increased risk of a problem or who are already showing signs of the problem. These strategies include

interventions such as alternative education programs, supported accommodation programs and a range of inter-agency programs designed for vulnerable young people.

Tertiary diversion services are those designed to prevent young people already in contact with part of the formal criminal justice system from becoming further involved in the justice system and to reduce reoffending by these young people. The diversion framework will place these services and support within the youth justice continuum.

We will implement a "core service offer" for at-risk people in the community. This will be based on a single case plan and a single, system-wide model of case management. The core service offer will be supported by a concept of "no wrong door" and a "no reject or eject" policy.

The core service offer will integrate and build on other reforms to support for vulnerable young people, such as the ACT youth commitment to education, training and vocational education. It will also complement initiatives such as those around young people transitioning from care that was announced in the 2011-12 budget and the new service delivery framework being tendered under the Office for Children, Youth and Family Support program.

I am also pleased to announce the development of a single case management service for ACT youth justice, based on through-care principles. Through care is generally understood to refer to the support provided to a person from the time they enter the justice system to the time that they exit it and beyond, and it is the approach that underpins adult corrections systems.

The revised case management arrangements will represent an important change to youth justice practice to ensure continuity of relationships with young people within the justice system, regardless of whether they are in the community or in custody. It is an important early step in the youth justice reform process and the initiative will be developed over the coming months.

In beginning to address the over-representation of Aboriginal and Torres Strait Islander young people within our youth justice system, the Community Services Directorate has commenced an investigation of strategies to strengthen diversion in the areas of supported accommodation and services for Aboriginal and Torres Strait Islander young people. This is involving across-agency efforts of Housing ACT and the Office for Children, Youth and Family Support as well as our combined community partners.

In the area of legislative reform, the Community Services Directorate will work with the Justice and Community Safety Directorate to investigate amendments to legislation to support youth diversion. In addition, the directorates will explore the establishment of transitional early release programs for young offenders, including a youth parole scheme.

Finally, I reiterate that the government commits to responding to the diversionary framework consultation report in full and in conjunction with the government's response to the Human Rights Commission's inquiry at Bimberi.

I am very committed to doing all I can with the improvements within youth justice, and these papers and these initiatives are just the beginning of that.

MRS DUNNE (Ginninderra) (4.23): I welcome the opportunity to highlight one of the areas where the Canberra Liberals have been most vigilant over the last few years. The work that has been done in youth justice is a testament to the work that has been done by the Canberra Liberals in highlighting the failures of the Stanhope and now the Gallagher government.

It is quite interesting today to find what is in the *Canberra Times* at least—although not to the same extent in this statement; I think it has been downplayed a bit in the course of the day. The *Canberra Times* reported that the centrepiece of these reforms would be the introduction of a parole system for young offenders. I notice that it now gets one paragraph mentioned in the penultimate paragraph of the minister's statement.

I think that is because the Canberra Liberals have again pointed out the failures of successive Labor governments since 2001 in this area. I draw attention to the extensive debate and the extensive commentary that was given by the Canberra Liberals, particularly Mr Seselja, over the passage of the children and young people's legislation back in 2008. Mr Seselja, on behalf of the Canberra Liberals, spoke at length about the problems in the children and young people legislation because there was no parole system. The old children and young people legislation had a licence system. There were views that, because we were now a human rights compliant jurisdiction, that was not an appropriate system, because the system of licences for remission were issued by the head of the office, the territory parent, and as a result that was perhaps not the right system.

Instead of fixing that system, they threw it out. It is interesting to quote some of the things that Mr Seselja said back in July 2008 on this matter. He said:

> This is a curious human rights outcome, for the previous statutory remission system offered a young offender showing signs of early rehabilitation the prospect of early release, and is beyond the pale because of a mixture of judicial and administrative functions. Rather than that, the human rights conscious Stanhope government would prefer locking them up without the prospect of early release. Yet again, there is a contradiction between the government's stated agenda and the actual outcome in this case. It does seem scandalous that a young offender can be incarcerated for a defined period without hope of release on licence. Such a move would positively discourage good behaviour whilst in detention and, again, is a very real concern now evidenced by this bill.

Mr Seselja went on to discuss the elements of the justification for this found in the explanatory statement to the bill at the time. He went on to say:

> In contrast, the explanatory statement says the government has decided … not to construct a parole system for young offenders in substitute for the existing statutory remission system because:
>
> > The effect of combining a sentence of imprisonment and a good behaviour order with a supervision condition meets the rehabilitative goal of supervising

> a young person's return to the community akin to a parole system. If a young person breaches their good behaviour order, the person is brought before the sentencing court, and the Court's sentencing jurisdiction is re-enlivened.

> This is not an explanation of the decision but, instead, a vague attempt at justifying the unjustifiable.

What we have heard and seen from the minister here today is that she has recognised, or is beginning to recognise, that the position taken by the former minister, the now Chief Minister, back in 2008, to do away with the existing remissions licence scheme and not substitute a parole board for it, has been a mistake.

We clearly indicated that not having the prospect of release for good behaviour would be a problem in addressing behaviour in youth detention, and we have seen bad behaviour in youth detention. What we are seeing here is the minister admitting that Katy Gallagher got it wrong. Minister Burch has been brought in here to fix up the mess left by Katy Gallagher in relation to this.

This was a matter that we reflected on a great deal at the time. Mr Seselja, Mr Stefaniak, when he was here, and I took a lot of briefings on this. Our staff were involved in a lot of briefings. The clear recollection of those who attended briefings that I have spoken to today on this matter was that they did not want to go down the path of the parole board because it was going to be a cost and they wanted to save money. We are now reaping that whirlwind. What we have here today is the minister admitting that they got it wrong, admitting that her predecessor in this place, in this portfolio, got it wrong. Minister Burch has a lot to do here in relation to youth justice.

One of the things that I am perplexed about is the interaction between all these reporting processes. After the Canberra Liberals started to make a fuss and put some heat on Minister Burch, we had a reaction of very strange proportions. There are people inquiring into the youth justice system all over the place. I think that it is important—of course we believe it is important—but we wanted a much better inquiry than the one that we have got. I am now concerned that there are so many inquiries going on that there is a risk that there will be, like everything else in this government, a lack of coordination; that we will be hard pressed to keep abreast of all the recommendations; and that things will be missed.

I look forward to seeing more substantive policy work done by Ms Burch in this area. We in the Canberra Liberals will be looking at it very closely. The lack of a parole system is a matter that has been actively discussed by members of the Liberal opposition quite recently. We will wait with bated breath to see Ms Burch's proposals in this area. We will be scrutinising it very closely, as we will be scrutinising all the recommendations and all the work done in relation to youth justice.

I welcome the opportunity today to discuss these matters. I put on the record that this is not policy reformation as Ms Burch claimed it was in the paper today. This is policy catch-up; this is policy fix up. This was a problem that Mr Seselja and I highlighted in 2008, and it has come home to bite this government. This is a failure by Katy Gallagher that Minister Burch now has to fix.

MS HUNTER (Ginninderra—Parliamentary Convenor, ACT Greens) (4.31): In response to Minister Burch's statement today, there are a number of, I guess, reforms that have been included in this paper. We also saw the report in the *Canberra Times* this morning. I just want to make some general points at this time.

In regard to parole and young people, parole is a period of supervision in the community and follows the completion of a period in detention. Probation is an order for supervision in the community. I think that these orders are available in Australian jurisdictions under a variety of names. They are intended to assist rehabilitation of the child by providing continuing guidance and support.

In relation to parole, actual levels of supervision and support provided vary. And it has been suggested that insufficient supervision is the case with regard to many child offenders across Australia. One reason for inadequate supervision is a lack of available funding for supports and services. Another is that magistrates and judges may not specify the agency responsible for supervising the child and as a consequence no agency takes responsibility for supervision.

Research is very critical of the level of supervision and guidance provided under parole orders. The system of probation and parole that is applied to children is of very little assistance, says some of the research. Children are supervised for short periods of time and supervision is often superficial. This is caused by lack of resources and is totally different to supervision of adults on probation and parole, which tends to have far more focus on it and far more attention given to it.

It is more often true than not that supervision and guidance under these orders are conspicuous by their absence. As the courts do not monitor these orders nor inquire into a subsequent matter that the child may appear about, there is no way of knowing whether supervision and guidance have been provided and at what level. The court more often than not may presume that a higher level of supervision and guidance has been provided than is actually the case.

As I said, research has suggested that to make parole and probation orders more effective, including the provision of additional resources, proper training and realistic case loads, would be an important part of enabling them to provide quality supervision and guidance to young people. And some would emphasise also that issue of the need for closer monitoring of these orders by courts.

The ACT Greens are clearly interested in providing courts and magistrates with increased options to avoid young people entering Bimberi and we are keen to have the discussions about parole options, but not if this is about tokenism. In order to make a real change in the lives of these young people, we need to break cycles of poverty, criminogenic family patterns, and make big behavioural shits. That means we are going to have to fund this appropriately for the long term and make sure we build in accountability that allows the system of checks and balances. And that mainly makes sure young people are not falling through the cracks. It is not enough to reform a system if there is no intention of providing substance to that system. In past

experience in other jurisdictions, we have seen some efforts that were in vain because adequate supports and supervision were not put in place and we need to avoid this here in the ACT.

In regards to the sentencing of young people, rehabilitation and reintegration into the community should be primary objectives in the development of sentencing options, and programs should be tailored as far as possible to the individual needs and circumstances of young offenders, including the difficulties they may have in complying with certain orders. Sentencing options should take into account the special health and other requirements of children and young people, and this should include the provision of appropriate drug and alcohol treatment facilities, incorporating both detoxification programs and treatment or referral services. It should also include counselling and other practical programs to assist these young people and of course it should include their families. These could be run by non-government services or by government agencies but we need to ensure that we are providing treatment and alternatives to young people who are experiencing mental illness that has resulted in their offending behaviours. Sentencing options for young sex offenders should also include specific treatment programs appropriate to this category of offenders.

The *Canberra Times* article this morning talked about revolutionising the youth justice system under a raft of reforms. And I guess I was a little surprised. I thought it was probably a little pre-emptive, considering we are still awaiting the key findings from the inquiry into the Bimberi Youth Detention Centre that included Youth Justice Services. But we know that this type of reform needs community involvement. I know we have had a discussion paper released but I believe the community needs to be involved in deciding what the reforms look like for the ACT. We have many providers working with the young people who have been in our youth justice system, and these providers have knowledge and expertise that could be invaluable to driving these reforms forward.

We talk about, as I said earlier, that centrepiece of the reforms being about the introduction of parole and a parole board. As I have said, I have some concerns that we have previously looked at the parole options for young people here in the ACT and we did decide against it. Now we are reforming the system by a parole board. While things may have changed in this area, I will certainly be looking very closely at this and certainly looking at the checks and balances as well as, as I said, the adequate funding to ensure we are supporting and supervising young people in this situation.

It is no use giving them early release and putting them on parole if you are really setting them up to fail because you have not put in the supports, you have not worked with families, you have not got the access to counselling, drug and alcohol programs or whatever it may be. As I said, we do need to be looking at the level of education, training and activities that also occur within Bimberi. And I will be keeping a close eye on all of this because all of this fits together in the whole juvenile justice system.

The other issue is around the case management. I think it is good to streamline that. I think it is good to have one area, I guess, where there is that follow through. But there is another critical issue that relates to this, and that is about staffing. And we know

that it is very difficult to keep that continuity of staffing in areas like youth justice and in areas like care and protection and child protection. These are tough areas to work in. I have great respect and admiration for the people who work in these systems.

We need to ensure that we have the debriefing, the supervision, the professional developments, the supports we need to be able to recruit that staff and to keep that staff, to be looking at how we can ensure that they can stay there for good periods of time so that young people will get the benefit of not just having one case management system but also of being able to build rapport with a particular case manager or a couple of case managers. It is just another issue that does link into all of this.

I think it is good that minister is moving forward in this area, is having a look at how we can improve it, because, quite frankly, we have a scandalous incarceration rate in this city, particularly for our Indigenous young people. We are failing them dreadfully. We do need to look at this. We need to look at how we can improve. I very much look forward to being part of the debates and the discussions that will take place in the coming months.

Question resolved in the affirmative.

Government—competence and leadership
Discussion of matter of public importance

MADAM ASSISTANT SPEAKER (Ms Le Couteur): Mr Speaker has received letters from Dr Bourke, Ms Bresnan, Mr Coe, Mr Doszpot, Mrs Dunne, Mr Hanson, Mr Hargreaves, Ms Hunter, Ms Le Couteur, Ms Porter, Mr Seselja and Mr Smyth proposing that matters of public importance be submitted to the Assembly. In accordance with standing order 79, the Speaker has determined that the matter proposed by Mrs Dunne be submitted to the Assembly, namely:

> The importance of competence and leadership in government.

MRS DUNNE (Ginninderra) (4.40): Picture it: ears blocked, la, la, la, la, la; I don't want to hear. Madam Assistant Speaker, that is an example of the competence and leadership of this government. Today we are talking about the importance of competence and leadership in government. It is very important that we should talk about this as we mark the first week of a new chief ministership—not so much the first week of a new chief ministership but at least the first sitting week of this new chief ministership.

Much has been said by Ms Gallagher about how she will be somehow a new leaf. We have had two ministerial statements this week about openness and accountability and honesty in government, and how things will be different. We had a tabling of objectives for the next year, and somehow we are supposed to think that there will be something new about that.

But what we have heard both on Tuesday and today in ministerial statements is the same old, same old. The initiatives listed were old initiatives—they were not even tarted up. The list of initiatives today, as Mr Smyth said, except for a couple of things

in relation to new technology, could have been taken out of the Jon Stanhope playbook from 2001, even down to FOI reform.

Let us look at the sort of government and leadership and competence we have had from this government and how we should be going on from here. The Gungahlin Drive extension is a road half built, a road reaching its capacity years before forecast, a road costing four times what it should have, a road where officials said: "Don't worry, Mrs Dunne, it will be a great road—22 hours a day." Actually they got that wrong too, because the congestion is for much more than an hour in the morning and an hour in the evening. It is not a great road for even 22 hours a day.

Then we had, after steadfastly refusing, refusing, refusing to duplicate the GDE, the hurried announcement that the Stanhope government, the Labor government, would duplicate the GDE—only after they got word when somebody broke an embargo that this was an announcement that was to be made the next day by the Canberra Liberals. That is an example of the competence and leadership that we get from this government.

The Bimberi Youth Justice Centre cost $40 million for a state-of-the-art facility and it has been open for only two years. The original budget, we might recall, was $20 million. In the last two years we have seen near escapes, bashings, a series of self-harms, misuse of drugs, inadequate security, the revolving door of staff resigning, staff shortages, the use of inappropriately trained security staff and now $1.5 million in extra funding needed to fix security, some of that security failing having been brought to light by a brutal bashing. That is an example of the competence and leadership of this government.

The Alexander Maconochie Centre cost more than $130 million. Its size and scope was reduced to fit the budget. There was a pretend opening. There are drugs getting in. There are security breaches. There are system failures. There is uncontrolled bullying. Staff are becoming political footballs. That is an example of the competence and leadership of this government.

We have the old Belconnen Remand Centre, where there were remandees on the roof and the Attorney-General was making public statements about the guilt of the perpetrators. On that occasion that led to the only censure of any member of this government in the life of this Assembly, and that is an example of the competence and leadership of this government.

There is the government office building, estimated to cost $432 million. There has been no cost-benefit analysis; there was a single page showing savings. Then there was more analysis that did not match the original single sheet, information was withheld from inquirers until the very last moments of the estimates hearings, and ministers have been unable to answer questions. It is unclear whether it will be paid for by borrowings or from cash. That is an example of the competence and leadership of this government.

We have the enlarged Cotter Dam—the decision was delayed for years and years, with the Chief Minister saying we may never have to build a dam; not in 30 years, not

in his lifetime. The original estimate when we first looked at this project was $120 million. Four years later it is $363 million. The most basic elements of any costing project were left out of the early estimates. It is believed to have negative economic benefit. This Chief Minister received all the minutes, but claims to know nothing about the cost blow-outs. That is an example of the competence and leadership of this government.

Again, with the Murrumbidgee to Googong pipeline, the original estimate was $35 million to $45 million. Four year later it has risen to $150 million. The same basic costing elements were left out of the early estimates. That is an example of the competence and leadership of this government.

We have had no waste by 2010—it was embraced by previous governments but has been abandoned by this government. Eventually, despite paying lip service, they entirely abandoned the target in 2008. That is an example of competence and leadership by this government.

We have childcare standards. New standards will be imposed by this government and the commonwealth together. These new standards will add to the costs of running childcare centres. These costs will inevitably be passed on to the people of Canberra. The government of course washes its hands of all these things, saying it is not responsible for cost. Eventually there has been some recognition that some cost pressures have been caused by this government, and the government this year has announced some inconsistent assistance to childcare services operating from government-owned childcare centres, while not providing any assistance for other childcare centres, even community-based childcare centres.

ACT families pay $60 per week more per child on average than anywhere else in the country for childcare, and those costs will continue to rise. When I visit childcare centres, that is the simple message I get. On top of that, we are finding childcare centres across this territory really afraid about their capacity to find staff to meet the requirements of the new framework. This is an example of the competence and leadership of this government.

In the health system, we have seen the Calvary hospital debacle which was touched on today by Mr Hanson, including secret deals. There have been allegations of bullying. There are long queues for elective surgery and there are long queues in the emergency department. Obstetricians and gynaecologists have walked out of the hospital. Minister Gallagher called the complaints of obstetricians and gynaecologists mudslinging. Visiting medical officers expressed no confidence in the health minister. A motion in the Assembly called on the minister to be more honest. There has been evidence of downgrading elective surgery with no documented clinical reason. We have the lowest level of bulk-billing in the country, and a chronic shortage of GPs. Of course the government claims that it has no control over the number of GPs, notwithstanding it has spent $12 million to recruit them. This is an example of the competence and leadership of this government.

In addition to all the other woes at the hospital, we have had the failed hospital pay parking abandoned, and years of disruption while we built a new multistorey car

park—and we have seen the cost of that car park blowing out considerably. In addition we have seen $5 million wasted on a busway that will never see the light of day and another $5 million wasted on the FireLink project that never got off the ground. These are more examples of the competence and leadership of this government.

Moving on to ACTION buses, remember network 08? It was meant to reform the ACTION bus network. Phase 1 failed and was eventually withdrawn and modified. Three years later, we are still waiting to see phase 2. The government is unable to resolve industrial action. We have the highest driver-to-bus ratios in the country, and an 80 per cent government subsidy is paid for eight per cent patronage by the Canberra population, and we have 12,000 kilometres per day dead running. That is an example of the competence and leadership of this government.

Turning to the Majura parkway, which is a very sensitive issue in this place, the ALP government here has committed $144 million for half a road on a gamble that the commonwealth will fund the other half. If the commonwealth does not come to the party, we are going to be in big strife and we will not have a road. That is an example of the competence and leadership of this government.

In the area of education we have seen this week that the government's process-driven culture has offended 1,500 teachers who were prepared to sign a petition and have it tabled in this place, but, according to the minister, that is tough. There was a secret report that resulted in the closure of 32 schools with no public consultation. There were backflips on the efficiency dividend policy. There have been calls from members of this government for the defunding of non-government schools because they are seen as divisive. Ministers have said one thing in cabinet and another in their party forums. The highest proportion of high school students in Australia are attending non-government schools and that figure looks like growing. Almost half of all students in the ACT attend private schools. That is an example of competence and leadership from this government.

In relation to the ESA headquarters, we see that the original budget was $13 million. The final cost was $75 million. It was delivered late. There were years of leased but unoccupied space. And when we finally occupied the space, soon after it was flooded. The ESA had to rescue themselves and they have not been back. That is an example of the competence and leadership of this government. The Rural Fire Service sheds cost $800,000, but you cannot drive your vehicles into the shed and then get out of the vehicles.

With the north Canberra urban waterways—so close to the heart of Mr Corbell that he thought that I was asking about that today when I was asking him about something else—the original budget was $13 million. Now the costs have risen to over $21 million, plus $10 million provided by the commonwealth—so $31 million. There has been no cost-benefit analysis of this scheme and the government has no idea what price will be charged for the water that is produced in this system. The reticulation pipes were too small and we had to design the thing from the ground up again. That is an example of competence and leadership from this government.

We have seen the Enlighten festival. It took three years to deliver an autumn blockbuster event. It cost millions of dollars and there was little return. The ACT government had to give away 3,000 free tickets to get the audiences there—3,000 out of 8,000 tickets. That is an example of the competence and leadership of this government.

In relation to the Fitters Workshop, which is an issue of considerable debate and controversy at the moment, there was an impetuous decision made in the absence of proper consultation. The decision was not reviewed in the light of new evidence. There has been no response to the public debate on the issue, no master plan or vision for the Kingston arts precinct and no expert advice has been sought. That is an example of the competence and leadership of this government.

Another topical issue is the change of use charge. This is a massive tax hike on housing. There has been poor consultation and poor explanation of the reasons and the impact that this will have. Housing prices and housing affordability in the ACT will be exacerbated by this new tax. New developments will become commercially unviable. Infill will be discouraged. Housing affordability will become even less of a prospect for young people attempting to enter the housing market. Rental affordability will also become more of a problem. The government's hands are in the pockets of new homeowners to the tune of $80,000 including stamp duty for every one of these dwellings. This is an example of the competence and leadership of this government.

ACT Labor is out to bite into the family budget—total taxation increases of 50 per cent in real terms over the life of the ACT government; per capita increases of 94 per cent; property rates and charges, 31 per cent above CPI over the last nine years; rent up 68 per cent; water prices up 200 per cent; electricity up 75 per cent; parking fees up 57 per cent. They are all examples of the competence and leadership of this government. *(Time expired.)*

MS GALLAGHER (Molonglo—Chief Minister, Minister for Health, Minister for Industrial Relations and Treasurer) (4.56): I am very pleased to address this matter of public importance today—"The importance of competence and leadership in government". These are the hallmarks of this government, because this is clearly a government of leadership that is delivering improved outcomes and high-quality services and infrastructure for our community. Indeed, I think the people of the ACT would support the notion of the importance of competence and leadership in government, which is why they returned us as their choice of government in 2001, 2004 and 2008 and ignored those opposite.

We have a clear direction for Canberra, as presented in our 2011-12 government priorities announced on Tuesday. We have got ongoing progress in addressing key challenges such as health and hospital reform. We have avoided significant impacts from the global financial crisis through the decisive action that we took as a government. And we are showing even greater willingness to listen to and work with the community in setting our vision for the ACT.

True leadership is not about doing everything. Rather it is about the ability to identify the priorities, to fight hard to move them forward and to work for the interests of

everyone in your community. As the leader of this territory, I will make the arguments; I will meet with the people I need to meet with, at whatever level and in whatever forum; and I will achieve the outcomes our government needs to achieve for the people of Canberra.

If we wish to talk about competency in leadership, perhaps the success in winning an extra $260 million in federal growth funding for Canberra's health services could set the example. This was the outcome of lengthy and strenuous arguments with my federal, state and territory colleagues. It shows that I and this government will get outcomes for the community on the difficult and complex issues, and we will do this from a position of knowledge in a way that will provide a lasting outcome for our community.

There is no starker contrast than that provided through the positive work of this government, with its continuing achievements in improving the quality of life enjoyed in our community, and the dim and shallow nature of the party who sit opposite us.

I am continuing to press forward on the major issues for our community at every level. I have already, in the last month, met with the Prime Minister to press forward on our territory's rights and encourage her to further consider allocating funding to the Majura parkway. As I advised members in this place yesterday, I have also met several times with the infrastructure minister, Minister Albanese, and separately with the federal Treasurer, to put forward the argument around federal support of this very important piece of local, regional and national infrastructure. I also expressed my strong view to the federal Treasurer that there should be representation at the highest level by one of the smaller states or a territory in the review of GST calculations which is currently underway.

The massive health infrastructure development plan that is underway in the territory, along with other community infrastructure projects, show that this government is steadily addressing the challenge of catering for our growing and ageing population. And as we do this, we are placing high importance on caring for our community's most vulnerable, honouring our citizens' human rights and adopting ever more progressive models of care.

The people of Canberra understand what competent government means and also what genuine leadership is. I think we can agree that the people of Canberra see those opposite in this place and they make their decisions accordingly. They are performing particularly poorly at the moment, and their consistent attack on my leadership today, on the leadership of a successful government—and their jeers today, their behaviour every day in question time—indicate just how desperate they are.

This government encapsulates the fundamental elements of leadership. Our vision, our foresight and our commitment to this vision were made explicit this week when I delivered the statement of the ACT government's priorities for 2011-12. This government is one which not only has vision and sets targets, but also is determined to progress our vision and report back to the community regularly on our progress.

We proactively initiated the Hawke review into our public service to ensure that it is achieving the greatest possible focus, efficiency and coherence as it delivers government services and priorities. The commissioning of this review and the decision to act quickly on its recommendations are acts of leadership that those opposite have welcomed with open arms. For one very slim moment, I took this—forgive me, Madam Assistant Speaker—recognition of the fine leadership this government has shown as a sign that I might have underestimated the shallow nature of the opposition party in this place.

My experience as health minister has confirmed to me again and again my belief that leadership is not about unilateral decision making or responding for the short term. Leadership is about building partnership and consensus to achieve a lasting result.

We have turned a corner in health funding for this jurisdiction through such a process. Federal government funding support for our health system was sadly lacking under the previous Howard administration. While the ACT continued to invest heavily in additional elective surgery over the first six years of our government, we did not have the capacity to meet growing demands for public health care as the commonwealth continually reduced its share of the funding.

The new partnership between the commonwealth and ACT governments is an example of what you can achieve when your main aim is improving services to the community. This new partnership, led by the government, will improve health outcomes. In this financial year, we will provide more elective surgery operations than ever before. By the end of May 2011 we had already equalled the previous record year in terms of access to surgery, with 10,100 operations completed. On top of this, we will exceed our original target of 10,712 operations in this financial year, providing about 1,200 more operations this year than we did in the previous year.

We have managed this increase in access by increasing the capacity of our public hospitals and entering into agreements with private hospitals to provide additional surgery. Over the last two years we have built four new operating theatres in our public hospital system to meet the growing demand. We have also added 73 beds to the system over the same period, in part to manage the increased elective surgery activity in our hospitals. And I do not need to remind those opposite of the fact that we have had to replace the 114 beds that they withdrew from the public hospital system here in the ACT.

It is this additional capacity that has enabled us to provide record levels of access to surgery this year, and this is making a real difference for people waiting for surgery. The number of people waiting too long has fallen by almost 1,000, from the high of 2,500 people in January 2010 to 1,576 at the end of May. While this figure remains too high, the reduction in long waits by almost 1,000 people in less than 18 months demonstrates the effectiveness of the government's strategy to increase access to elective surgery.

In May 2001 we also reported the lowest figure for the number of people waiting longer than one year since we began reporting against this performance indicator in

2003. The 459 people waiting longer than one year at the end of May 2011 are 46 per cent below the 848 reported just 12 months ago. And we will see further solid improvements in waiting list numbers over the next 12 months.

The government is looking to secure the future of the ACT health system well beyond individual government and election terms, and we have made a huge commitment to the future development of our health system. In the 2008-09 budget, $300 million was committed over four years for implementation of the health infrastructure redevelopment program. Many projects are already complete and many are underway.

This shows that my leadership is not about getting through the next election. It is about ensuring that our community will have access to the services they need well into the future.

We are also demonstrating our leadership and capability in delivering on our parliamentary agreement with the Greens. In total there were 55 policy commitments and 44 commitments on parliamentary reform agreed to on 31 October 2008. I am pleased to say that over 40 of these items are completed, and a great many more are well on their way to completion.

Leadership is also about working with our partners in this place to achieve positive change for our community. The government is very committed to doing just that.

This government also has an excellent record of leadership in financial management. Our economy is consistently reported as the best in the nation. And although I think—

Mr Smyth: By default, I think.

MS GALLAGHER: I knew Mr Smyth just could not let that one go. It must irk you every time you open the newspaper with your Rice Bubbles in front of you and you see that headline—yet again, third time in a row, ACT number one. It must just make you want to pack up your newspaper and your Rice Bubbles and head off.

We took our response to the global financial crisis very seriously. We built a reasonable buffer in our budget against fiscal shocks, and this was achieved after dealing with years of neglect by the previous government. We had to respond to the slowdown in the world economy, and we saw a significant decline of our revenue in 2009-10 and across subsequent budgets.

Our response to the crisis was measured and prudent. We did not take the advice of those opposite about slashing and burning our budget. We took a longer term view of what this means for financial management, in order to make sure that we could continue to fund core services. We supported confidence in the economy. We supported, and in fact enhanced where necessary, priority services to the community. Our program of capital investment not only supported the economy at that time, but also is expanding the productive capacity of the economy for the longer term. Our response provided confidence, stability and leadership to the private sector.

Our fiscal discipline has supported the ACT's economy, and has enabled our government to meet its people's needs even during an unprecedented global financial crisis. We have made significant efficiency savings and reduced the cost of administration. But we have done it in a measured way. Being prudent means having to make at times difficult decisions and at times unpopular decisions, but again leaders have to do just that.

These savings have been reinvested into priority areas for our community—our schools, our hospitals, our infrastructure. We will continue to work to improve services and community facilities to ensure our city is a good and safe place to live.

This government has demonstrated that it can make the hard decisions necessary to achieve better outcomes for the territory. It was this government that decided to put the territory's finances on a sustainable footing, beginning with a reform process in the 2006-07 budget. That reform, which is still delivering savings, maintained our capacity to invest in physical and social infrastructure.

The economic indicators speak for themselves. The ACT has one of the strongest economies in the country, with the highest economic growth, the second lowest unemployment rate and the second highest labour participation rate, at about 73 per cent.

A strong budgetary and economic performance is no fluke. We have worked hard on it, and the strength of our performance has been recognised. Indeed, if you look at CommSec, in the *State of the states* report, it found that while the ACT economy may be small, effectively all engines of growth are firing, with home building, new mortgages and population growth all above decade averages and ahead of other states and territories. In April this year it said:

> … in January 2011, the ACT was the standout economy … And it is clear it remains at the top of the tree.

Similarly, in confirming the territory's credit rating, Standard and Poor's noted:

> The ACT government's management is a very positive ratings factor.

It must have hurt when you read that, Mr Smyth, did it? The report continued:

> In 2009, in response to the economic slowdown and resulting drop in revenue, the ACT revised its fiscal strategy, with a primary focus on returning the territory's operating position to balance by fiscal 2016.

Again, that must have hurt.

The government demonstrates and enacts its leadership through the long-term direction provided by the Canberra plan and the underlying hierarchy of the supporting strategic plan. A strong strategic planning system is central to effective leadership. To lead, you have to know where you want to go in the short term and the longer term. This is perhaps one of the larger differences between the government and the members that sit in the critics circle opposite.

The government is listening to the people of Canberra, through "time to talk", and we are using this community input in improving our strategic planning into the future.

This government has shown leadership in a number of areas, including by building one of the strongest and most positive engagement models with the Aboriginal and Torres Strait Islander community. The implementation of the ATSI elected body, while the rest of the nation was disinvesting in such mechanisms, has yielded a strong culture of communication with ATSI people in the territory, a director-general-level accountability body and a new justice agreement with our ATSI community.

We have also redefined the ways communities are engaged for basic health and community services. For example, this government is the one that started the child and family centres, the health walk-in clinic and the use of the former school sites as local community hubs.

I welcome the opportunity to again highlight the leadership and capability of this government and to provide some insight into the priorities that mark me out as the leader of this government. I look forward to reporting back to the Assembly on the achievements of my leadership team as our priorities are delivered over the next 12 months. I am sure those opposite can't wait for that!

MS HUNTER (Ginninderra—Parliamentary Convenor, ACT Greens) (5.10): Let me take the opportunity to state that it is obvious the Greens agree that competence and leadership are indeed desirable and very important characteristics in any government. There are some areas where the government has fallen behind in this regard and I would like to take the opportunity to pick up on some of those concerns.

Some issues have been raised by the Ombudsman. Recently he made a submission to the Hawke review that was quite critical of the government's response to concerns raised by the community. He responded with constructive criticism about improving their practices. Even more recently he put out a media release about this issue and made further criticisms of the government's complaints handling procedures. The Ombudsman observed that we were a leading jurisdiction in many regards and that unfortunately this has receded somewhat to the point where he has felt the need to make a public statement.

One area that I would particularly like to touch on is the area of human rights. Certainly we were the leading jurisdiction in this regard. I note that not only were we the first to recognise civil and political rights; we also undertook a significant body of work on social, economic and cultural rights. The project was completed in September last year and I would welcome a response from the government about whether or not it is pursuing the report's recommendation that economic, social and cultural rights be included in our Human Rights Act.

I would make the observation, and I have made it on a couple of occasions previously, that, whilst the government is keen to champion itself as a defender of human rights, at times the practical application of this and in particular the willingness of the government to engage in what will always be a debate about the extent of rights is

disappointing. I am referring both to the government's failure to provide explanatory material justifying incursions on rights when they present bills to this place and to the responses that they have made to concerns raised by the scrutiny of bills committee. I make the point that there are of course internationally recognised human rights that are not included in our act and the government should be willing to engage on these issues when they are raised by the scrutiny committee.

Another area where the Greens would like to take the opportunity to raise some issues is in regard to the sustainability agenda, which it seems to be struggling to deliver in a timely fashion. The Greens recognise the complexity of the task and the resources available, and obviously we do not want to put unreasonable demands on our public servants, but we are frustrated at the snail's pace that these vital strategies are being delivered at.

We have an energy policy that was promised last term. We are still waiting on it; we will be lucky to see it this term. We have a waste policy that is out of date, and a review of the most significant piece of biodiversity protection legislation that has been on the cards for literally years and that may be completed before the next election. Of course, that then becomes the problem. These pieces of work are being developed in the lead-up to an election and that inevitably politicises their delivery. Yet this should be core government policy that is carried through by successive governments over a long period of time. Planning for a sustainable city is a long-term agenda and we do not want it to chop and change every time we head into an election.

I think what this sad and sorry tale of failure to deliver on all sustainability policies in a timely manner really reflects is a lack of commitment to funding these areas properly. Funding and resourcing of sustainability issues is crucial. We cannot just say we are going to implement policies without ensuring that the parts of the public service responsible for delivering options and ideas for the government are properly resourced; we cannot say we are going to implement all-of-government sustainability and triple-bottom-line reporting without making sure that someone with the skills and expertise is employed to make that happen; and we cannot implement carbon budgets and efficiency outcomes across departments without making sure someone in each department has carriage for it.

And it is not just about resourcing; it is about the leadership that tells each and every person inside the public service that these issues are of great importance to the government—that the government are not just paying lip service to sustainability and that they really believe in it. They are going to have to believe in it as we have an ambitious 40 per cent greenhouse emissions target that is going to require a massive across-government commitment, a commitment which unfortunately is not immediately apparent.

The Greens are disappointed with the lack of leadership shown by the ACT government on a number of issues. For instance, instead of leading the way and showing best practice our government not infrequently defers to weaker national processes, COAG processes, which are often inadequate, delayed or not forthcoming at all. Instead of leading the nation and banning battery cage farming, for example, the government simply said they would not take action. Instead they would wait for a

national approach. What they ignore, however, is that action from the ACT could be a key catalyst in actually getting a national response.

Hot-water efficiency is another example. The Greens introduced legislation way back in mid-2009 to increase the energy efficiency of hot-water systems in new homes and to install replacements in existing homes. The government refused to support it. It wanted to defer to a national process. Two years later, that process has still not resulted in changes that match the Greens legislation. The ACT could have led on water efficiency—an issue that we know makes a significant contribution to greenhouse gas emissions.

This happens in all kinds of areas and there is very little excuse except that the government is not sufficiently committed to policy reforms in these areas. The weakness of its national process has been shown by its willingness to go ahead of national processes in some areas. In OH&S harmonisation, for example, the ACT pre-empted a national process by a number of years. Now the national process has caught up and harmonisation for us is quite simple. It is not a problem. This could have been the case in areas like energy efficiency and animal welfare but the government chose not to do it.

Another area that the government has not quite grappled with enough is the triple-bottom-line analysis and reporting which would ensure that meaningful and measurable indicators would be established for our budget papers. If each ACT government portfolio included a detailed set of targets and the measurement of progress towards these targets we would have a better idea of whether our budget expenditure is making inroads into meeting key government strategies. It is frustrating that at present indicators do not help us establish this and we cannot be sure whether some of the programs being funded are efficiently addressing the issues they need to.

The same can be said for climate change impact analysis and poverty impact analysis. We have a clear target for greenhouse gas emissions and yet we still do not have a tool or a framework for analysing our major new legislative, policy and program proposals. We understand that this is on its way. It has taken considerable time but the sooner that it comes the sooner that this government will be able to make decisions that support our general government goals. On Tuesday we talked about poverty impact assessments and I noted that it has been six years since this was first raised by the government and we have yet to see any tangible outcomes. I certainly welcome the government's undertaking in the motion from the other day and look forward to September's report.

One area where the government led the nation for a good decade was with the ACT home energy rating scheme, which required an energy efficiency rating to be undertaken and presented with house sales information. Just yesterday we debated a Greens motion to ensure we maintained our position as leaders, but the government declined. It did not support it. On a more positive note, due to an item in the parliamentary agreement, new homes built in the ACT since May of last year have been required to meet a six-star energy efficiency rating, going ahead of the COAG time line—but only just.

So, as I said in my speech, there is a mixed view on how we are going on certain measures and really this government can show that it can lead the way. It can show that it can be out there on the frontier. It can be moving ahead of the pack. We really are wrapped up in so many COAG processes but the government should show leadership. *(Time expired.)*

MR SESELJA (Molonglo—Leader of the Opposition) (5.21): I thank Mrs Dunne for bringing this MPI before the Assembly today, because these are really issues that go to the heart of good government. Good government requires leadership and it requires delivery, or competence—the ability to get it done. It requires not just ideas and ideals but the ability to put them into practice, the ability to deliver on promises. That is where leadership comes in. That is where leadership is critical. In fact the two are intertwined because without strong leadership at the top competence issues will inevitably fall down.

If there is not leadership from ministers asking hard questions, making reforms within their agencies, then those competence issues come to the fore and then those failures come to the fore. We know that when that happens there are big consequences for the community. We sometimes get a little bit tired of going through the list, the litany, of monumental blow-outs and stuff-ups by this government. I think we could focus on what happened in 2001-02 to 2003-04. We could focus on what happened in 2005-06 to 2007-08. We could also focus on some recent examples, and I think that there clearly is a long list.

The GDE is the one that the community comes to us with the most often, I think. I think it is emblematic of this government's competence and its vision to have spent more than a decade delivering nine kilometres of road. It is mindboggling. It is mindboggling that we have spent this long. I would have thought that by now we would no longer be talking about the GDE because it would be finished; there would be a two-lane highway. The people of Gungahlin would be enjoying a two-lane highway to get in and out of Gungahlin. But unfortunately that is not the case.

I think nothing highlights poor government decision making and lack of competence better than the GDE. And of course it goes to the basics of the decision-making process where you say: "Well, what are we going to do? What do we need?" Everyone knew we needed a two-lane road; they decided they would build a one-lane road just to try and save some cash in the short term.

Not only did they not save cash, it ended up costing a lot more. They have cost countless hours, countless thousands, tens of thousands of hours for Canberrans stuck in traffic rather than being with their loved ones or rather than being productive in the workplace, or rather than doing things that they would want to do.

So the GDE I think is emblematic of the government. It was poor decision making. It was lack of leadership at the top. Leadership would have said: "Well, everyone knows we need a two-lane road, our own projections say we need a two-lane road. Let us build it. Let us build a two-lane road." It would then have been finished long ago. This would be a debate that would be long behind us, but unfortunately it is not.

When we look to issues of competence, we do not have to go back to the monumental, emblematic ones like the GDE. We can look more recently. Where was the leadership of Mr Corbell when his department delivered a shed that was not up to spec? It might seem like a little error because I think the shed is worth about $800,000 and in the scheme of ACT Labor's blow-outs, of course that is pretty little. That is little compared to the prison, ESA headquarters, Cotter Dam, GDE, but again it is emblematic because it is so straightforward.

This is a matter of a tape measure. That is the issue of competence here. It is a tape measure. It is knowing how much width is needed for a fire truck so that it cannot just get in but also open the doors and have people embark and disembark.

And then it is a matter of a tape measure to work out how wide the shed needs to be. It is about as simple as that. And if the government cannot use a tape measure and cannot even be trusted in the most basic of tasks like building a shed, I suppose it is no wonder that we see things like the Cotter Dam blow-out and the GDE and the blow-out in the ponds, the massive blow-out in north Weston ponds in terms of the amount that will now be spent.

So those are some of the competence issues, and I do not think there is anyone in the ACT community now who would be under any illusion about the fact that ACT Labor cannot deliver infrastructure. They cannot deliver projects. They simply cannot deliver them. They cannot deliver them on time. They cannot deliver them on scope. They cannot deliver them on budget. They tend to be well over budget, often two or three times over their original budget.

I do not think there is anyone who is in any doubt about that. What we then need is leadership. We need leadership to try and make reforms, so you need to reform the way you deliver infrastructure and it has not happened. I think there are other leadership issues certainly that need to be touched on.

One is honesty. To be a good leader, to have a government that leads, we need to have people who are honest, we need to have people who tell the truth. And when you consistently go to elections and do not tell the truth, like the Chief Minister has done, that is a problem because it undermines confidence.

It undermines confidence over time, so when in 2004 people were told by Katy Gallagher that she would not close any schools and in fact they would not close any schools in the next term of government or in her time in politics, they were entitled to take her at her word. But they could not. She did not live up to that promise. She reneged on it.

Likewise before the 2008 election, when Katy Gallagher said that all her health plans were on the table, but she was in secret negotiations for the diabolical decision to purchase Calvary which then later fell over. People are entitled to take her at her word that she was not in some secret negotiations. This was not a minor thing that she may have missed. She was personally involved in a proposed $77 million purchase of Calvary hospital. She would have thrown away $77 million of taxpayers' money. So

honesty is critical to leadership. If you want to be taken seriously, you need to show good faith to the community.

Another aspect of leadership I wanted to touch on in relation to this MPI is the ability to understand your role as a politician. And whether it is Katy Gallagher or whether it is Simon Corbell or other ministers in this government, they do not seem to get that they are here to serve the community.

When there is a 10-year war in obstetrics, the response from the minister, the right response, is to take it seriously. When there are claims of bullying the right response, the leader's response, is to say, "I'm going to get to the bottom of that bullying." Katy Gallagher's response was to first say that it did not exist, to seek to defend the public servants at all cost regardless of whether they were right, and then to cover it up.

That is not leadership. We need to change the mindset and the Chief Minister needs to change her mindset. Her job primarily is not to protect her senior officials, her job is to serve the community. If there is a 10-year war in obstetrics, your job is to fix it, not to sweep it under the carpet and pretend it does not exist. If there are bullying claims, your job is to fix it, not to cover it up. And that is the test. That is the test of leadership—how you respond to these issues, whether you take them seriously and whether you understand that your job as a minister, as an MLA, is to fight for the community, the people who elect you. You are in there on their side, not in relation to anyone else's vested interests. You are in to bat for the community.

Katy Gallagher has failed that test. She has failed the test of honesty and she has failed the test of leadership and dealing with those problems. She has sought to cover them up instead of saying: "I want to get to the bottom of this. I want to fix it. I actually want to find out." Instead, she attacks those who come forward. So those are the tests of leadership. This government fails the test on competence and primarily it fails the test on competence because it fails the test of leadership.

MR BARR (Molonglo—Deputy Chief Minister, Minister for Economic Development, Minister for Education and Training and Minister for Tourism, Sport and Recreation) (5.31): I appreciate the opportunity to be able to discuss this topic this afternoon. Mr Speaker, competence and leadership are at the very centre of government. These are important matters for those in government and, indeed, those who aspire to be in government. The attributes of good leadership include connection with the community, a record of delivery, the ability to inspire with vision, openness and honesty, respect for democracy and importantly, Mr Speaker, a commitment to hard work.

It is very clear to any reasonable observer that these are attributes that are all on display in the Chief Minister, Katy Gallagher. Let us start with community connections. This Chief Minister has served the people of Canberra in this place for more than a decade. But even before that, she served through the CPSU, through People First ACT and through the Woden Community Services. Our Chief Minister has spent her adult life in the service of others. Compare this to her opposite number.

He thought that ACT families had never had it better than under John Howard's extreme and unfair workplace relations laws. He now thinks that hardworking ACT public servants do not deserve decent working conditions. He is clearly out of touch with the Canberra community, except perhaps for the narrow sectoral interests of some at the big end of town. The only shingle that hangs outside the opposition leader's office is, "Rent seekers, seek your reward here. I will champion your cause."

Leadership in government is about delivering for the people. Labor keeps its election commitments. We have promised and delivered on record commitments and investments in health, record investments in education, record delivery on infrastructure, the most ambitious land release and affordable housing strategy in the territory's history, a commitment to tackling climate change and all within the framework of strong economic management. As a minister in this government since 2002, the Chief Minister has been involved in delivering in all of these areas.

Compare this, again, with her opposite number, who has delivered, in fact, the Canberra Liberals' worst result ever under the Hare-Clark system. That is the evidence—the worst result ever under the Hare-Clark system. Mr Smyth, as opposition leader, did better—considerably better, actually. It is a point I am sure he makes to his colleagues from time to time when their dissatisfaction with the opposition leader's leadership rumbles to the surface. Of course, Mr Hanson and perhaps Mr Coe are also leadership challengers, should the inevitable occur in the near future.

Mr Speaker, a good leader must have a vision for the future and a vision that will inspire those around him. This week we have seen the new Chief Minister deliver this. Ms Gallagher has outlined her government's priorities. She has committed herself and, indeed, all on this side of the chamber to delivering a more liveable and sustainable city, more timely access to health care, more housing options, better public transport, a robust local economy and improvements in public safety.

The Chief Minister has indicated accountability as part of her job and a commitment to report back to the people of Canberra on progress in these areas in six months time. Now compare this again to her opposite number. *Monty Python* observed in the 1960s that the shortest book ever written was 1,000 years of German humour. I think that perhaps they were wrong. The shortest read you will ever see is the comprehensive policies of the Canberra Liberals and the shortest conversation anyone in this city can have is to ask a member of the Canberra Liberals what are their policies.

Mr Speaker, a leader must be open and a leader must be honest. Just prior to this debate this afternoon, the people of Canberra heard of the Chief Minister's plan to make ACT government more open and more accountable. The Chief Minister will make cabinet issues and decisions public on a weekly basis. We will establish an open government website within three months and the Chief Minister, and indeed all members of cabinet, will be available to the people of Canberra using a variety of new social media on a regular basis. The Chief Minister is happy to put Labor's plans before the people of the ACT and happy to take their feedback on board.

Compare this with those opposite. They have no policy at all. There is no plan, Mr Smyth. There is no strategy. They have been caught out on this time and time again. Perhaps the most recent example, and some of the most excruciating radio we have heard in this city in recent times, was Mr Coe and then Mr Seselja on Jorian Gardner's program on 2CC, which led to a ban, Mr Speaker; the opposition leader is not letting his MLAs on that most conservative of Canberra radio stations. We have the 2CC Liberal media gag. It is extraordinary stuff, Mr Speaker.

A leader must have respect for democracy. The Chief Minister and all on this side respect the will of the people in the ACT. That is why we keep our election commitments. It is why when the people of the ACT wanted the Greens party to be more strongly represented in this place that we sought stability of government by working with them. That is why we will show respect to the people of the ACT by showing due respect to the processes of this place, the seat of the people's will.

Again, compare this to the approach of those opposite. The Leader of the Opposition does not take the people of Canberra into his confidence. He has brought forward no policy for them to consider. Is this because he is sulking about the 2008 election—the worst result for the Canberra Liberals in the history of elections under the Hare-Clark system? In fact, I think it is the second worst result only to the inaugural Assembly election back in the late 80s. That is worth reflecting on, Mr Speaker, because the people never get it wrong and the Labor Party knows this.

It really is about the respect or the disrespect that this opposition leader shows for democracy embodied in this place. Let us think about that. He failed to discipline Mr Hanson this week for his outrageous disregard of this place and of your role, Mr Speaker. Is it because this opposition leader has no regard for democracy or because he is a leader who has lost control of his five member party room?

The most basic thing that a leader needs is capacity for hard work. There is no doubt that the job of the Chief Minister or that of any cabinet minister is a hard one. This Chief Minister and ministers on this side of the chamber understand this. We get in and we do the hard yards. Compare this with the approach of our counterparts. Zed is in bed asleep. Zed by name, Zed by nature, as Ross Solly observed on the Federal Political Panel last week—too lazy to develop, release or defend policy; too lazy to think beyond October next year.

This week he told the *Canberra City News* that holding his team of six people together was a great leadership achievement. That is what the Canberra Liberals have learnt, that if they stop fighting each other they might be able to present a credible face to the people of Canberra. But with no policy, irrespective of whether or not you all hold hands in a circle and sing Kumbaya and let your chief of staff do the media management for you, that does not an alternative government make. Mr Seselja, it is normal operating procedure to be able to hold a team of six together. It is not an achievement.

Leadership is about the things I have described, and these are things that Katy Gallagher possesses as leader of this government and of the people of the Australian

Capital Territory. It is clear that this Leader of the Opposition has none of these attributes. He is barely fit to lead the opposition, and that is why Mr Smyth, Mr Hanson, and Mr Coe are all circling, waiting for the inevitable—the inevitable decline of Zed. It is, I suspect Mr Speaker, not too far off before they will strike.

Mr Smyth: Mr Speaker.

MR SPEAKER: Mr Smyth, I think we are actually out of time unfortunately. Mr Barr used it up to the last possible moment. That being the end of the matter of public importance, we will now turn to executive business.

Planning and Development (Lease Variation Charges) Amendment Bill 2011

Remainder of bill as a whole.

Debate resumed.

MR SESELJA (Molonglo—Leader of the Opposition) (5.41): I move amendment No 2 circulated in my name *[see schedule 1 at page 2546]*. This amendment deals with another couple of important issues which I have touched on in previous speeches in this place. Indeed it goes to the heart of some of the problems. What this amendment seeks to do is make what is a very bad piece of legislation somewhat better, particularly in relation to the amount of the charge or the amount of the tax that will be levied.

One of the most extraordinary aspects of this legislation is that whilst it is clearly a massive tax on units and is a major hit on Canberra families and their ability to buy a unit or their ability to rent, what the government is trying to do really, in recognising just what a massive tax it is, is say, "The best part of this tax is that for a little while you will not have to pay it. It is a really good tax but because it is such a big tax you will not have to pay it for a little while. There will be a remission,"—a remission which then gets stepped up over a period of couple of years.

What this amendment would do is actually give some level of certainty to industry going forward and to the community going forward that for a period of time, for a period of the next five years, this will be the regime. This would be a tax increase. What we are trying to do is make this tax not as bad, not as high. But what this would do is allow the government to set it at the rate they are planning on setting it on 1 July but to keep it there for a period of five years. The purpose of that is that you can get some level of certainty so that we do not have this constant upping, this constant bringing forward every 1 July, of all of these development applications.

As we have already seen over the last couple of years, as this process has progressed, it is completely at odds with the claims of the government that they would like to provide certainty on this, that they are providing this stepping up, because what that does is provide market distortions so that people can get in quickly and beat the tax rise. And we will have that beating of the tax rise occurring on a regular basis under the government's proposal. Under the government's proposal, every time it is going to

go up from 1 July what we will see is a rush to get it in before they have to pay more tax.

If we are going to make these radical changes and these significant changes, we actually need some time to bed it down and examine how it is impacting on the market. And there is no way we will be able to do that in just a year or so, because we have already seen a bringing forward of a lot of development to beat these changes. We have already seen the bringing forward of development to beat the uncertainty that was coming as a result of these changes. We saw that over the last year or so. What the government would like to do now is create that on a rolling basis. On a rolling basis we will see the sudden rush to beat the tax rise. Why not provide some certainty and for a period of time, for a period of five years, set it?

The fact that we need such significant remissions, I think, goes to the heart of just how wrong the government has got it on these schedules. The schedules are clearly far too high. If they were not, we would be seeing, under "rectification", these kinds of amounts paid out. There is no other way to read "rectification".

We are told by the Chief Minister that rectification would bring us in line with the tables, and in fact the principle we are working on is that the tables are market reflection, as is rectification. All it is is that we are just stating up front what it is going to be in the codified schedules. If that is the case, then we would already be seeing $50,000 per unit paid out under rectification. We are not, because that is not what the rectification process has brought.

So it shows that at the heart of this tax increase is not a reflection of market values. It is just a desire to levy much more tax. In fact, in response to that, we have got the government offering large remissions. Their offering of large remissions is an admission that they have got it wrong. If you have to knock off 75 per cent of a tax to make it work, then perhaps the tax is far too high in the first place. And I think that is what we are faced with here. We are not seeing these kinds of numbers, we are not seeing the $50,000 per unit in Braddon being delivered at the moment under rectification. We have seen no evidence of that. And if we are not seeing them now under rectification, then the schedules are too high.

So the government is saying, "We will remit, but only for a little while and then we will step it up." Our amendment says, "Okay, if you are going to go ahead with this, keep it at a reasonable level for a few years so that we do not have this massive hit on affordability, so that we do not have this massive hit on affordability that this government would like to impose and so that we can monitor how it is actually affecting the market." And we need this. My amendment would provide that kind of certainty. It would seek to take a bad piece of legislation and improve it.

In relation to the other aspect of the amendment, this is around off-site works, it is reasonable that, where off-site works are required, that is taken into account in determining how much tax is to be paid. There will often be a significant community benefit where off-site works are undertaken. Developers will often be best placed to deliver these off-site works on behalf of the government, and it is therefore reasonable that we ensure that that is reflected. Otherwise, we will have more and more of this

argy-bargy about who is going to do it. In the end, I fear, what will happen is that the government will end up doing it, and they will do it far more expensively. It will be far more expensive than it would have been simply to remit part of this tax in recognition of those off-site works being delivered.

That second aspect is important also. It is a more technical aspect but it is an important aspect to ensure that what we have here is a fairer tax than what the government is proposing at the moment.

The combination of those two aspects, I think, is important. I think that they would not fix this legislation if they were passed but they would improve this legislation. They would make it a less bad piece of legislation. And make no mistake, this is a bad piece of legislation. It is bad because it does not deliver the one thing that it promised, which was certainty. I think when we look ahead to the reams of amendments that are going to be pushed through, which were delivered to us at 11 o'clock this morning or 11.30 this morning, that are going to be voted on en masse, in one block, we will see how little certainty there will be as a result of this legislation.

It fails the test of the one thing it promised, which was certainty. The more we look at it and at the more it has been changed, the less certainty it is providing. So this seeks to address that and seeks to stop the other really bad aspect of this tax and that is just what a massive hit it is on families who are looking to buy a unit in Canberra and on those who are renting a unit in Canberra. People who are buying or renting are about to have a monumental tax increase imposed on them. It is going to start on 1 July and it is progressively going to get worse and worse.

Unfortunately, I think we will be coming back to this place many times to try to fix this legislation, to try to improve this legislation. We should actually try to improve it now. We should actually try to fix it now before it does the damage, before we have to come here in six months time or in 12 months time or in two years time to fix what is a very bad tax. I commend my amendment to the Assembly, as it will improve what is on the table at the moment.

MS GALLAGHER (Molonglo—Chief Minister, Minister for Health, Minister for Industrial Relations and Treasurer) (5.51): The government will oppose this amendment as well. I think one thing the Leader of the Opposition failed to do in that address as an apologist for the property industry was to explain to the community why he believed that for the next five years the most generous subsidy should continue at the generous rate that it started as part of our transition arrangements and he should explain to the community why they do not get to see the return on the assets that have been granted to some in our community, but not all.

There is absolutely no justification for the remissions that have been outlined by the Leader of the Opposition in this amendment. This is not a new tax. So a new-tax approach cannot be used as the justification. These increases do not relate to change in policy and the increases do not relate to codification. They relate to rectifying or correcting a past practice of applying fixed fees. We have accepted that whilst the property industry have had it extremely good for the last number of years, with the anomaly that was identified in April last year, in order to move to the system that was

outlined and passed by this place under different legislation, transition arrangements should apply to give the industry time to adjust to the new way of paying for additional redevelopment rights when they are granted.

These transition arrangements, the arrangements that the government has outlined, mean the sector has to move to market rates, which has always been the intention of the legislation. What the Leader of the Opposition seeks to impose is not transition. It just is a flat remission of 75 per cent for five years. And then what? Does it then go back to 25 per cent, a sharp adjustment from 75 to 25? I am sure what we would be asked to do if Mr Seselja had his way in 2017 when these arrangements would no longer apply would be to continue to commit to the subsidy to industry at the expense of the community for a further period of time.

I do not think that the Leader of the Opposition has read all the reports that have been done into the issues around lease variation charge. The reports that have been done speak of the transition arrangement. They do not speak of just legislating for a remission to be maintained at 75 per cent. None of the experts that have looked at this over a number of years have sought to do that. Indeed, the only people that have raised a flat rate of 75 per cent subsidy have been the Property Council. They are the only people that have ever come to me and said, "Let's accept that we have got to up what we pay you. We accept that we had it really good for a number of years. How about we just keep it at 75 per cent and then the war is over?" It has only been members of the property industry that have actually come and sought that and it is clear from the Leader of the Opposition's amendments today that he has swallowed their line hook, line and sinker.

The arrangements the government has put in this legislation are much more reasonable. Of course, Mr Seselja, I am sure you have costed the cost to the budget and the community at maintaining the rate at 75 per cent, although I do not think you spoke to that in your amendment. But I have had some early figures done of what it would mean. Because your amendment applies to both commercial and industrial developments and not just residential, which is where the anomaly applied, if your amendment applies the 75 per cent remission to residential, commercial and industrial, the subsidy at the rate proposed by you over a five-year period is $142 million. And that is the gift that you would like to give the property industry, Mr Seselja. That is $142 million, Mr Seselja.

What are the costings you have done on it? We do not need to give you leave. When you close and before your amendment is lost, you can clearly outline the costings you have done. Presumably you have done them.

Mr Seselja: Show us your costings. Table them.

MS GALLAGHER: I will be very interested to see yours and I know who I trust, Mr Seselja. I know who I would trust. But we look forward to the budget costings and the budget impact of your amendment being made clear to us just prior to our being able to vote your amendment down.

The other issue, which this amendment relates to, is the treatment of off-site works. Again, the only people that have raised this with me are Property Council members, who have raised concerns over this. Again, this is something that Professor Nicholls and Professor Piggott actually looked at extensively over the last two years. Indeed, Professor Piggott in his report finds:

> This report finds that in line with the recommendations of the Review—

that is the Nicholls review—

> allowances for mandatory infrastructure should be separated from the CUC—

that is the change of use charge—

> for reasons of transparency, and that valuations themselves should be transparent: these recommendations make eminent sense. The motivation for having the developer undertake necessary infrastructure is cost efficiency … But for these savings to be passed back to the community, costings should be undertaken on a marginal basis …

I understand there has been one occasion in the last four years where off-site works have been an issue which has been dealt with, not transparently and not in this place and not with the support of the government necessarily but of the executive government, as will be the arrangements that will be put in place later tonight about how the lease variation charge is managed. Once in four years! We accept that these works should be publicly funded. We do not believe they should be linked to the lease variation charge. If efficiencies can be gained from a private developer doing some work on behalf of the public, then that should be dealt with quite separately to the issue of lease variation charge and, indeed, that is our line that we have taken when we have been discussing the improvements issue of the previous amendments. So for those reasons, the government will be opposing Mr Seselja's amendment.

At 6 pm, in accordance with standing order 34, the debate was interrupted. The motion for the adjournment of the Assembly having been put and negatived, the debate was resumed.

Sitting suspended from 6 to 7.30 pm.

MS HUNTER (Ginninderra—Parliamentary Convenor, ACT Greens) (7.30): This second amendment from the Canberra Liberals is an attempt to fix the rate of remission at 75 per cent for the next five years. Again this is a very simplistic approach that obviously reflects developers' desire to pay less tax rather than any public policy outcome.

As I have said earlier, one of the great strengths of the new scheme is that not only does the community get a fair return on the rights it is granting but also the scheme creates the capacity to provide financial incentives for appropriate development. The comprehensive amendments I will be seeking to move facilitate this.

To fix the charge for five years, as is being proposed by Mr Seselja, would not be a good outcome for the community. It would not allow the government to respond to contemporary circumstances and ensure that the policy settings that are in place at the time actually reflect the best interests of the community at that time. The amendment seems to forget that all the regulations and instruments in the bill are disallowable, and therefore we can be certain that, if the Assembly does not agree with the government's proposal, there is opportunity to ensure that it is not applied. That is why we will not be supporting that particular amendment.

I was very concerned to hear the Chief Minister talk about the preliminary costings of the revenue that would be forgone if that particular amendment went through. I think she said that initial costings seemed to indicate that $142 million would not be taken by the territory. That is a staggering amount of money. I think Mr Seselja really does need to explain how that would work and how he would seek to deal with that issue, particularly when we still have deficits in our budgets.

In relation to off-site works, these are exceptionally complicated to work out and this is a very simplistic approach again to a very complicated problem. There are times when it might be appropriate to consider off-site works and there are times when it would not be. And why should the community pay for something that would give a developer a reward? The Greens recognise that it would be administratively sensible to be able to offset some costs in some circumstances, and that is something that should be worked out; criteria should be set so that there is a clear understanding of what is and is not included.

The Liberals' proposal is too simplistic. It seems to be predicated on the fact that anything developers do off site should be paid for by the community when a significant part of that value might well be constricted to proponents' development. So the Greens will not support this part of the amendment either.

MR SESELJA (Molonglo—Leader of the Opposition) (7.33): The rejection of this amendment by the Greens and the Labor Party sums up what this is about for the Labor-Greens coalition. As we go through the various parts of this debate, we will see the absolute economic vandalism that is going to be imposed on the people of the ACT by the Labor Party and the Greens tonight.

This is a very poor piece of legislation. The more detail we go into, and indeed as we look ahead to the amendments that are being put forward by the Greens, the more we see the absolute lack of understanding and lack of regard for how this will impact on the market here in the ACT.

In relation to this amendment itself, by rejecting this amendment the Labor Party and the Greens are agreeing to an uncertain future and a schedule and a path forward that will create market distortions right along the way. It will impose massive burdens on Canberra families and a tax that—whilst the Treasurer claims it will not have much of an impact, any reasonable person can see that imposing taxes of upwards of $50,000 for every unit that is developed in the suburbs, where most redevelopment occurs, will have a significant and undeniable impact on redevelopment. And it will have a

significant and undeniable impact on the cost of living—on the cost of renting in the ACT, on the cost of buying a unit in the ACT and, indeed, on the stated goal of the government, and every party in this Assembly, to see a better mix of development in the city, to see more infill in this city. All of those things will be impacted significantly.

By rejecting this amendment, which would have lessened the blow of this legislation, which would have made this very bad legislation somewhat better, the Labor Party and the Greens have tonight chosen to impose a tax on renters and a tax on people who purchase units—a massive tax on housing.

The implications of that are serious. Let us not pretend, as the Chief Minister would like, that you can just put in these large taxes and they do not have an impact. They do. All taxes have an impact. The larger the tax, the larger the impact. If we were to accept the logic of the Chief Minister in prosecuting her case as to why there should be such a large increase in tax, maybe they could just double this tax and it would not have an impact. Maybe you could make it $100,000 per unit or $200,000 per unit.

Ms Gallagher: Where are your costings for it?

MR SESELJA: We see when the Chief Minister interjects—she has not produced the costings; she has not produced—

Ms Gallagher interjecting—

MADAM ASSISTANT SPEAKER (Ms Le Couteur): Ms Gallagher, please stop interjecting.

MR SESELJA: And they are very believable—just like all of your previous budgets! They are as believable as the A4 piece of paper that you put together to justify your savings on your office block.

There is no regard given at all. This is a Chief Minister who thinks that you can put a really large tax on housing and it will not impact on other areas of revenue—it will not impact on stamp duty, where the government collects about 10 or 15 times per annum what it is expecting to collect as a result of the change of use charge. Ten to 15 times, Madam Assistant Speaker! And much of that revenue will be put at risk because, for every development that does not go ahead as a result of punitive tax, the government loses revenue. The government loses revenue in other areas. It does not pick up the change of use tax and it loses revenue in other areas.

Ms Gallagher: Another Property Council myth.

MR SESELJA: We have been arguing this since before last year's budget when it was first announced. It is, again, commonsense which seems to elude the Treasurer. It is commonsense. Her argument is that it is just scuttlebutt—that maybe, if you have a punitive tax, it might impact on activity. It is pretty commonsense stuff. If you put a tax on particular types of developments, does it have the potential to impact on those developments? Of course it does. If it did not, you would not be bothering with

remissions. The remissions are the giveaway that it has an impact. Otherwise, why bother? Take all the revenue now. If it is that easy, if it does not have the impact as you say it will not, then just take all the revenue now. That would be the approach. But you know that is not true. A transition to a $50,000 a unit tax—that will make it okay! If we just transition to a $50,000 a unit tax, it will not have an impact! But of course it will.

When—in six months time, in 12 months time, in two years time—we look at how this is working, we as an Assembly will look back, I think, with significant regret that this was passed in the form that it is going to be passed tonight. We will look back with regret. And you can guarantee that we will be back here. We will be back here debating it again, because it will have to be fixed. It will have to be fixed. When you put in place such a poor piece of legislation, such a punitive piece of legislation, and impose that on homebuyers in the ACT—this is their response now to housing affordability.

This is a key part of the market. To pretend otherwise is to ignore the facts. The reality is that the unit market is critically important. It provides a very important part of our market. It is not just about greenfield. Greenfield is very important, but the unit market provides the place where many people rent their first home. Many people's first rental is in the unit market. We already have tight rental vacancies. What the government and the Greens are doing tonight is saying, "We do not really have too much regard for what happens to that market. We just want to impose this large tax."

If you do that, not only are there further implications in terms of other revenue lines but there are economic implications. There are implications for housing affordability and there are implications for attracting skilled workers to the territory in terms of providing accommodation to people here in the ACT. All of these things have implications. The government has not answered those key questions.

I go back to where we started the debate today. The Treasurer, every time she opens her mouth in this debate, is validating the concerns. When she makes the argument that what is wrong with the current system is that people who want to redevelop come in and pay more, she is validating the concerns that say that some people's property values will go down as a result of this. When she argues for her 75 per cent remission, she is validating the concern that the tax is far too high and that the tax will have an impact. If it did not have an impact, why would you need the remission in the first place?

We look forward to the Treasurer validating more of the concerns, including just how much it will add to the cost of a unit and just how much it will increase rents in the ACT. As rents go up over the next couple of years, people will be able to look back to the Treasurer and the Greens, who are saying, "No tax is too high for us. We will impose the tax because we can. We will impose the tax without regard for what the implications might be." We will impose the tax simply because this government—the Labor Party in the ACT and the Greens—have never seen a tax or a tax increase that they did not like.

In the time I have left, I will just go back to one point. If the rates that are being set in the schedules, and that we are going to see in the years to come, were the right rates—if they reflected market value—we would be seeing them now through rectification. But that is the undeniable fact that the Treasurer has not been able to respond to. If indeed $50,000 per unit in Braddon is a fair amount of tax to be paying, we would be seeing $50,000 of tax per unit in Braddon at the moment through rectification. The fact is that we are not, because it is not a fair market value and it is not a fair reflection. Therefore it is a punitive tax. Therefore it is a tax that will hit people who own property at the moment, it will hit people who rent and it will hit people who want to buy.

I commend my amendment to the Assembly.

Question put:

> That **Mr Seselja's** amendment be agreed to.

The Assembly voted—

Ayes 5		Noes 10	
Mr Coe	Mr Smyth	Mr Barr	Ms Gallagher
Mrs Dunne		Dr Bourke	Ms Hunter
Mr Hanson		Ms Bresnan	Ms Le Couteur
Mr Seselja		Ms Burch	Ms Porter
		Mr Corbell	Mr Rattenbury

Question so resolved in the negative.

MS HUNTER (Ginninderra—Parliamentary Convenor, ACT Greens) (7.47): I seek leave to move amendments Nos 1 to 25 circulated in my name together.

Leave not granted.

Standing and temporary orders—suspension

Motion (by **Ms Hunter**) proposed:

> That so much of the standing and temporary orders be suspended as would prevent Ms Hunter from moving her amendments together.

MR SESELJA (Molonglo—Leader of the Opposition) (7.47): We will not be supporting a suspension of standing orders. This is an outrageous way to make legislation. To come in here at the last minute after two years of apparent consultations and dump 25 amendments on the table that have been negotiated between the Labor Party and the Greens and rush them through in one lump rather than debate them on their merits, I think is indicative of just how poorly this process has been handled. It is a terrible way to make legislation.

The Greens and the Labor Party come here and say, "We have agreed." This is after a couple years of consultations. The Greens and the Labor Party, at the last minute, decide that they will move a bunch of amendments which will, if anything, just complicate the bill rather than improve it. At the last minute the price for getting this through for the Labor Party is to agree to these amendments. They do not actually want to argue the case for each of these amendments. They just want to effectively say, "Look, we have done the deal; so we will just rush it through. You can have your say in bulk on these amendments." There will be no proper scrutiny, no proper debate. To dump them on us at the last minute I think is a ridiculous way of making laws.

Madam Assistant Speaker, for this reason we cannot support the suspension of standing orders. Each of these amendments has some serious potential ramifications. Each of these amendments individually has serious potential ramifications. Some of these cumbersome definitions and cumbersome regulations are now being imported into the legislation as a whole. For the Assembly as a whole to be given such little opportunity to look at these I think goes completely against the spirit of how we should be doing things in terms of developing quality legislation.

It certainly is not the way you should be putting through a piece of legislation which has such serious implications. Whatever the class warfare is that the Treasurer wants to engage in on this issue, I think we can all agree that, whether you like people in the building industry or whether you hate them, they play a significant role in our economy. This legislation makes a significant difference to their businesses.

Even if you engage in the traditional Labor Party class warfare, you have to acknowledge that this is a significant industry to the ACT. To rush through legislation in this way, to not properly debate it, to put it all in one lump after the Labor Party and the Greens have done a backroom deal over the last day or two—the price of this legislation going through I think is economic vandalism. I think it will come back to bite this Assembly. I think it will come back to bite this government—

Mr Corbell: Point of order, Madam Assistant Speaker.

MADAM ASSISTANT SPEAKER (Ms Le Couteur): Just one moment. Mr Corbell?

MR SESELJA: Can you stop the clock please?

MADAM ASSISTANT SPEAKER: Yes, certainly.

Mr Corbell: The question before the chair, Madam Assistant Speaker, is that the suspension of standing orders be agreed to. We are not debating the bill. We are debating whether or not standing orders should be suspended. Whilst some latitude is always provided in these debates, the fact is that Mr Seselja is again debating the bill.

MADAM ASSISTANT SPEAKER: Thank you, Mr Corbell. Mr Seselja, I invite you to direct your comments to suspension of standing orders.

MR SESELJA: Which, indeed, I am. The reason standing orders should not be suspended is because this legislation is so important and because of the way this has been handled. To put them altogether in the way that is being asked of us by Ms Hunter through this motion is ridiculous. It is a poor way of passing laws. It will lead to bad laws. I repeat the point that I made earlier: we will be back here to fix this. By pushing it through in this way, it makes it even more likely that we will have to come back and fix this. The implications of this legislation for industry in the ACT are significant. To push through in this way this number of amendments I think is ridiculous. I think it does have serious implications. That is why the Canberra Liberals will not be supporting the suspension.

MRS DUNNE (Ginninderra) (7.52): Madam Assistant Speaker, this is an outrage in terms of due process. We have 17 pages and 25 amendments that relate to this bill, that relate to a whole range of different clauses and that have different formation. This version that was provided to the Assembly today was printed off at 11.53. So the Greens and co were working on these until 11.53 today. This evening we are expected, on behalf of the people of the ACT, to pass this without any scrutiny of the individual bits and pieces because a deal has been done between the coalition partners that will effectively screw householders in the ACT when they attempt to buy houses.

This, as we all know, will drive up the cost of houses and this government and their coalition partners are avoiding scrutiny on this important piece of legislation by attempting to put the whole of this through without debate. There are 17 amendments here. They change the definitions of things. Some of these amendments go for pages at a time, but this Assembly will be required, if standing orders are suspended, to pass them all holus-bolus without scrutiny. This is the quality of leadership you get with a Gallagher-Hunter government. This is the quality of leadership, this is the confidence that you get—

Mr Corbell: Point of order Madam Assistant Speaker.

MADAM ASSISTANT SPEAKER: One moment, Mrs Dunne. Mr Corbell?

Mr Corbell: Once again, Madam Assistant Speaker—

MRS DUNNE: Can we stop the clock?

MADAM ASSISTANT SPEAKER: Yes, stop the clock, please.

Opposition member interjecting—

MADAM ASSISTANT SPEAKER: Members of the opposition, please be quiet. Mr Corbell, you have the floor.

Mr Corbell: The question before the chair is that standing orders be suspended. It is not a debate about the quality of the leadership of the government which, by the way, is excellent.

MADAM ASSISTANT SPEAKER: Mr Corbell, thank you—

Mr Corbell: That is the question before the chair.

MADAM ASSISTANT SPEAKER: Thank you, Mr Corbell. Mrs Dunne, you have the floor but could you confine yourself to the matter at hand?

MRS DUNNE: Self-praise is no praise at all, Mr Corbell. The reason the Canberra Liberals oppose the suspension of standing orders and moving all of these together is quite simple. Take, for example, amendment No 5 to proposed clause 10, which is an amendment to insert an additional 276(AA). This amendment goes for two and a half pages. If we suspend standing orders and move these together, there will be no scrutiny of the changes of definition and the changes of meaning to charge variations and changeable variations in division 9.6.3. This is why we should not be suspending standing orders.

Madam Assistant Speaker, this is a travesty. This day will go down in the history of property development and housing development in the ACT as one where the Gallagher-Hunter government drove through their amendments and drove up the price of housing for people of the ACT.

MS GALLAGHER (Molonglo—Chief Minister, Minister for Health, Minister for Industrial Relations and Treasurer) (7.56): The government understands the opposition's inability to deal with relatively complex issues in a bundle. We accept that and thank you for highlighting that this evening. We also accept that the Liberal Party has failed to constructively engage on this issue for the last two years. I understand that. I do not intend to speak for the Greens but I understand that there has been opportunity for discussion and collaboration around amendments to this bill and that the Liberal Party has chosen for one reason or another not to involve themselves in that.

I think that would have given the Liberal Party opportunity to understand that it is pretty standard to move together amendments that are all interrelated to each other, and they are in this instance. The 25 amendments are interrelated to each other and the operations of the lease variation charge system as proposed by the bill before the Assembly. There is nothing extraordinary about this.

This happens on many pieces of legislation in this place. What the Liberals are trying to do is have a tantrum in public because their amendments have gone down and their opposition to this bill is not going to be supported. This is good legislation, it has been drafted with months of work. Months, if not years, of work have gone into this legislation.

We have agreed to amendments being included in the interests of making the purpose of this legislation clearer. We have accepted that there are a number of strengths that come from the amendments that have been moved by the Greens. We are happy to work with Assembly partners in order to deliver the outcome that we believe is in the community's interest.

MS HUNTER (Ginninderra—Parliamentary Convenor, ACT Greens) (7.58), in reply: I would like to say that the Canberra Liberals dealt themselves out of this whole discussion a long, long time ago. I think it was really unfortunate that they did that. They did have a couple of amendments that obviously came in this morning that my office was aware of yesterday, but let us go to the issue of these amendments.

Yes, there are 25 amendments. Seven of them are substantive and the rest are consequential. The amendments are very much about clarifying aspects of this legislation and ensuring openness and accountability. I think what is really important—maybe Mr Coe really wants to listen up along with Mrs Dunne and Mr Seselja—is transparency.

Along the way in this process my office has briefed Mr Seselja's office on two occasions with two different staff members in his office. Each version of these amendments as they have come through have been provided to your office, Mr Seselja. So this sudden carry on now that they only got them at 11.58 this morning, or whatever it is you are trying to say, you know is totally wrong. You have been provided along the way with amendments. You have been briefed along the way around—

Mr Seselja interjecting—

MS HUNTER: the direction and also what has been happening—

Mr Seselja interjecting—

MADAM ASSISTANT SPEAKER: Mr Seselja, stop interrupting please.

MS HUNTER: So Madam Assistant Chair, I will speak through you. Mr Seselja knows that he has been kept up to speed on this. If he has not, that is not my problem because my office has briefed his office. If there has been a breakdown of communication in his office, I am very sorry about that. But that is not my issue. These were provided. Briefings were given and the context of why we were doing this was also clearly given to Mr Seselja along the way. As I said, I think it is very unfortunate—

Mrs Dunne interjecting—

MS HUNTER: A point of order, Madam Assistant Speaker.

MADAM ASSISTANT SPEAKER: Mrs Dunne! Mrs Dunne, please be quiet.

MS HUNTER: I am just trying to get Mrs Dunne to be quiet for a moment while I am speaking, because I do not like shouting over people. But, really, they have been briefed. They have been given this information along the way. Also, we have put these amendments in response to the discussions that we have had with the property industry. We have been having ongoing discussions. We have picked up on the issues that they have raised and we have responded accordingly.

As I said, it is a terrible shame that the Canberra Liberals, once again, on a significant issue have decided to deal themselves out of the debate right at the beginning. I think that if they continue in this manner, they probably will deal themselves out of more debates to come in the next 18 months.

Mr Smyth: Madam Assistant Speaker—

MADAM ASSISTANT SPEAKER: I am afraid that Ms Hunter closed the debate, Mr Smyth.

Ms Hunter: I did. I closed the debate.

Mr Seselja: Having not opened it?

Mr Smyth: Having not opened it?

Ms Hunter: The debate is closed. Sit down.

Ms Porter: She has closed it.

MADAM ASSISTANT SPEAKER: She moved the motion. I had not realised when I gave her the call that she was closing the debate, because she had not opened it, but the Clerks have informed me that she has in fact closed the debate, so—

Mr Smyth: Can I ask for leave to speak?

Ms Hunter: No.

Ms Porter: No.

Ms Gallagher: No

Mr Smyth: All right. I move to suspend so much of standing orders that will prevent me from speaking.

MADAM ASSISTANT SPEAKER: Mr Smyth, I do not think we—one moment.

Mr Smyth: It is my right. I move to suspend so much of standing orders as will prevent me from speaking on this debate. Yes, we move for suspension. We can do this for a very long time.

MADAM ASSISTANT SPEAKER: I am informed that it is possible to do cascading suspensions. Mr Smyth.

MR SMYTH (Brindabella) (8.02): I move:

> That so much of the standing and temporary orders be suspended as would prevent Mr Smyth from speaking to the motion.

Ms Hunter did not speak at the start. Normally when we have these motions, the mover speaks and other people address what is said. Very rarely have these motions got to the stage where the mover, inside the 15 minutes, actually gets the opportunity to come back and close. In that regard, these are important issues and they need to be addressed.

Ms Gallagher said that these are relatively complex issues. Yes, she is right. Ms Hunter herself said that there are 17 substantial amendments and the rest are consequentials. She may well be right. If they are substantial and if they are clarifying, why are we moving them in this manner?

That is why I would like to speak in this debate and that is why I am moving for the suspension of standing orders so that I might have that opportunity.

MR CORBELL (Molonglo—Attorney-General, Minister for the Environment and Sustainable Development, Minister for Territory and Municipal Services and Minister for Police and Emergency Services) (8.03): Madam Assistant Speaker, the government is prepared to grant leave. I appreciate that there is a question before the chair. The government would not oppose suspension of standing orders to allow Mr Smyth to speak in relation to the suspension of standing orders.

MR RATTENBURY (Molonglo) (8.03): On Mr Smyth's indignation at not being able to speak, I note the irony in the fact that Ms Hunter is actually the fourth person to speak in the debate, and she rose largely on the basis that Mrs Dunne was sitting there goading her to speak. Mrs Dunne said, "Come on; get up and say what you have got to say." Ironically, Mrs Dunne goaded Ms Hunter into it and did Mr Smyth out of a turn. Don't you love the beautiful irony?

Mr Hanson: On a point of order, Madam Assistant Speaker, I am not sure that you—

Members interjecting—

MADAM ASSISTANT SPEAKER (Ms Le Couteur): Members! One moment, Mr Hanson. Members, there is far too much discussion in this Assembly. I can hardly hear Mr Hanson. Mr Hanson, you have the floor.

MR HANSON (Molonglo) (8.04): I was going to raise a point of order, but I will speak to the debate. The point is that earlier today Katy Gallagher, the Chief Minister, was calling for open and accountable government. This is what we are talking about—giving Mr Smyth—

MADAM ASSISTANT SPEAKER: Mr Hanson, I am not sure how relevant that is to this debate.

MR HANSON: You will find out. This is my point. In this new era of openness and accountability, why is it that Mr Smyth would be denied the opportunity to speak to this debate? Why would the government and the Greens wish to close Mr Smyth's opportunity to speak to a matter which relates to the openness and accountability of

the government? If we want to make sure that we have openness and accountability—that we can debate these issues, that the opposition can engage in a substantive way, that we can look at each one of these amendments as we need to, as they have been outlined by Mr Seselja and Mr Smyth—let us allow Mr Smyth to speak in detail. Let us hear what he has got to say. To deny that, as the Greens and others have been trying to do—

Mr Corbell: We agreed.

MR HANSON: It is great that the government will actually agree. It is just disappointing that it is going to close down the debate as it stands to actually look at these amendments individually. If this government is talking about openness and accountability, what is their motivation in preventing us from looking at these individually? What is their motivation?

MADAM ASSISTANT SPEAKER: The question is that so much of standing orders be suspended as would be required to allow Mr Smyth to speak.

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

MR SMYTH (Brindabella) (8.05): I thank members for that courtesy. It is very kind of you.

Mr Barr: Make it a good speech then, Brendan. Return the favour.

MR SMYTH: It will be a very good speech, members. All my speeches are in this place. It is interesting that we have 25 amendments before us—amendments that were given to the house earlier today. I note that Ms Hunter said that the Liberal Party was briefed. We were told the intention of their amendments. My understanding is that we were told the intention of the amendments because the amendments were not ready to be handed over. Earlier today we got the amendments. By her own reckoning, Ms Hunter said that these are substantial amendments. To rush 17 substantial amendments to any bill through in one hit is unacceptable.

It is unacceptable, if you claim to be third-party insurance, as the Greens do, that you would do it in this manner. The Greens, the bastion of good process, throw process out of the window when it does not suit their purpose. You have to ask: what is the problem with these amendments that Mrs Hunter does not want the scrutiny? Third-party insurance—good process that they suggest they always are—just flies out of the window when (1) you give briefings of intent, (2) you cannot deliver up your amendments until the day of the debate and (3) you either cannot or just will not make the case to support your case.

What that does is make me worried about what is in these amendments. Until we have a reasonable debate and we have an explanation of each of the amendments, particularly where they are definitions—as Mrs Dunne has pointed out, there are some of these amendments that are a couple of pages long. That is not something that is to be taken lightly. Now you compound that by saying what the Chief Minister has said—that these are relatively complex issues. They are indeed relatively complex

issues. The management of land, the number one asset that the ACT government has—its availability and the redevelopment of that land to enhance or progress an enormous number of policies—is something that should not be treated in this way.

I was not here back in 1992, 1993 or 1994 when the original act went through, but it was a dog's breakfast because it was amended in an ad hoc way on the floor of the chamber. It took probably 12 or 13 years for it to be put into a state where it became a reasonable way of managing the territory's affairs. If we do it this way this evening, all we are doing is returning to those days when things were moved which people could not fully explain, did not want to fully explain or did not know how to fully explain—or when they did not want people to know the purpose of the amendment. And that is not scrutiny.

Earlier this week we had the Chief Minister say that she wants this new era of open and accountable government. We have seen example after example this week. Indeed, we had examples today when we were not allowed to have a full look at the Buchanan affair by sending it off to a committee. So much for openness and accountability! Here we are amending a bill that brings in a significant proportion of the territory's own-source revenue, but it is not going to have proper scrutiny. It will not have proper scrutiny if amendments are rushed through, if they are rammed through in this way.

Of course, it is easy to take the cheap shot: "Oh, it is just a tantrum on behalf of the Liberal Party." It is not on behalf of the Liberal Party; it is on behalf of the people of the ACT who expect better from their law makers, who actually want to have reasonable debates. Everybody says we should raise the standard of debate in the Assembly, but you have a chance to have a substantial discussion on a substantial issue and we just ram it through. One block; there you go.

What this does is put the spotlight back on the Chief Minister and her pledge for openness and accountability. It just goes out the door whenever you are called to account. When something tough comes up where you want to have openness, where you want to have scrutiny, it goes out the window. I do not think it bodes well for the Chief Minister. I do not think she is getting good advice if she thinks that this is a good process, because it is simply not a good process.

Members, I refer you to the size of the bill and then I ask you to look at the size of the amendments. The bill is only 29 pages. There are 17 pages of amendments. This bill is about to get 60 per cent bigger in a single amendment. I think most people would say that is unacceptable. I think what most people would say is that we should have a reasonable look. To simply say that you can do this because we have had a discussion, we have had an internal discussion inside the coalition—this is the secretive stuff that people are afraid of. Indeed, this is the secretive stuff that—the Chief Minister, on Monday, Tuesday and today, purports to new openness and accountability, but she does not practise it.

People will judge the Chief Minister on the way she governs what she says. They will judge her on the way she, in her relationship with the Greens and their agreement, her relationship with her ministers and her relationship with this place—whether or not she is full of—*(Time expired.)*

Question put:

> That so much of the standing and temporary orders be suspended as would prevent **Ms Hunter** from moving her amendments together.

The Assembly voted—

Ayes 10		Noes 5	
Mr Barr	Ms Gallagher	Mr Coe	Mr Smyth
Dr Bourke	Ms Hunter	Mrs Dunne	
Ms Bresnan	Ms Le Couteur	Mr Hanson	
Ms Burch	Ms Porter	Mr Seselja	
Mr Corbell	Mr Rattenbury		

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

MS HUNTER (Ginninderra—Parliamentary Convenor, ACT Greens) (8.15), by leave: I move amendments Nos 1 to 25 circulated in my name together *[see schedule 2 at page 2546]*. These amendments are designed to improve the operation of the scheme and ensure that all the levers are used to get the best outcomes. The amendments reflect the concerns of the scrutiny of bills committee and, I believe, strike a better balance between the need for flexibility, given the particular nature of the scheme we are seeking to create, and the need to ensure that it is in fact the parliament that is imposing the tax and that the scope of the task that is being delegated to the Treasurer and the minister is clearly defined with sufficient clarity so that the community can see exactly what the parliament intended the delegated decision makers do and how the scheme is intended to operate.

This is a complicated scheme and one that we cannot borrow from anywhere else. We are unique amongst Australian jurisdictions and I think that while that presents a challenge, it also presents a huge opportunity that is not as readily available anywhere else. The amendments seek to capitalise on this and ensure the maximum efficacy of the scheme. The Greens recognise there may well be some initial difficulties in administration and that there certainly remain some challenges for the delegated decision makers in making the determinations that the parliament is asking of them.

On the specific amendments, the first amendment is to ensure that the scheme is open and transparent and significantly reduces the risk of impropriety. The amendment requires that all valuations used in determining the charge, that is, both the V1 and the V2 calculations as well as the amount of the charge itself, for section 277 variations must be disclosed on the existing disclosure register under section 28 of the Planning and Development Act. This will assist in not only mitigating the chances of similar arrangements coming into place, as we saw prior to rectification last year, but hopefully will also assist in the valuation process, aid consistency, reduce disputes and ultimately the need to go to ACAT.

In addition, all remissions—and I will come back to the detail of these later—must be disclosed as well. This will hopefully ensure that there will be no accusation of under-the-table deals or other impropriety. I should clarify that these provisions do not impact on the proponents' rights to privacy, as the details of their development

proposal and the proposed variation are already made public under the statutory development assessment process. In any case, a significant public interest in ensuring the transparency of development decisions for which there is no reasonably practical alternative necessitates this measure.

The next significant amendment is to bring into the new act what the government proposed to include in regulations and better articulate the nature of the two means of assessing the charge. The amendment also inserts into the government's proposed regulation, which will now form part of the new act, two additional clauses to ensure that there can be no doubt as to when the provisions apply.

In addition to this, the amendments articulate not only what the charge is intended to be but also establish the broad process of how the Treasurer is to determine that charge. This is consistent with the recommendations of the scrutiny committee and better balances the need for flexibility with the importance of ensuring that it is clear exactly what power the parliament is intending to delegate.

The next amendment deals with improvements, which we have previously discussed in relation to the Liberal's amendments. The Green amendments ensure there can be no doubt that improvements, whether they be on the land subject to the lease or an ancillary part of the development proposal, cannot be taken into account in conducting the valuation. The amendments do however ensure that the full value of the existing condition of the land itself and nothing more can be taken into account and recognise the reality of contemporary valuation practices. This ensures that the basis of the charge, that is, the value of the right being granted by the community, is what is being paid for by proponents—nothing more and nothing less. It reduces the scope for argument and, as I referred to in my in-principle speech, we have complementary amendments that recognise the practical reality in trying to fully articulate the extent of the right and the commercial reality of the returns that can be achieved by redeveloping Canberra properties.

We have responded to this issue in a much more honest and accountable way that clearly articulates when the community is prepared to forgo the charge because it is accruing an alternative benefit from the development. The amendments clearly articulate those alternative benefits where it is appropriate to forgo the charge rather than the originally proposed generic regulation-making power.

The Greens amendments set up five new categories of remission and create the capacity to deal with any other matters, should they arise. The categories are sustainability and energy efficiency; planning zones, which includes the capacity for more detailed criteria; community purposes, for example, for not-for-profit community childcare centres; heritage significance; and environmental remediation.

The amendments require the minister to set criteria, which are disallowable, for when these categories apply. For example, this might be the minister prescribing that if a residential development achieves eight stars it will be eligible for a remission. The Treasurer will also be required to set the rate of remission so that, for example, a seven-star building might get 75 per cent, a six-star building might get 50 per cent. These provisions are replicated for all the remissions so that the minister determines the policy settings, and the Treasurer the amount of money that can be remitted.

This can be done on a single instrument that will make it very clear when a proposal does and does not qualify for remission and removes any risk of allegations that favours are being done. It ensures that criteria must be clearly available for everyone to see that no lease-specific decisions are made other than by the commissioner objectively applying the criteria. Further, I would make the point that in linking the minister's and the Treasurer's determinations we are improving the planning levers available to us and developing a much more coordinated approach that better articulates the costs and benefits being accrued or gained by the community.

The amendments provide that there is no review available for remissions decisions because, consistent with Administrative Review Council guidelines—and I refer to the publication "What decisions should be subject to merit review?" and I draw members' attention to chapter 3 of that publication—these decisions are automatic and mandatory decisions that the commissioner must make when the prescribed circumstances are satisfied, for example, whether a building has an eight-star energy efficiency rating or is or is not for a childcare centre.

It is true that the nature of the instruments will be important to ensure this works in practice, and I remind you that it is a disallowable instrument and that the Assembly can ensure that this is the case if it has any concerns. There is internal review available and there will, of course, be the option of an AD(JR) review, which I accept is not always a desirable substitute for merits review. However, in this instance, consistent with the ARC guidelines, I think that that is appropriate.

By articulating limited categories and setting up a system that requires the commissioner to apply the criteria, we eliminate the risk of deals being done for specific developments. This was a significant concern raised with us by industry. It has been raised by the Liberal Party today and I am confident that the amendments address this concern.

The next amendments create a specific mechanism for the across-the-board remission that is being proposed as part of the transition. The new section requires that, from next year on, the rate of remission must be set 12 months in advance and must be in its own specific instrument that is disallowable by the Assembly. This is a better approach and recognises that this is part of the scheme. And the Assembly, as I said, if it wishes, can disallow it.

As I have said, this amendment, as well as the requirements for determining the codes, is subject to transitional provisions to ensure that the determinations made for this year are valid. We need them to come into place as soon as the act commences next Thursday. These provisions simply facilitate and put beyond doubt any arguments that could be made in ACAT to question the validity of the instruments.

The final amendment is to prevent the increase of the lease variation charge by regulation coming into effect until the six-sitting day period has elapsed, to ensure that the Assembly approves of the regulation before it comes into effect. Again, this amendment has been inserted as a response to the issues raised in the scrutiny of bills report and ensures that a tax cannot be imposed on someone without the authority of the Assembly behind it.

This provision was singled out because it is one instance where there really was the real prospect of additional tax being levied on landowners and the Assembly may not agree with it. Further, there is arguably the capacity, within the power provided, for it to go beyond the objective of the bill to charge the value of the right being assigned. It is for these reasons that we have specifically included an alternative commencement provision.

There are 25 amendments and I make the point to members, given that there appears to be some concern about debating them together, that 17 of the 25 are about moving definitions or omitting clauses based on the other changes. Whilst for drafting purposes there are 25 changes, this is simply not the reality in terms of the operation of the scheme. As I said, there are seven substantive changes.

I would also like to acknowledge the very constructive process that has occurred between my office and the minister's office and the department officials who provided very constructive feedback on our proposed amendments, which we have responded to. I would like to express my thanks and hope this sets a precedent for future engagement and collaborative approach to making laws. *(Time expired.)*

MS GALLAGHER (Molonglo—Chief Minister, Minister for Health, Minister for Industrial Relations and Treasurer) (8.26): The government will be supporting the amendments put forward by Ms Hunter today. We believe they are a demonstration of what can be achieved when two parties work together to deliver a particular outcome. As Ms Hunter said, there are seven main amendments with a number of consequential amendments, and they really do cover the areas that were due to be covered by regulation under the government's proposal. But we accept that there is a balance to be found between flexibility and certainty that is provided by including elements of what we had intended to be in regulations into the main body of the legislation. I think the discussions that have been had between my office and the Greens have been very good in trying to find the right flexibility balance and in providing that, and certainty, in the legislation.

It is important when we are implementing improvements to the old change of use charges, now to be known as lease variation charges, that we make it clear that processes around how the lease variation charges are to be levied are open and transparent. I think the amendments around disclosing remissions and providing that information on a register are very important improvements which I am very happy to support.

The legislative reform which has been undertaken in this area has never been around trying to create a system where, as I think Mr Seselja indicated yesterday or on Tuesday in the in-principle stage, corruptions or deals could enter the property market with the government. This started as a journey where we identified that a fixed charge was being applied and arrangements had been done without the knowledge or authority of any member in this place which has resulted in a significant windfall gain to the property sector. We identified the problem. We are fixing the problem. The problem was fixed. It was not—

Mr Seselja: So was it corrupt? Was it a corrupt deal or what?

MS GALLAGHER: There was no evidence of corruption, as you will know, Mr Seselja, from reading the audit report on this. But arrangements or agreements had been entered into where a flat fee was being paid and we know who benefited from that. It was not the renters. It was not the homeowners, as Mr Seselja thinks will be on the receiving end of fixing the system. It was not them that benefited under the flat fee arrangement, Mr Seselja. There was no noticeable reduction in house prices because developers were paying $1,750 per unit for a lease variation charge or a change of use charge. There was no windfall gain to the consumer then, Mr Seselja.

Mrs Dunne: Because it was a charge, not a tax.

MS GALLAGHER: Well, thanks for that. Someone who has not been involved in any of this at all believes that is because it was a charge and not a tax. There is the answer we have been looking for for two years. That is the reason. That is the reason why it was not on-passed, because it was a charge and not a tax. What the government has had to do is ensure that the law as agreed by this place is being followed, and that is what we have done. So rectification has fixed the issue that we identified and now we move to codifying those changes and implementing a new framework to deal with this that is open and transparent and more information than ever before will come to this place. There is no Assembly involvement in any of the arrangements under change of use charge—no involvement at all. What you will get under this system is that the remissions will come to this place as disallowable instruments. When any waivers are given under this scheme they will come to this place and will be placed on a register for information.

I do not know how more open and transparent anyone can get. But that is the system that is going to be in place and the subsidy to industry will be clear for all to see. There are good reasons why the Assembly may approve those determinations by the government, and those reasons are outlined in the criteria that are established through some of the amendments Ms Hunter moves today. They are around particular policy outcomes that I think everybody in this place agrees with. They are around heritage. They are around environmental sustainability. They are around community purpose. They are around particular planning zones. They are areas where we have already provided change of use charge without any opposition from anyone in this place. But it will be clearer and it will be more transparent. We have through our budget in the last two years exempted petrol stations, GP surgeries, community childcare centres, and the change of use for C and D grade office building into residential also gets a remission in this.

Mr Seselja: Is that as an incentive? That is an incentive?

Ms Gallagher: Yes, it is an incentive, exactly. It is an incentive, Mr Seselja.

Mr Seselja: As opposed to the disincentive that you are providing across the board?

MS GALLAGHER: Mr Seselja, I do not think it is that unusual that governments provide incentives to see particular policy outcomes delivered. That is not unusual and

this is one of the ways the government and the Assembly can actually use what limited powers we have to determine those particular outcomes in the private sector, to facilitate them. I would think that those opposite, with the philosophy and the ideology that they come from, would be supportive of measures like that, that would seek to encourage particular outcomes and provide incentives and support where they are warranted.

Mr Seselja interjecting—

Mr Barr interjecting—

MADAM DEPUTY SPEAKER: Mr Barr and Mr Seselja, will you stop having a conversation across the chamber.

MS GALLAGHER: Madam Deputy Speaker, we are very happy to support the amendments moved by the Greens. The issue of improvements is an important one and I think one of the points I did not raise in the debate when we debated the opposite amendment, which was to allow for improvements, was that improvements are not part of the current legislation and, as the law reads currently, improvements probably should never have been part of the consideration. But custom and practice, precisely because we did not have the system that we are implementing tonight, has allowed them to be taken into consideration. A further subsidy to industry that has never been upfront and clear and allowed for under the legislation has become custom and practice.

That is exactly what these amendments and the legislation that we are debating tonight rule out. The framework that these laws operate in is going to be very clear for everybody who seeks to change their lease, for whatever outcome it is. There will be no more fixed fee situations other than what codification allows. There will be no more arrangements of custom and practice that become established and entrenched to the point that, when you seek to recover them, they are opposed like we see on the issue of improvements.

The amendments which the Greens are moving improve the bill overall. The government has worked very closely to make sure that we do not create a system where we will be constantly needing to amend this legislation. Unlike Mr Seselja, we do not believe we will be back to debate this legislation. Indeed, I hope we are not, based on the work that has been put into it, the rigour that is behind it and the analysis that has been involved in this work. Eminent professionals who specialise in this particular area have all analysed thoroughly the government's plans and all of them support it. Indeed, the only people who do not support it are the Canberra Liberals, for reasons only they know, and the property industry—and we know their reasons. They do not want to pay any more than they are currently paying, and we understand that. It is understandable that business would seek to minimise the costs they pay to government.

But as a government we have a responsibility too to make sure that when additional development rights are purchased on a community asset they are paid for and that they are paid for by the people who are going to benefit from that purchase. That

return needs to be provided to the community, and that is at the heart of the debate. That is what the government believes in and it is what the Greens believe in, although I do not pretend I want to speak for them.

The opposition has failed, apart from supporting the property industry hook, line and sinker, on every single argument they have put to us—every single one, Mr Seselja. That is what you are regurgitating here tonight. The property industry and the Liberals are opposed to it, and you have failed to explain to the community why you think they should get less and why the property industry should get more. That is what you are arguing for. When the property industry was paying virtually nothing for this; when the rivers of gold were running through the redevelopment industry—and they were let's face it—the fixed fee arrangement made it so good that developers were prepared to pay $500,000 more for a block of land in order to redevelop it because the change of use charge was so low that they could afford to pay $500,000 more than the market value of that land and still make a fortune on the redevelopment.

That is the situation that we are fixing here tonight and it is a very, very important, fundamental part of the leasehold system that we have and the betterment system that has been in place in this territory since 1971 in various forms. The challenge to you, Mr Seselja, is to stand up and explain to the community why you think they should get less and the property industry should get more. That is the difference of opinion between the government and the opposition on this. You have not touched on that in any of your discussion tonight.

The government is pleased, after two years of work and all the analysis that has been put in, that we have reached this point tonight. I would like to thank the Greens for their preparedness to work with us over a substantial period of time, I think probably over the last year in particular but especially the last few weeks in finalising the amendments. I would also like to thank the staff of former ACTPLA who have also assisted, and Treasury, particularly Khalid Ahmed, who has spent a lot of time on the lease variation charge and bringing it to this point, and Tom Warne-Smith and Garrett Purtill, who I am not sure will know what to do with themselves when the lease variation charge is passed tonight.

MR SESELJA (Molonglo—Leader of the Opposition) (8.39): What the Treasurer needs to explain to the community is why she wants them to pay more to buy a home. That is what Katy Gallagher has consistently refused to address. Why do you think that young families should have to pay more, much more, for their units or to buy a home in Canberra? Why do you believe it is a good idea that young families, who are already paying a lot on stamp duty, who are already facing serious pressures, who are already finding it very difficult to get into the housing market, should pay $20,000 more, $30,000 more or $50,000 more for the privilege of buying a home?

Why is it you will not stand up and accept that? Why will you not stand behind that? If you are so keen on this tax, why will you not accept all of the implications of it and look them in the eye and say, "Because I want this tax, I am happy for you to pay more." But you will not say it. That is at the heart of the dishonesty in the way this has been prosecuted.

The idea that people buying in Canberra are not going to pay more if you put this tax on is absurd. It is a lie. It is untrue. It is completely indefensible. The idea that you can put a $50,000 tax on a unit and it is not going to affect the price is ridiculous. It does not stand up to scrutiny. If that were true, governments all over the place would not be cutting stamp duty; they would be doubling it and tripling it. They would be putting $50,000, $100,000 and $200,000 taxes on top because it does not matter. Of course it matters. This government, this Chief Minister and the Greens have decided they want people to pay more.

They want people to pay more from July 1, again from July 1 the next year, and July 1 the year after until they are paying $50,000 just in change of use tax over and above their stamp duty, over and above all of their other costs, just for that privilege of buying a home here in Canberra. That is what you cannot defend and you have not ever bothered to defend, because it is indefensible. That is why you never address it. You pretend it does not exist—that there are no class implications.

What does it say about the process of getting here that we have had a couple of years of work for a 29 page piece of legislation and then at the last minute we add another 16 pages, another 50 per cent to that bill? What does it say about the quality of that legislation? What does it say about how well this has been thought through—this significant change that has significant implications for a massive sector of our economy and for large numbers of families in the ACT?

What does it say that this was done at the last minute? If it was such a good piece of legislation that was introduced, what does it say about it that, after a couple of years of work, we have got to add another 16 pages to the 29 pages that were presented to the Assembly?

Ms Gallagher: It is all about size, isn't it, Zed?

MR SESELJA: Well, what does it say when you are changing it by more than half again, more than half again? More than half again is being added.

It says that you are getting it wrong. As I said in my reply at the in-principle stage, this is a bad piece of legislation. It is a bad process that has led to a bad law which will lead to bad outcomes. It is going to lead to the dodgy deals. We have seen the dodgy deals already. The dodgy deals are already there, not least of which is the finalisation of this legislation. But what Ms Gallagher is using for her latest rationale tonight, of course, is that effectively this government was breaking the law for many years.

She is saying that they were breaking the law. We can only assume from that, that she is alleging there was some form of corruption somewhere by someone in government, along with the Australian Valuation Office, along with property developers, to rip the taxpayer off. That is the conclusion that we draw from Katy Gallagher's comments.

She is saying that her government has been robbing people blind. That is the only conclusion you can draw from what she just said in her speech. So who is it? There

was corruption. According to the Chief Minister there was corruption, but we do not know how it happened. It is nothing to do with us. It somehow happened.

It just goes to show how thin the argument has been in favour of this tax. If that was indeed the case, if the Treasurer really believed that there had been corruption by her officials in order to do this dodgy deal that she claims was done, then I think a lot more would have been done to get to the bottom of it.

Madam Deputy Speaker, the amendments themselves do the absolute opposite of what Ms Hunter claims they do and what Ms Gallagher claims. They make an already bad piece of legislation even worse. You can look at the various bits. They say, "It is going to be on a website; so it will be all okay. That will stop corruption. That will stop the Wollongong-style Labor way of doing things." I do not think so. This bill is a recipe for corruption. It is a recipe for rent seeking. He who lobbies hardest, he who lobbies hardest—

Mr Barr: He has discovered the words. He has been hanging the shingle up on his office door.

MADAM DEPUTY SPEAKER: Mr Barr!

MR SESELJA: He who lobbies hardest, he who lobbies hardest—

Mr Barr: He has discovered rent seekers, has he? They have been beating a path to your door all your career.

MADAM DEPUTY SPEAKER: Mr Barr!

MR SESELJA: He who lobbies hardest—

MADAM DEPUTY SPEAKER: Mr Barr!

MR SESELJA: Madam Deputy Speaker, I am very happy to speak over his interjections just as long as we are given the same courtesy. I am very happy for an open and robust debate where we can yell across the chamber but otherwise let us get on with it. As long as it is one standard, we will stick with it. If I can interject as much as I like, then I will do it.

MADAM DEPUTY SPEAKER: Mr Seselja, you will notice that Mr Barr is not interjecting at the moment; so you do not need to yell.

MR SESELJA: I understand that. I think that was because of the volume at which I had to speak in order to get above him.

MADAM DEPUTY SPEAKER: You do not have to yell so much.

MR SESELJA: Madam Deputy Speaker, this is a recipe for corruption. It will be whoever does the best deals. Whoever does the best deals will not pay the tax. We hear the arguments about simplicity. Here it is. Here is the simplicity that has been

added as part of these amendments. We have section 276, chargeable variation. This is what is described as a chargeable variation.

We have a page and a half of notes that tell us what is a chargeable variation in order to make this simple. In order to make this simple, as Ms Hunter claimed, we are going to have a page and a half on one clause dealing with what is a chargeable variation. It goes on and on:

> … if a development application relates to the chargeable variation of only 1 residential lease—a variation to increase the number of dwellings permitted on the land under the lease; …

It goes on and on and on and on. This is the simplicity of these amendments which are being jammed through together in the dead of night after two years of process. After two years of process we get 16 pages.

Let us have a look at them. Proposed new section 276D deals with lease variation charges and chargeable variations. We have got another page to describe what that is. Let us get to the nub of where we are going to see some problems with these amendments—where these amendments, far from making it better, will take a bad piece of legislation and make it worse.

Let us have a look at amendment 14. It proposes to omit section 278 and to substitute it with a new section. It goes through what is proposed. We are going to allow the Treasurer effectively to do whatever the Treasurer likes. I think that on no less than 13 occasions this one particular amendment gives the power for the Treasurer to alter any remission. It does this in no less than 13 different places.

We just have to look at it. The minister will be able to determine all sorts of things. The minister will be able to determine a requirement for energy efficiency. The Treasurer may determine an amount to be remitted for a lease variation charge for a chargeable variation and when the amount must be remitted. It goes on. The minister will be able to determine the zone for the subsections. The minister is being given the power to do whatever the minister likes in this legislation.

This goes to the heart of how badly this has been drafted, Madam Deputy Speaker. Far from providing clarity, this provides more complexity and less certainty, but certainly it provides for a hell of a lot more tax. That is the one thing, that is the thing that—*(Time expired.)*

MRS DUNNE (Ginninderra) (8.49): They say about making legislation and making sausages that they are things that should not be seen by the public. What we have got here today is the Greens-Labor version of legislative sausage making, which is a pretty unappealing thing. And because we are moving the thing as a whole, we do not get to see whether we are getting bits of offal, bits of tofu or what—whether it is beef, pork or lamb.

Mr Barr: Mrs Dunne cracked a funny.

MRS DUNNE: It is not funny.

Mr Barr interjecting—

MADAM DEPUTY SPEAKER: Order! Mr Barr, desist, please, so that I can hear Mrs Dunne in silence.

MRS DUNNE: This is an appalling travesty. What do we actually have here today? Ms Hunter has the audacity to get up here and run through this. I have got 10 minutes. She does not even know how the house procedures work. I have got 10 minutes. I have got to go through this. She could not even say that amendment 1 does this and amendment 2 does that, because after a while she got sick of it. She said that the next amendment does blah da blah and the next amendment does blah da blah.

She started off really well by saying that amendment 1—I love this—reduces the risk of impropriety. Amendment 1 reduces the risk of impropriety, or so she says. But as Mr Seselja said, let us move to amendment no 14. It is a doozy. This is where it all falls down. We have section after section of discretion for either the Treasurer or, presumably, the planning minister in this. "The Treasurer can do this." "The Treasurer may determine an amount to be remitted for a lease variation charge." "The Minister may determine a requirement for energy efficiency under subsection (1)." "The commissioner must remit variations in certain zones; those certain zones are determined by the minister." All of the policy substance is put together in this massive power grab by the ACT government, a massive money grab by the ACT government, with a whole lot of nanny state things thrown in for good measure.

What we have here is a range of things—as Mr Seselja said, about 13 different determinations and variations which will affect planning and the levying of tax on property in the ACT. It is without doubt lacking in transparency. It brings regulations—and, by the minister's own admission, things that probably should be in regulations—into the act.

Part of the reason that we are doing this is that even the Greens, when they are tied by barbed wire to this government, do not quite trust them enough. They do not quite trust them enough, so they want to bring the regs into the act. These are written like regulations, they look like regulations, and they act like regulations. It shows that it is poor policy. It is badly drafted, it is badly put together, and the people of the ACT will pay the price—and not just with Katy Gallagher's and Meredith Hunter's hands in the pockets of homeowners who are going to be trying to buy houses and units.

The cost of units will certainly go up; we have demonstrated that. There is nothing in the minister's bland assurances that "We have done the research and we do not believe that this will have any impact on house prices." That is just poppycock. If you put a tax of $50,000 on a unit, it will drive up the cost of the unit by $50,000. No developer in this town is going to absorb that tax because suddenly they are feeling magnanimous.

Mr Barr interjecting—

MADAM DEPUTY SPEAKER: Mr Barr!

Mr Hanson: Madam Deputy Speaker, on a point of order: it has got to a point where this is ridiculous. You continually ask Mr Barr to be quiet; he will continually ignore your rulings. If this was a member of the opposition, I would say that we would have been warned by now. How long are you going to allow Mr Barr to interject and to yell across the chamber without a warning, Madam Deputy Speaker? It is beyond the pale.

MADAM DEPUTY SPEAKER: Thank you, Mr Hanson. Mr Barr, please remain silent.

MRS DUNNE: This amendment, more than any, shows that there are real problems with this legislation. The get out of jail free for the minister and Ms Hunter is that it is all disallowable. But it is not. The fact that it is disallowable does not create the level of transparency that Ms Hunter and Ms Gallagher would have people believe, because the formulation and the thinking that go into a determination that may be made by the Treasurer or the minister will not be out there for all to see; it will be the end result of all that work.

Ms Hunter starts off by saying that her amendments will reduce the risk of impropriety. This amendment will create impropriety if there is any chance of it being created. The fact that there are 13 different sorts of criteria and different sorts of determinations that are made in this section alone leave this government open to corruption.

As Mr Seselja said the other day, this is bringing the politics back into planning. This is ACT planning Wollongong style. This is where we get it. Ministers can make determinations that will have a huge impact on the level of tax that is charged, the way it is remitted and all of these sorts of things.

Mr Seselja interjecting—

MADAM DEPUTY SPEAKER: Mr Seselja, do not interject on your own person speaking, please.

MRS DUNNE: And here they are. We will see a disallowable instrument, but we will not see the motivation behind that disallowable instrument. We will not see the motivation behind the disallowable instrument; we will not see who said what to whom. These are problems that we will find with this legislation.

Ms Hunter could not comprehensively go through each of these recommendations one by one and give an explanation for them. There is no explanatory statement that goes with these amendments. This is the high and mighty Greens that want an explanatory statement on anything, the high and mighty Greens who want all of these sorts of things to go through the scrutiny process. I do not know how many times my colleagues and I have been lectured in here by Mr Rattenbury and his ilk about how our amendments had not gone through the scrutiny process.

Here tonight we are being asked to pass amendments which have not been scrutinised by anybody, that were finally printed off at 11.36 this morning. The adviser to the scrutiny of bills committee has not had a chance to look at them; no-one has had a chance to look at them. There are real problems with the drafting. But Meredith Hunter and Katy Gallagher are tightly bound on this because there is going to be a pay-off here. Ms Hunter has moved upstairs already. She wants the ministerial office. She has got the ministerial office, and this is just part of the deal.

Mr Rattenbury: Point of order, Madam Deputy Speaker.

MADAM DEPUTY SPEAKER: Mrs Dunne, return to your seat please.

MRS DUNNE: Oh, sorry; here is the other contender. He wants to take a point of order.

MADAM DEPUTY SPEAKER: Mr Rattenbury, you have a point of order?

Mr Rattenbury: Yes, a point of order. I think the imputation that Mrs Dunne just made about some sort of pay-off for Ms Hunter is somewhat inappropriate in the context of the debate.

Mr Seselja: Can we stop the clock, please.

MADAM DEPUTY SPEAKER: Stop the clock.

Members interjecting—

MADAM DEPUTY SPEAKER: I am sorry, Mr Rattenbury; could you repeat what you said, because Mr Seselja was making too much noise.

Mr Rattenbury: Yes. Mrs Dunne just suggested there was some pay-off to Ms Hunter. I think that she has impugned Ms Hunter's motives in the course of her comments, which I believe is a breach of the standing orders.

MADAM DEPUTY SPEAKER: Yes; I think that statement needs to be withdrawn. I think the statement needs to be withdrawn.

MRS DUNNE: I withdraw the statement, Madam Deputy Speaker.

MADAM DEPUTY SPEAKER: Thank you, Mrs Dunne.

Mr Coe interjecting—

MADAM DEPUTY SPEAKER: Mr Coe, Mrs Dunne has the floor.

MRS DUNNE: The Greens are very tetchy, of course, because there is a bit of disunity in the Greens about who actually gets the ministerial job and how quickly we put our hand out for the ministerial job.

MADAM DEPUTY SPEAKER: Speak to the subject of the amendments, Mrs Dunne.

MRS DUNNE: These amendments which are being put forward here tonight show that there is deep and close collusion between the Greens. When this all goes pear-shaped, as it will, it will be down to the Greens and the Labor Party.

Mr Hargreaves interjecting—

Members interjecting—

MADAM DEPUTY SPEAKER: Are we having a conversation across the chamber?

Mr Hargreaves: Madam Deputy Speaker, I withdraw my comments about Mrs Dunne.

MADAM DEPUTY SPEAKER: Thank you, Mr Hargreaves.

Members interjecting—

MADAM DEPUTY SPEAKER: Order, members! Mrs Dunne has the floor.

Members interjecting—

MADAM DEPUTY SPEAKER: Mr Hargreaves! Mr Coe and Mr Hargreaves, will you stop arguing across the chamber.

MRS DUNNE: Madam Assistant Speaker, what this boils down to is that this government and their coalition colleagues are deeply embarrassed and deeply mortified by the situation that they have got themselves into. In the week where Katy Gallagher says, "I am Mrs Open and Accountability, I am Mrs Competence and I am Mrs Honesty," she has failed the first test: a major piece of legislation which is being rushed through with no scrutiny and where—I will take my second 10 minutes, if I could, Mr Speaker. *(Second speaking period taken.)*

I will not take all of my 10 minutes, but I will take the opportunity to speak now while I am on my feet. This has been rushed through, and they are embarrassed by the fact that they have been brought to book on this. They just want to get it through. We do not care. The Treasurer stands here and says, "We've been working on this for two years. Don't you understand how much time and effort we have put into it?" If you have been working on it for two years, you can get it right. If you have been working on it for two years, you do not introduce 17 pages and 25 amendments at 11.36 this morning and expect to vote on it at 9 o'clock. In fact, they expected to vote on it at half past 7 and they have not got their way. You do not bring it in and then try and do this without scrutiny.

These are major changes to definitions, major changes to the way this operates. If we were really adhering to the Latimer House principles that Ms Hunter likes to talk

about quite so much, she would have done the Assembly the courtesy of referring this to the scrutiny of bills committee. She would have extended that courtesy, but it did not suit her. All of the high-flown talk about the Latimer House principles, about openness and accountability, about being a responsive government and about listening to the people flies out the window when it ceases to be convenient for the people who are pushing a particular barrow. The barrow of Katy Gallagher and Meredith Hunter here tonight is to screw money out of the people of the ACT when they are trying to get into the housing market. That is what it is all about.

Katy Gallagher sits there and says, "Our research shows that these taxes will have no impact at all." Mr Seselja is right. If these taxes have no impact at all, make them bigger. The fact that you have a system of remissions shows that it is a problem. What you call transition is actually limiting the damage in the first couple of years in the run-up to the election. That is what it is. This is a damaging piece of legislation that will damage the way we develop in this city, the way people buy houses. It will have a kick-on effect to standard residential. All of these things will have a huge effect, and when this goes wrong Katy Gallagher, Meredith Hunter and their supporters will be brought to book for it.

MR BARR (Molonglo—Deputy Chief Minister, Minister for Economic Development, Minister for Education and Training and Minister for Tourism, Sport and Recreation) (9.03): The series of amendments that Ms Hunter has moved and the process associated with this important tax reform and this important structural reform—

Mrs Dunne: Here we go. "I'm the only eco rep in the village. I can talk about structural reform."

MR SPEAKER: Thank you, Mrs Dunne. Mr Barr has the floor.

MR BARR: Thank you, Mr Speaker. I appreciate the lead-in from Mrs Dunne. They are a series of important reforms, not only to ensure an equitable outcome for everyone in the community but to put an end to some unfortunate distortions that have been occurring in the marketplace. The Treasurer was absolutely right in earlier parts of this debate to identify a number of concerns that have arisen as a result of current arrangements.

As Mrs Dunne wandered off on a particular path and sought to pursue a particular argument, she neglected in her contribution to acknowledge current arrangements and the current circumstances in a number of areas. Firstly, in terms of the incidence of the tax, of the charge, she paid no accord at all to the relative elasticities of supply and demand in this marketplace or the fact that there might be second and third order adjustments as the market adjusts to a new set of arrangements. So she came up with perhaps the most ridiculous of statements—that the incidence of the tax, of the charge, will fall wholly—

Mr Coe interjecting—

MR SPEAKER: Order, members!

MR BARR: on the consumer, which makes a series of fairly heroic assumptions about the operation of that market at that point in time—

Mr Coe interjecting—

MR SPEAKER: Mr Coe, you have already been warned today.

MR BARR: and which fails to pay due regard to the other set of circumstances that are at play in this market. One could argue that there are a number of other policy settings that might go to the supply side, such as, for example, having different zones within the city that would allow redevelopment or not, that in fact would have a greater impact on the supply side than this particular provision.

Mr Seselja: Which suburb are you going to flood with units then?

MR BARR: With Mr Seselja, it is interesting that he at least is grasping the concept that Mrs Dunne fails to, but again, in his analysis, he wants the worst of all worlds to apply and then to combine contradictory statements to seek to make his case. Ultimately, it boils down to a narrow sectional interest ahead of the broader community interest, and that is—

Mr Seselja: Homebuyers?

Mrs Dunne: Homebuyers? A narrow sectional interest?

Mr Seselja: There it is. Homebuyers are a narrow, renters are a narrow, sectional interest.

MR BARR: No, the narrow sectional interest, Mr Speaker, are those who seek to crowd out homebuyers in order to make windfall gains in particular areas of the city—that is, rent seekers. And there is no greater friend of the rent seeker than the Canberra Liberals; no greater friend, it would appear, not just in this policy area but in almost every area.

It is funny; I am reminded of a phrase of a former Prime Minister who, when seeking to introduce a similar tax change, a goods and services tax, made the big call that in fact you needed to look beyond sectional interests. I think he used the phrase "you had to call it for Australia". In this instance, there would appear to be two political parties in this place who are prepared to call it for Canberra and put the best interests of this city and the broader community ahead of the interests, and the narrow interests, of a small number in the property development sector.

That is what is at the heart of this debate. It is not a great surprise that the Canberra Liberals would be defending their daytime branch. There is no great surprise in that. What I suppose is disappointing is the lack of rigour in their analysis, the contradictory statements, the failure to acknowledge the current circumstances, particularly from Mrs Dunne in her contribution.

What Ms Hunter has put forward in these amendments actually provides a much greater level of transparency in relation to remissions and to which areas government may seek to align policy, be that planning, environment and sustainability policy or community objectives, in providing remissions or incentives to get a community benefit.

The important point to make is that markets will adjust and that the combination of factors that are at play that a number of people have highlighted in this debate will interact and result in an equilibrium, Mr Speaker, as markets adjust, as you would expect. What we will see over time with the combination of the government's planning policies and the government's sustainability policies is a supply-side increase as we apply a number of other policy levers and put forward a number of other complementary policy options that will assist the market to adjust. And the Treasurer is absolutely right in having a transition period, as is sensible when introducing a policy of this nature.

The economics stack up. Countless experts have examined this matter and they all reached the same conclusion—that this is an economically sound change, one that is in the interests of the entire Canberra community and one that seeks to put their interests ahead of the narrow sectional interests that the Liberal Party chooses to represent. But that is what we have come to expect from the Canberra Liberals. They are very happy, it would seem, to criticise these particular initiatives. We are yet to see any constructive alternative, I might add. There is no policy alternative being put forward in this debate. It is relentless negativity from those opposite versus a significant structural reform of our arrangements in this area that are for the benefit of the entire Canberra community.

That is why these amendments and this legislation should be supported and that is why it will be, in the long run, viewed as one of the most sensible, most rational and most significant changes that this place has adopted in recent history.

MR SMYTH (Brindabella) (9.10): I am reminded that the standing orders say that speeches should be relevant. We have been discussing some amendments and I do not think they actually got a single mention. There is no analysis of the amendments. The gentleman with the economic creds on that side did not talk about the benefits of the amendments. He spent a lot of his time talking about us. It is always a badge of honour when you have the government talking about you, because it means the government is worried about what you are doing. And you should be worried, because you make your snide lines about sectional interests. I have never thought of homeowners as a sectional interest. I have never thought of renters as a sectional interest.

Of all people, he is probably the only one on that side of the chamber that actually gets economics at the broader level; I am not sure about it in the detail. Mr Barr is the only one in this place who has previously admitted that, yes, all taxes have an effect; it is a drag and something happens—apparently except for Katy Gallagher's magical change of use charge. It does not have any effect. Apparently it is so good that it does

not drive down the value of existing homes; it does not increase the price of a new dwelling, whatever it might be like; it is not going to affect the rental market. So what change will it have?

Mr Barr has just said that markets will adjust, but he failed to tell us what the effect of this tax will be and these amendments will be on the market, because if you listened to the Treasurer and Chief Minister, there is no effect. We have asked for the analysis. We have asked for more work to be done. We have asked for documents to be tabled. But the government cannot or will not. If they have not done the work, they are negligent. If they have done the work and they are hiding it because they are afraid of the effect and they do not want to reveal that to the public, that is just dishonest and, indeed, it is probably corrupt.

The problem here is that this tax must have some effect. A number of different groups have said that it should have an effect because, as Mr Barr rightly points out, all taxes have an effect. We know that; otherwise we would just have the one perfect tax in place and you could just keep upping the rate because it does not have an effect, apparently. It is nonsense. It is just nonsense.

If you are a homeowner in the inner north and you have purchased a home as your superannuation policy, your retirement nest egg, for whatever reason—something for the kids—some of it is clearly based on the idea that in the future somebody may want to redevelop this. We all say that we want to see greater density, but because we have now got a magic tax, we can tax people and still get that density, apparently. But if you are living in the inner north or you are living in a suburb closer to the city—what is it, 20, 30, 40, 50, 60 or 70—whatever the number is, it will affect the number of units that might go into a redevelopment. It must logically affect—

Mr Barr: Which planning zone it went in would affect it more, because you can't redevelop in many planning zones.

MR SMYTH: There we go: which planning zone. But we do not have that analysis from the government; otherwise they could table it or talk to it. So we have this magic tax, and the magic tax is so good that the government is convinced it will have no effect. If the tax is so good and the legislation is so good, why have we got 17 pages of amendments from the Greens so late in the day? They talk about consultation, but there was no consultation. We were told the gist of what they would do. We did not see them until today.

Again, if the work has been done, if this two years of work had been done and done properly, why is there the need, at quarter past nine this evening, to move 17 pages of amendments in one lump? If it is such a perfect tax that the Treasurer has created, why are we doing this at all? What a wonderful tax! You can resort to your catchcries and your phrases about narrow sectional interests that the Liberals represent. I mentioned last night Menzies's speech about the forgotten people, where you set up this straw man, you set up sides and ask: "What side are you on?" Then you demolish somebody else's argument by saying, "You're wrong"—the false class war.

This is about where people will live in this city and it is about the future of the city. If we slow down development in the inner areas and around the town centres, you have to build at the periphery, and that is urban sprawl. That is a contradiction of just about everything the Greens normally say on these issues. It is against the intentions of the government. Yet apparently that work has not been done. We do not know what the effect of this magical tax will be. To use your catchcries of "daytime branch of the Liberal Party" and "narrow sectional interests", it is good fun and a nice debating technique, but it is not substance. It is not substance at all.

The minister talked about crowding out homebuyers. So we are talking about crowding out homebuyers but the problem—

Mr Barr: After an hour and a half, Brendan makes the call for substance.

MR SMYTH: The ridicule is always good. When you resort to ridicule, you know how close this is getting to the bone. The minister did say it will affect a small number. I would be interested to know what that small number is. We have never actually heard a number of how many people will be affected by this. We do not know what the impact of this legislation will be. We would say that it must affect those who want to purchase a new dwelling and renters. It logically must affect these people.

Mr Barr said the market will adjust. Again, we do not know how far or what the adjustment will be. If Mr Barr has that data, I would like to see it. If the Chief Minister and Treasurer has the data on what adjustments are required, I would like to see that as well. The Chief Minister makes the assertion, and has done when she ridicules others, that it will not drive down existing home prices, it will not increase new dwelling prices and it will not drive up rents. That is magic; it is just magic.

I am not sure why you would accept 17 pages of amendments from the Greens if you have got all of this right. And I am not sure why the Greens cannot explain what these 17 pages of amendments do. I listened to Ms Hunter and I thought: "Okay, she's got two lots of 10 minutes; she's got 20 minutes. She'll at least make a fist of it. You could get a minute per page on each of the amendments and tell us what they actually do." But we did not get that from Ms Hunter.

We get sighs at the far end. That is okay; sigh all you want. But we did not, and I am not surprised. She did not want to debate the amendments one by one. I think it is because she is not able to debate the amendments one by one. She is not able to make a case for them individually, because she certainly did not make a case for all of them to be moved as a lump and she certainly did not make a case, when she had her 10 minutes, as to what the effect of them will be. We are in the detail stage. You are meant to go to the detail. Something you never get from Meredith Hunter is the detail, and that is unfortunate.

But it is the style, and I guess we all accept that. I am surprised that the government accepts them in that way. But that is okay, because I think what it says is about the closeness of the two parties and that everybody gets a win out of this. The only losers in this are those who seek to buy a home or seek to rent a home, because what they will not get is relief from the high prices that they already pay.

We have to remember why housing affordability is such an issue in the ACT. What can we look for in terms of relief? Housing affordability is an issue in the ACT because of two factors: the cost of land and the cost of developing that land. That is not me saying that; it is the urban design institute of Australia saying that. At the turn of the century, on their chart we were in the green zone—very affordable. At the end of the first decade of the new century, we were in the red zone—unaffordable. The UDI made it quite clear that there were two reasons for this. The first was the cost of land and they said the government controls the land. The second was the cost of development and the government controls the cost and the process of development.

The minister responsible for most of that debacle has just been put back in charge of planning. How one can have any confidence there is beyond me. So what we set up instead is a system whereby you can get a remission. The whole purpose of this process, we were told, was to put certainty back into planning so that if you came to a block, you knew the rules and you would get certainty because you could just look at what the law said.

The problem is, of course, that you will not get certainty out of this and you certainly will not get certainty out of the amendments that the Greens have put forward, because what you have is a system where everything changes. The objective, we were told, of the reforms was to give certainty. But this does not give certainty because you can seek remissions, you can seek not to pay the tax depending on the type of development you are putting in and how hard you argue with the government. Where there is a choice in these things, certainty disappears and what replaces certainty is the potential for corruption. *(Second speaking period taken.)* And that is a great concern. If you want certainty then you have to apply the rule. If you are not seeking certainty you will apply the law that Meredith Hunter and Katy Gallagher have cobbled together.

It is an incredibly poor process that the outcome of two years of work—and I respect those who have contributed to the work; we all have different views about where we should be on a change of use charge and what we should be doing—at the end of two years, is a greater tax grab by the government. Have no mistake; it is a tax. It is considered under taxation legislation; it is considered a tax by the government. It is a tax.

What you end up with is an enormous new tax and the potential for people within 50 metres of each other doing a development to pay incredibly different rates of tax. If you go to the logical conclusion, if you have the ability to argue with the government, or if you have influence inside the government or over the government, that simply leads to corruption.

If you want certainty then you need to make the rules clear. These amendments do not make the rules clear. The act, as written, is not clear. As I pointed out in the initial stages, just that one clause that I read out makes no sense. The minister had a good laugh and called it operator error. The Chief Minister said, "I can explain that," and she read the explanatory memorandum. She could not explain it at all. It remains unexplained to this day.

Ms Gallagher: That is what it is—an explanatory memorandum. It explains it.

MR SMYTH: Well, stand up without the notes and explain what it is about. You cannot do it because it does not make—

Ms Gallagher: Yes, you can. It is what people have to pay.

MR SMYTH: You can? All right, I will wait for you at the end of this to stand up and make an explanation. The explanation is that you go to the explanatory memorandum. That is good; that is really good.

But the problem here is that at the outset it was said that this was about certainty. This is not certain. We will have lines drawn on the map. You will have people facing each other across the street who paid different rates of tax for exactly the same thing. That is not certainty. It is certainly not equitable. Both of these parties talk all the time about fairness and equity. The problem is that, for the homebuyer, for the potential, existing home seller, for the potential new homebuyer and for the renter there is no certainty in this.

If the government have the data then they should table the data. If the government do not have the data on the effects of this tax—and we have had it from Mr Barr now; at least we got one honest comment, that it will affect the market and the market will adjust. We got the comment that it will affect a small number. I would like to know what the small number is, because these are not things that have been admitted by the Treasurer at any time. Points to Mr Barr for at least having the honesty in acknowledging that all taxes have an effect. It is something that the Treasurer has not been willing to admit. And that is unfortunate, because we all know that they do. We all know that they have an effect. Just the fact that it rises up to about $20 million or $25 million, that is money out of the market. There is $20 million worth of effect; that could be quite a substantial effect in some quarters.

The problem with this is that it is poor process. The problem with this is that it is now leading to uncertain outcomes. If you have uncertain outcomes, you have the potential for corruption. This is Wollongong-style development—Labor government, Wollongong-style development. And we all know what happened over the last four or five years in New South Wales under this sort of system.

Land is one of our few assets. We can only sell it once. It can be redeveloped many times over a period of time but we need to get it right if we are to achieve the social objectives, the environmental objectives and the community objectives that we all speak about. We all talk about density. We all talk about sustainability. But this is not an act that will lead to that. These amendments will not lead to that. This will lead to greater uncertainty, potentially corruption, and members should reject these amendments this evening.

MR COE (Ginninderra) (9.25): It is a pleasure to be voting against a tax increase, because that is what the Canberra Liberals are all about. We are about returning money to the citizens. We are about getting citizens choice. We are about actually

empowering citizens, empowering businesses, to live their lives as they wish, to give them the choice to make the decisions we know they can make. And we know they can make those decisions much better than this government. Over the last two years, apparently, they have been concocting this tax. Yet, sure enough, at the 11th hour, they have to move a raft of amendments which they struggle to justify and struggle to have the actual data to back them up.

We heard Mr Barr earlier trying to liken this economic reform to that of the GST. It is a bit rich. It is a bit rich, on multiple levels. But the key one, I think, is that when the Howard government brought in the GST they did so on the proviso that state and territory governments would abolish taxes and that the federal government would abolish taxes. That was part of the new tax system which the federal Liberal government took to the 1998 election and which was voted on in 1999. They got rid of things like the wholesale tax, things like the excise tax. And they did many other things to avoid price exploitation. I wonder how much thought has gone into any potential price exploitation in a scheme such as this, whether it be price exploitation in the market or price exploitation within the government itself.

Obviously the government does realise that this is a cash grab. You can see so in the budget papers. You can see how the revenue is going to come in. By and large, when you look at the amount that is going to come in compared to the overall revenue of the budget, it is relatively small. But in that industry it is extremely influential and certainly will have an impact on the decisions that developers, homeowners and renters will be making in the coming years.

We have already heard from the property industry. We have already heard from the property industry that business is slowing down and that the uncertainty in the market is putting at risk many projects. In business, one of the things that you need to mitigate is risk. When it comes down to it, you take risks but you want to minimise the risks that you take. What this bill is going to do and what the amendments are also going to do is bring back considerable uncertainty into the marketplace. And if you want to get good private sector investment taking place in Canberra, good private sector investment taking place in the Canberra property market, you want to minimise the risks and you want to create certainty. And that is certainly something which is not going to happen as a result of this bill going through this place, if it does indeed do so.

We heard today that the Chief Minister is about to launch a new era of open government, which is going to strengthen government accessibility and transparency. Here we are on day zero of this new era and they have already gone against the very statements that the Chief Minister made today. We have already heard they do not have the data, they do not have the modelling, they do not have the information, to actually bring about the certainty that the market so desperately needs when it comes to making considerable investments such as those that are made in the property sector.

We also heard Mr Barr talk about market adjustments. He is soon to be the Treasurer. So the several years of pretending to sound like an economist have suddenly come to fruition. And here he is, a week away from becoming the Treasurer, and he is using his crowding out terms, he is using his market adjustment terms. But I wonder whether he actually knows what those terms mean, in particular, market adjustments.

Why would we need to have a market adjustment? Why would we need to have a market adjustment if indeed this is not going to have an impact? Surely the market is going to be adjusting to the price levers that this government is going to be controlling. They are going to be controlling nine-fifths. This is going to be a big, centralised government that is going to be controlling exactly where things happen in the ACT when it comes to planning.

We heard Mr Barr for years talk about taking the politics out of planning. Talk about putting politics in planning! That is exactly what this bill is going to do. It is going to be whom you know whether something gets ticked off or not, whom you know whether you get the price advantage, which this government is going to empower itself with should this bill get up. The market adjustments that are going to be required, as Mr Barr admitted, are going to come at the expense of homebuyers and renters here in the territory.

When it comes down to it, nobody can do a development, put up a development, if there are not buyers. If you are going to up the cost of that development, you surely need to up the price which you charge those people who are going to buy those properties. And if you are going to up the price on the property and you need to get a return to make that investment worth while, you have to pass that on to renters.

What are the flow-on effects of having a less competitive property market and a more expensive rental market? You get pressures on all sorts of areas of the economy, especially small business, but also, when it comes to a flow-on in terms of government policy, you are going to have an increased demand on public housing.

We already know that this government are struggling to maintain their public housing stock and we also know that they are struggling to keep up with demand. If they are struggling now to keep up with demand, how are they possibly going to cope if the supply to the market is reduced even more by the introduction of a tax such as this? It really is quite unreasonable and it just shows that the two years of sham consultation they have been doing have been absolutely worthless. That was indeed demonstrated by the fact that even after two years of fine-tuning they have to ram through even more amendments today which will further change the bill and create further uncertainty for a market which is already struggling in Canberra.

This is all about big government, when it comes down to it. It is all about more control for Labor cabinet, more control for the public service. We on this side of the chamber want to return more power to Canberrans. We want to actually trust them to live their lives as they wish. We want to trust the businesses which take risks. We want to actually trust the people of Canberra to make decisions about their own future, as opposed to hearing from Katy Gallagher: "Trust me. Everything will be fine."

If you look at this government's track record, you will know that all trust is gone and any faith the community might have had in terms of the expectation of this government to actually deliver on core services is well and truly lost. The Canberra Liberals will be taking pride in voting against this tax increase.

MR SESELJA (Molonglo—Leader of the Opposition) (9.33): I want to touch on a few of the things that have been touched on in the debate. The first is the new Barr doctrine of sectional interests. The Barr doctrine of sectional interests is: if you are a renter or if you are looking to buy, you are part of a narrow sectional group who should not be given assistance and towards whom policy should not be directed. This is the new Barr doctrine, the new Labor Party doctrine, in the ACT, that somehow looking after homebuyers, somehow looking after housing affordability, is dealing with narrow interest.

We take a different view. We actually believe that looking after homebuyers, looking after people who are looking to buy homes, who are renting a home, is core business for a government, particularly in the ACT, which has so many of the levers at its disposal. And this government has shown itself to be completely incapable of exercising those levers.

When we look at why this is a recipe for corruption, we do not have to look very far. If we look at its simplest form, when you set a tax far too high and then give yourself lots of power to exempt, you are setting up the potential for corruption and dodgy dealings. You are setting up a situation where those who scream the loudest will not pay the tax or will not pay as much tax and everyone else will have to cop it. Those who get access to the government are the ones who do not have to pay as much tax.

So if we are serious about reform, we should be setting a tax at a rate which is reasonable so that we do not have to constantly be remitting it. And that is at the heart of the problem that the government faces. It has been so desperate to set it at such a high rate, not reflected in any of the valuations that are coming back at the moment, not reflected under rectification, they have been so keen to set it so high that they have to give themselves lots of outs. They have to make a virtue of the fact that there is going to be a remission for part of it. They have to make a virtue of the fact that there are going to be all sorts of ways for the Treasurer to remit this tax for all sorts of reasons.

It will be very difficult, no matter what you put on a website, for the community to know what has gone into that decision-making process. It will be nigh on impossible. And that is the fundamental structural problem you have got with this legislation. It is that if you set the tax at an unreasonably high level you will have to remit it and then it becomes a question of when you remit it. As sure as night follows day under this government, that will happen as a result of those who make the loudest noise, those who have access, not paying the tax like everyone else. But everyone else will cop this tax.

I come back now to why I think the government and the Greens did not want to debate these clauses individually. The reason they did not want to debate the clauses individually is—and we heard the answer just before lunch—if they did, they actually undermine their case. We saw two very clear examples of that from both Ms Hunter and Ms Gallagher.

Ms Hunter made this extraordinary argument about V1 and V2 that yes, there will be a windfall if you support the Liberals' amendments but also the V1 and V2 will both go up and therefore it will distort it and it will not be a windfall. It was an extraordinary argument and I can understand fully why they are looking to just arguing it in the broad rather than in the particular.

Likewise, Katy Gallagher made the argument that we have been working for some time, that there will be a number of impacts of this tax. And one of the arguments she made in her speech—she did not quite realise she was making it—was that it will affect some people's property values negatively. She said the reason we need to do this is that some people are selling their properties for too much. If that is true and then you are now fixing that with this legislation, then presumably those people will be getting less for their properties. Presumably those properties will now be worth less in some areas.

Ms Gallagher has recognised one of the key arguments against the tax and acknowledged it. In fact, she acknowledged it as a key reason for having the legislation in the first place. Of course, that means less redevelopment in those areas which apparently are the areas where the government have said they would like to see more rebuilding. So she has acknowledged another aspect.

I think it has been left to Mr Barr in a roundabout sort of way to acknowledge the other element, and that is that taxes have implications, that markets adjust, as he says. How will those markets adjust? We will see a little in terms of some existing property values. We might see a little in terms of margins. We will see higher costs to buyers and renters. That is how the market is likely to adjust.

What does that mean? It means that they will pay more. And the only way that they will not pay more is if all of it is borne by existing homeowners or the developer. And if Mr Barr's argument is that the developer is going to wear it all, then again it would be an argument for going much higher. If the developer was able to absorb it all, then you could just up the tax. So we have had all three of the arguments, the three key arguments, validated.

The other one that has come about in terms of the process, which is that the legislation will provide less certainty, has been affirmed by these very amendments. By these very amendments, they have affirmed that this will provide less certainty and that this is a dud piece of legislation. They have had years to work on it and, hours before it goes through, they have to add another half again to the size of this bill. It was so robust, it was done so well and was so defensible, that apparently even the Greens were able to pick holes in it. The Greens were able to pick holes in it, with 16 amendments.

So the last part of our argument, that it will provide less certainty, that the legislation will be unworkable, is clear. All it will mean is that it is going to be harder for the ordinary part of the industry, particularly the small or medium end of the industry who do not often have the ear of government, to make the case. It is going to be harder for

them to make the case to government that they should get the remission, that they should not have to pay the tax like everyone else. But some will be able to make that case. Some will be able to make that case in various ways. It is a recipe for dodgy dealing when you set up a tax that is so obviously distortional and is so obviously wrong in terms of its values that the only way to make the legislation work is for people not to pay all of that tax.

The alternative is clear, and that is that you set it at a reasonable rate. You set it at a reasonable rate in the first place and then you do not have to have all of this complexity and all of this potential for dodgy dealings by setting it at a reasonable rate.

The internal contradictions are there. Mr Barr did not bother to address these. If these are the market values, why are they not being reflected now under rectification? If these are the market values that you have got in your schedules, why are they not being reflected under rectification? You will have the opportunity. You can get up again and tell us. Resolve that contradiction for us, Mr Barr. Please get up. You will have another 10 minutes. You can tell us: if these are the right rates, why is it that they are not being reflected in rectification now? If you cannot answer that question, then it demonstrates that the rates are wrong.

There is no room to move on that, Mr Barr. So you will have the floor. You can tell us: if the rates are correct, why are they not being currently reflected in rectification? You have got 10 minutes. Take your time.

Question put:

> That **Ms Hunter's** amendments be agreed to.

The Assembly voted—

Ayes 11		Noes 6	
Mr Barr	Mr Hargreaves	Mr Coe	Mr Smyth
Dr Bourke	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			

Question so resolved in the affirmative.

Amendments agreed to

Question put:

> That the remainder of bill, as a whole, as amended be agreed to.

The Assembly voted—

Ayes 11		Noes 6	
Mr Barr	Mr Hargreaves	Mr Coe	Mr Smyth
Dr Bourke	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			

Question so resolved in the affirmative.

Question put:

> That this bill, as amended, be agreed to.

The Assembly voted—

Ayes 11		Noes 6	
Mr Barr	Mr Hargreaves	Mr Coe	Mr Smyth
Dr Bourke	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			

Question so resolved in the affirmative.

Bill, as amended, agreed to.

Criminal Proceedings Legislation Amendment Bill 2011

Debate resumed from 17 February 2011, on motion by **Mr Corbell**:

> That this bill be agreed to in principle.

MRS DUNNE (Ginninderra) (9.49): The Canberra Liberals will not be supporting this bill because it fails in every respect. One of those failures relates to consultation. There has been none. As my colleague Mr Seselja will note later on, there has been plenty of commentary on the bill but there has been no consultation.

Mr Corbell introduced this bill in February and then left it on the table. This may seem fine and good, but there was no call for submissions, no deadline date, no indication as to whether Mr Corbell would review the bill in light of the submissions made. There is not even any notice about where to send any submissions that any member of the public might like to make. The truth is that Mr Corbell had no intention of changing even a single punctuation mark.

MR ASSISTANT SPEAKER (Mr Hargreaves): Excuse me, Mrs Dunne. Stop the clock. Ladies and gentlemen in the gallery, would you have your discussions outside please. There is too much noise. Mrs Dunne, you have the floor.

MRS DUNNE: As I said before, Mr Assistant Speaker, it was clear that Mr Corbell had no intention of changing even a single punctuation mark in this bill. Mr Corbell did nothing other than pay lip service to stakeholder engagement. It is, as usual, a Clayton's consultation, a consultation of the most cynical kind. That is the first failure of this bill.

Before Mr Corbell makes any kind of claim that the Canberra Liberals are in some way opposed to jury trials or in some way opposed to proper law reform, let me make it perfectly clear that the Canberra Liberals believe that almost every criminal trial for an indictable offence in the ACT should be conducted by a jury. As I have said on a number of occasions in this place, the role of juries has stood us in good stead continuously for more than seven centuries, and has become a well-established, well-respected, well-loved and credible means by which offenders may be judged by their peers.

Jury trials are an opportunity created for the community to have an active involvement in the criminal justice system. The Australian constitution gives pre-eminence to jury trials and the High Court has underscored that pre-eminence. But there are times, rare numbers of times, when a jury may not be best placed to make a fair judgement.

It was on that premise that the former and now late Attorney-General Terry Connolly in 1993 introduced amendments to the Supreme Court Act to enable offenders to make an election for a judge-alone trial. The legislation that Mr Connolly introduced was based on the model then in use in South Australia and still in use there today. In presenting his bill, Mr Connolly set the parameters for the circumstances in which a judge-alone trial might be appropriate. He said:

> Such cases might include those where extensive pre-trial publicity could be perceived as prejudicing jurors against the accused, and cases where there is a large amount of technical evidence that jurors might find difficult to comprehend.

So Mr Connolly was not advocating that judge-alone trials should become the norm. He suggested that there were special circumstances in which a jury trial may not result in a fair trial for the accused. Indeed, the Supreme Court Act makes it very clear, at section 68A, that it considers jury trials for criminal proceedings to be pre-eminent.

The thing that the Supreme Court Act does not do is to create the kinds of gates or guidelines that Mr Connolly suggested in his presentation speech. It gives clear and unfettered right to the accused to elect to proceed to a judge-alone trial. All the accused has to do in ACT law is to show that he has taken legal advice on the issue, that he has made the election freely and that he makes the election before the trial date is set.

Other jurisdictions, such as Western Australia, have made the question of judge-alone trials a matter for the court on application by either of the parties and subject to certain guidelines encapsulated in the law. This ensures that the purpose of judge-alone trials is not abused or misused for purposes other than as intended.

Has Mr Corbell considered these options? I do not think that he did, although when his officials were pressed by me, he did eventually write a letter that gave the indication that somebody may have considered some of these options. But the main point that needs to be made is that the proposal brought forward by the attorney today is not the appropriate one.

Mr Corbell has spent a lot of time talking about the number of judge-alone trials that there are in the ACT, and it is quite clear that public opinion is of the view that there are too many judge-alone trials in the ACT. There is furious agreement on this part. I need to make this point very clearly, because I do not want the Attorney-General to stand up here and verbal the position of the ACT Liberals.

The problem with this piece of legislation is that Mr Corbell has cherry-picked a number of offences that he describes as serious, and completely and quite arbitrarily removed the option of judge-alone trials altogether for these offences. So it is too bad if there is adverse pre-trial publicity. It is too bad if there are highly technical legal arguments that a jury might not be able to consider.

Indeed, the scrutiny of bills committee noted these observations by the Chief Justice, Mr Higgins:

> … the chosen categories of offences (death and sexual offences) seem somewhat random and target precisely the kind of issues which were considered to justify the option of a judge-alone trial in the first place. Namely, pre-trial publicity and community prejudice militating against an impartial and fair trial. There are many offences that rely upon community standards, for example, dishonesty, yet none of those categories are singled out for differential treatment

Mr Corbell calls the exclusion offences "the most serious allegations that can be made against a member of our society". I contend that that is an entirely arbitrary list put together by this minister. How are some of those offences more serious than, say, grievous bodily harm, terrorism or aggravated burglary? All of those offences have higher penalties than most of the sex offences which are included in Mr Corbell's list. They are not, and this is typical of the half-baked approach that this Labor government and this Attorney-General take to law-making in this area.

Worse, Mr Corbell advances little justification for his approach versus making all indictable offences subject to jury trial. Either you do the lot or you do none, but you could find a better way of managing it. My amendments, which I will move later in the debate, do just that.

What of the human rights considerations? This is another failure of the bill. The government has relied on the judgement of Justice Besanko in R v Fearnside, in which he stated:

> In my opinion, the right to elect for trial by a judge alone is not part of, or an aspect of, the right to a fair trial in section 21 of the HRA.

But Chief Justice Higgins noted:

> To so limit the existing right to choose trial by judge-alone clearly creates a real risk of offending the *Human Rights Act* ... (ACT). In particular section 21 of that Act which provides the right to a fair trial.

The human rights commissioner, Dr Watchirs, stated this week:

> On balance, I recommend that a less restrictive approach be taken to allow judge-alone trials to proceed, rather than the blanket approach in the bill.

Dr Watchirs goes on to give her advice that an approach somewhat like the Western Australian model would be preferable. So to fix these failures, I will be proposing an amendment that mirrors the Western Australian model, such that application can be made to the court for a judge-alone trial. This will include the relevant guidelines for the court to consider and a requirement that an election application must be made before the court allocates a trial date and before the identity of the trial judge is known. The amendment would also prevent the court from revoking an order for a judge-alone trial after the identity of the trial judge is known. This amendment will fix the sledgehammer approach of the government, leaving the door open for judge-alone trials, but in much more restricted circumstances.

I do acknowledge that the model I am proposing will add to the range of matters that are heard in the Supreme Court, but I contend that the guidelines my amendment proposes will in practice serve to restrict the number of applications and the time needed to be taken to consider them.

The model also raises the question of whether appeals against court decisions in relation to judge-alone trials might arise, and I contend that the appeals will be rare because the applications themselves will be rare. The operation of this model as it occurs in Western Australia will serve to restrict the number of cases that proceed to judge-alone trials. It will thus relieve Mr Corbell's apparent embarrassment that the ACT has too many judge-alone trials compared to other jurisdictions.

Another failure of this bill is Mr Corbell's amendment that requires a judge-alone election to be made before the identity of the trial judge is known. The Australian Federal Police Association has pointed out to me and to Mr Corbell that this amendment serves merely to establish that applications for judge-alone trials will continue to become routine. It fails because it provides that the accused can change their mind before arraignment and revert to a jury trial. Instances can arise in which the identity of the trial judge becomes known before arraignment.

The advice that I have received from practising criminal lawyers on this matter goes like this. If there are pre-trial applications, for instance, about the admissibility of evidence, these will be listed before the judge who will ultimately hear the trial. Such applications are frequently listed prior to arraignment. Another situation would be if

the issue of fitness to plead is raised. In this case the inquiry will be held before the trial judge. If the accused is found fit to plead and goes to a regular trial, the identity of the trial judge would therefore be known and in that circumstance the accused would not have been arraigned before the determination of fitness to plead.

Mr Corbell's bill fails because it leaves the door wide open to the accused to proceed with his choice of a judge-alone trial or a jury trial even when the identity of the trial judge is known. My amendment closes that door by prohibiting the court from revoking an order for a judge-alone trial after the identity of the trial judge is known.

Finally, I want to comment briefly on the proposed increases to offence penalties for a range of sexual offences, which also forms part of this legislation. These amendments to the Crimes Act were singled out initially because the government wanted to ensure that they remained indictable offences under the definition that the government proposed in its Courts Legislation Amendment Bill which was debated and which the Canberra Liberals significantly amended in May this year.

The only justification in the original explanatory statement for these changes was in relation to the Courts Legislation Amendment Bill, which was passed in May this year. The Canberra Liberals' amendments at that time removed the need for redefining indictable offences, so the purpose of this amendment in this bill became redundant. But since then, the attorney has decided that it would be a good idea to increase the penalties anyhow.

We are going to hear from Mr Corbell that he is going to leave the changes in because, to quote from an email advice my staff received from his office this week, "the penalties were not adequately reflective of the seriousness of these offences" and that "the revised explanatory statement clarifies that the penalty increase is still required, as the current penalty levels for these offences are out of step with other Australian jurisdictions and are not an adequate reflection of seriousness".

This is a revelation. We have heard the minister on a number of occasions recently, most recently in response to the Standing Committee on Justice and Community Safety inquiry into murder, saying that it was not necessary to review the penalties for offences in the ACT. But here he is saying that for this class of offences that is in fact not the case. We have heard that Mr Corbell has also agreed that the penalties relating to culpable driving are inadequate and need to be increased. It shows that Mr Corbell is completely out of touch and should have done work on this many years ago.

It is actually satisfying, though, because we have to remember that, fully six years after my former colleague Mr Stefaniak proposed a comprehensive review of criminal offence penalties, the government is finally taking off its blinkers and will start to do the work that is needed—a comprehensive review. But this will not be a comprehensive review. On the contrary, it will be up to the Canberra Liberals to undertake that work, because the attorney has made it clear that he is not interested.

Mr Assistant Speaker, you might be asking yourself: why are we here tonight debating this bill which is so bad? It is such bad law. There is not a member of the legal fraternity that I have spoken to who has a good thing to say for it. The human

rights commissioner does not have a good thing to say for it. The Chief Justice does not have a good thing to say for it. I have spoken with the DPP and, although he is a guarded man and I know that he made three different suggestions to the government, I think I am of the view that this is probably not his preferred approach either.

It has left me scratching my head. This is bad law, absolutely and utterly bad law, and I wonder why we are doing it. I wonder why Mr Rattenbury went out of his way, without consulting one member of the legal fraternity, without returning the calls of the Law Society, to shake hands with Mr Corbell over this and agree to support it.

I think it goes like this: I think it goes back to May this year. In May this year, we know that Mr Rattenbury and Senator Brown had a dinner in the back room at La Scala and we know that they discussed at great length how Mr Rattenbury might become a minister. We know that Mr Rattenbury made it quite clear to Senator Brown that he thought this was a two-stage process, that he would stand down as Speaker and then he would make his run to be a minister in a Labor-Green government. His only concern was, according to my interlocutor, that he was a bit concerned that it might look like he was a bit greedy and that he was trampling over the aspirations of Ms Hunter. But Dr Brown said, "Don't worry, Shane. Go for it." "Don't worry about it, Shane. Go for it."

Mr Corbell: A point of order on relevance, Mr Assistant Speaker. I am sure that the Liberal Party enjoy the salacious story telling that they like to regale us with in this place, but it has nothing to do with the substance of this very important reform and I would ask you to direct Mrs Dunne to remain relevant.

MR ASSISTANT SPEAKER: Thank you very much, Mr Corbell. Mrs Dunne, I uphold Mr Corbell's point of order. I do not think it is relevant to this debate whether Mr Rattenbury had a meal with anybody else at any particular restaurant, even though I was looking forward to the menu. As it turns out, I am not getting that, and I would ask you—

MRS DUNNE: Actually I do not know what the menu was, but I am sure my interlocutor could tell you, Mr Hargreaves.

MR ASSISTANT SPEAKER: please to keep us all in suspense about that and come back to the question at hand.

MRS DUNNE: It is actually very important, because this is bad legislation.

MR ASSISTANT SPEAKER: Is this on the point of order, Mrs Dunne?

MRS DUNNE: This is bad legislation. I am telling you why it is relevant, while I was speaking to the bill. This is bad legislation. When I sat down with Mr Rattenbury yesterday to talk about my amendments, it was interesting because you could see that he agreed with much of what I said about how the approach being proposed by the Canberra Liberals was a better one, but you also knew that he had already shaken hands on a dud deal. He had shaken hands on a dud piece of legislation because he

wants to ingratiate himself with Mr Corbell, and Mr Corbell is desperate, desperate, desperate, for a win as the Attorney-General.

He has had the virtual district court; that was a failure. He has had the attempt to restrict jury trials to people who are charged with offences of less than five years; that failed because it was bad law. This is equally bad law, but suddenly Mr Rattenbury has lost his standards, and the reasons that he will give you today for why this is good law are laughable. And he knows that he is embarrassed by the fact that his support for this today is an embarrassment. It is an embarrassment for him. He is a lawyer. He has been criticised in the legal community for his lack of communication on this. People are scratching their heads and wondering why Mr Rattenbury, who has always shown such courtesy to the legal community, suddenly does not want to talk to them. The reason is that he would rather be a minister in a Gallagher government than actually serve the people of the ACT.

MR ASSISTANT SPEAKER: The question is that the bill be agreed to in principle. I call Mr Rattenbury, and please, Mr Rattenbury, resist the temptation to tell us about the menu. Thank you; the floor is yours.

MR RATTENBURY (Molonglo) (10.09): I will do my best, Mr Assistant Speaker. The Greens will be supporting this bill today. We believe that jury trials are an important part of our justice system which ensure that community standards are part of the decisions our courts make. We support a strong role for jury trials because they add value to the verdicts handed down. They add value by ensuring that 12 ordinary people have agreed on a verdict after hearing all the relevant evidence. That is a high threshold to reach, but an appropriate one to set when it comes to criminal matters, particularly in light of the potential consequences for an accused person if they are found guilty.

Community involvement through juries is important to the accused on trial, it is important to the victim and their family, and it is important for the rest of the community more broadly. For the accused, jury trials ensure that verdicts reached are agreed to by 12 people. As I have said, this is an appropriately high threshold to set. For the victim and their family, jury trials are important because they can see that ordinary people have been involved in the case, have heard the evidence and have reached a verdict.

This is important because lawyers and judges can have a certain air of detachment and are not viewed by some victims as normal people who empathise with their situation. I hope that the lawyers who are listening or who perhaps look at the transcript later will forgive me for making this reference, but through the clothes they wear, the language they adopt and the analytical way they describe the evidence, some victims do at times find the system and those involved in it hard to relate to.

Finally, jury trials are important to the wider community because in a free and fair society, we want the decisions our courts make to be aligned with community standards. The division of responsibilities between the judge and the jury are important. The judge has expertise and experience in the correct legal principles and how they should be applied to the case. The judge sets out the parameters in which the

jury must work. It is then for the jury to decide the facts of the case within those parameters.

At times, the judge will be reasonably firm as to what evidence the jury can rely on and what the critical question for them to decide is. We want real life experience to guide the decisions, but it is also important that those decisions are framed by the expertise of the judges. In addition, jury trials foster community acceptance of the courts and the verdicts being handed down because of the added value that juries bring.

Nobody I have discussed the bill with has disagreed with the general starting presumption that jury trials are an important part of our criminal justice system. Mrs Dunne acknowledged this earlier in her speech when she was still talking about the bill itself. That position is well held within the legal profession, by legal academics and by the general community. Where opinions begin to differ is whether there should be an exception to the rule to allow judge-alone trials in certain circumstances.

At the outset I would like to acknowledge that there have been various views coming from the legal profession on this and that not all of them will agree with the position taken by the ACT Greens today. What I can say is that we have listened carefully to the concerns, analysed them and assured ourselves that the bill is appropriate to pass.

I would now like to turn to some of the detail we have relied upon in deciding to support this bill. I guess the best place to start is the 1993 reforms, because in assessing the changes today it is important to look back to gain an understanding of where our legal system has come to with that history in mind. Leading up to the 1990s, jury trials were the norm in the ACT. That changed in 1993 when the ability to elect for a judge alone-trial was inserted into the ACT Supreme Court Act.

Comments made by the late Terry Connolly at the time are important to repeat today. In response to requests from the Canberra Liberals for the changes to be reviewed in future years to see how they were operating, Attorney-General Connolly said in the Assembly, "We will keep an eye on how this goes. I doubt whether many people will avail themselves of the right to go to trial without a jury, but some may."

It is clear that the government at the time did not intend for judge-alone trials to become the norm. However, 15 years later that is what has transpired. Statistics presented to the Assembly show that between 2004 and 2008, 56 per cent of criminal trials in the ACT proceeded as judge-alone trials. It is clear that the 1993 reforms have had an unintended consequence. The Greens accept that and we accept the need to address the issue. Again, this is a point relatively well accepted amongst the legal profession. Something needs to be done to make jury trials the norm once again. In light of this, the government's bill today essentially repeals the 1993 reform to once again require that all criminal trials proceed with a jury.

This is the point at which things begin to differ. Some in the legal profession have expressed concern that the proposal raises the potential for pre-trial media to prejudice potential jurors and to make it too difficult for a fair and unbiased jury to be found.

There are five important checks and balances currently in place that the Greens believe guard against this risk. I think, given the debate, it is important to spend a little time addressing each of these.

Firstly, the ACT has a system of paper hand-up committals, where untested pre-trial evidence is provided to the court on the papers and is not discussed verbally in court. What this means is that the media do not have access to that untested evidence and are unable to report on it. This is an important way in which potential jurors are protected. Put simply, they cannot be biased by pre-trial evidence if it is not reported on and they do not hear it.

Secondly, there is a right for the court to grant a stay of proceedings during the pre-trial phase if a dispassionate and unbiased jury cannot be found. The proceedings can be stayed until a point in the future when a jury can be empanelled. This is an inherent right all courts have that was confirmed in the High Court Case of Dietrich v Dietrich and is also described in rule 4750 of the ACT Supreme Court rules.

There are some important points to make about the stay of proceedings issue. Some in the legal profession have quantified the number of times a stay will be required. It has been suggested that it would be something in the order of one in every hundred trials; so it is a very rare occurrence indeed. The government audit recorded that between 2004 and 2008 there were 147 trials conducted in the ACT. So the stay on proceedings would have been required extremely rarely—perhaps twice in four years. It has been described as a very rare, very exceptional set of circumstances where a dispassionate jury is not able to be found. It is this rare situation that I believe Mrs Dunne's amendments seek to address and we will come to this later. However, the point to be made now is that there is the existing power to stay.

The Law Society have come to a different conclusion in their submission where they fear that this bill will increase the number of stayed proceedings. This will only be the case if lawyers make that application when it is unwarranted. We hope they confine those applications to the one in a hundred or the rare situation, but currently the rules do not specifically describe the circumstances in which a stay may be granted. As the changes proposed today become operational, it may be that rule 4750 can be fleshed out, and that is something that we will watch closely.

It is also important to make comment on the stay issue in light of court delays. Clearly, we do not want many trials stayed as this will add to the delay that may be experienced. We understand that the stay is not for an indefinite period. Instead, it is for a specific time within which a jury is actively found for the case.

The third issue, and the third of the checks and balances which I would like to refer to, is that there is a process for selecting jurors where both the DPP and the defence team are able to veto potential jurors who they believe are prejudiced. This stops prejudiced jurors from sitting on the jury to start with and will resolve many of the issues before they become actual jurors.

The fourth check and balance I would like to discuss is that judges have the ability to give directions to juries about what evidence they can and cannot rely on when

making their decision. Even when the other checks have operated and there still has been potentially prejudicial evidence led or reported on, the judge can direct them not to take it into account.

On this point, I am aware of evidence that directions given to jurors at the start of proceedings are more effective than waiting to the conclusion of the trial. I will be approaching the government for information on what the current legislation provides for and how it is being exercised. It is a relatively technical point but an important one. For directions to be as effective as possible, they need to be made as early as possible in the trial.

Fifthly, and finally, the capacity for review and appeal is built into our legal system. It is inherent to our system that we accept the proper role for appeals to higher courts when there are procedural mistakes made or faulty decisions reached. Our legal system accepts this as a reality and has put in place an appeals system, starting with each jurisdiction's Criminal Court of Appeal and ending, in the less common case, in the High Court.

Mistakes will be made by juries. However, judge-alone trials also have the potential for mistakes to be made. The important point is that we always hope these will be rare, but we have a system of appeals that can deal with those mistakes when they are made. An appeal should be guarded against and only an option of last resort, given the additional financial and emotion costs. But it is proper to point out that this appeal mechanism exists as another of the checks and balances and another of the safety valves that are built into our legal system so that we ensure we get the most just outcomes we possibly can in the cases that make it through our court system.

Relying on these five checks and balances, we are satisfied that the risk of having a prejudiced jury is addressed. It is on this basis that we support the bill today. We have made the decision in light of all the available evidence and believe the changes are necessary and responsible.

As I referred to earlier, this decision we have made will not be met with agreement from all in the legal profession. But it is fair to say that there is a lack of a unified view from the legal profession which I think demonstrates the testing nature of reform in the area of juries and with justice-related reforms more generally. I think that is something that Mrs Dunne would attest to as well. In so many of the matters that come through to us in the portfolio dealing with Attorney-General matters, it is very clear that very few of these matters are black and white matters.

To illustrate this point, I would like to refer to two submissions made by the two universities in Canberra, the ANU and the University of Canberra. Both were asked by the scrutiny of bills committee if they would like to make comment on the bill and both took up the offer.

While I cannot speak on behalf of the committee, I was surprised to read the two responses because they reach totally different conclusions. In summary, the ANU supported the bill whereas the University of Canberra did not support it. I would like to quote from two important sections of each submission.

The ANU's submission stated:

> Criminal justice claims to represent the public and do justice in the public interest. Juries represent one of the few ways in which the public actually are involved in the justice process.

Later in their submission they said:

> … the involvement of juries in the criminal justice system is therefore a critical element to its claims to legitimacy, a crucial means of bringing community opinion into the justice process, an important mechanism for informing public opinion, and a key platform for building community confidence in the fair administration of justice. We strongly support this amendment.

In contrast, and to ensure balance in this debate, the University of Canberra cited concerns about the prejudicial pre-trial media and concluded that:

> … there does not appear to be any sound basis for excluding cases resulting in death and sexual offences from the scope of offence which may be tried by judge alone.

This is the nature of reform in the justice portfolio. I think the fact that the two universities in this town did come to such different conclusions demonstrates the difficulty, the strong views that are held in this area and, frankly, the fact that there is not always an absolutely correct answer. One has to make a call of judgement. I think it is fairer, more honest and more accurate to acknowledge it in this way rather than some of the wild theories that Mrs Dunne degenerated to in the latter part of her speech, but 10 out of 10 for creativity, Mrs Dunne—and I am glad you are so interested in my social diary.

Differing views are put and members here in the Assembly are required to assess all the arguments and come to a conclusion. We do have to make these difficult decisions at times, and lawyers' groups also do not have a wholly unified position in response to the bill. I will not compare and contrast their positions, nor will I perhaps selectively quote from them as Mrs Dunne has chosen to, because some have been circulated in writing to members and others made to my office and via the telephone, but I choose not to bring those in here in a selective way.

What we can draw from the view of the lawyers and the academics is that members need to weigh all the evidence and make their decision on the bill. In conclusion, the decision of the ACT Greens is that the bill is necessary, it is responsible, there are the checks and balances that make this model viable and on that basis we will be supporting it.

It is necessary because we have seen the trend towards more and more judge-alone trials. We know this was not what was intended in 1993 when the changes were made and we accept the need to adjust the current system. The issue does need to be addressed because juries are important to our criminal justice system. They are important to defendants, to the victims and to the community more broadly. The bill

will require more jury trials, and we believe that is a good outcome for our legal system.

As I have said, the bill is responsible because it guards against the risk of a dispassionate jury being unable to be found. More accurately, there are existing checks and balances in the law that guard against this risk. I have set out the five checks and balances we have relied upon in assessing this bill and I believe those five reasons, along with my general views on the importance of jury trials, vindicate the Greens' decision to support this bill. We will come to Mrs Dunne's amendments later in the discussion.

MR SESELJA (Molonglo—Leader of the Opposition) (10.25): I think it is appropriate to reiterate what Mrs Dunne said earlier about the Canberra Liberals' support for jury trials. I think there is a need to reiterate, because this government and this attorney are not good listeners.

Let me make this very clear. The Canberra Liberals support the notion that jury trials should be the rule and that judge-alone trials should be the exception that is allowed only in exceptional circumstances. Unfortunately, this bill fails at both ends. It allows some serious alleged offenders to continue to be able to choose, at their own discretion, a judge-alone trial, but it does not allow any discretion in other cases where there may be a reasonable argument for having a judge-alone trial.

Jury trials are a time-honoured and generally successful method for dealing with criminal matters. Their use was established back in the 13th century and is enshrined in the Australian constitution. On the basis of the constitution, the High Court of Australia has held that trials of criminal offences against commonwealth law must only be dealt with in front of juries. That said, various models are used across several jurisdictions in Australia to allow judge-alone trials, including in the ACT. This bill seeks to change the current arrangements, but the bill fails in that endeavour.

This bill is ill conceived, piecemeal, discriminatory, inconsistent, arbitrary and founded on wrong principles. It introduces bad policy. It was developed in the absence of stakeholder consultation. It fails to take into account feedback that has emerged since its introduction in February. And, worst of all, it is being pushed through today for political expediency and not for any real benefit to the administration of justice in the territory.

There can be no more stark evidence of the failure of this bill than the advice that my colleague Mrs Dunne received in the departmental briefing on this bill. She asked officials what options the department had considered before it drafted the bill. The response she received was that the department did not know, because the person who is working on the issue had left the department. The department did not know, because the person working on the project had left. That is a sad indictment of the kind of process that has led to this legislation.

All of this is underscored by a lack of consultation with stakeholders, evidenced by the variety of views from a wide range of sources, with no response or even acknowledgement from this government.

Let me briefly outline those views. The Victims of Crime Assistance League raised questions about the impact of the increased penalties on the cost of managing the prison and prisoners and on prisoner rehabilitation, and about whether some of the increased revenue from penalties should be redirected to victims of crime services. The government's response? Nil.

The Australian Federal Police Association pointed out the serious flaw in the bill. It sets up a process for routine applications for judge-alone trials because it allows a change of mind even against a real possibility that the identity of the trial judge is known at the time. The government's response? Nothing.

The Director of Public Prosecutions put forward some options, pointing out the pros and cons of those options. The government's response? None.

The Bar Association considers the select list of offences that must be dealt with only by jury trial to be arbitrary in the extreme. It wonders why, for example, a grievous bodily harm or terrorism offence could not be regarded as serious. Why is it that the Labor Party and the Greens believe that alleged terrorists should be able to elect for a judge-alone trial? How can they justify supporting allowing an alleged terrorist to continue to choose whether or not they have a judge-alone trial, with no ability for the courts to determine the matter? That is why this bill is flawed. It is flawed at both ends.

Chief Justice Higgins, as Mrs Dunne has noted, said the same. How does the government respond to this? It does not. So how does Mr Corbell intend to deal with the situation where, for example, there is a murder of bikie gang leaders, as happened in Sydney a couple of years ago? His bill would require a trial heard before a jury even if there is a real risk that juries might be tampered with by way of intimidation or threats. The justice system would have no recourse to protect potential jurors from intimidation or threats. By contrast, under Mr Corbell's proposal, an accused terrorist would have the option to elect for a judge-alone trial and there will be no process for stopping that if it is not in the interests of justice.

The Law Society made a lengthy submission to the Attorney-General last Friday. The society sent a copy to Mrs Dunne. In summary, its position is that it would prefer the status quo to remain. However, recognising that change is inevitable, its preference is for a scheme akin to the model that operates in Western Australia. The society's submission is so well considered and researched that Mrs Dunne sought and obtained consent from the society for the Canberra Liberals to table the submission for the benefit of members and the community generally. I seek leave to table the submission dated 17 June 2011 made by the ACT Law Society to the Attorney-General.

Leave granted.

MR SESELJA: I table the following paper:

> Criminal Proceedings Legislation Amendment Bill 2011—Copy of letter from the President, ACT Law Society, to the Attorney-General, dated 17 June 2011.

What has been the government's response to the society's submission? Nothing.

I also noted the report in the 20 June 2011 edition of the *Canberra Times* which outlined the view of Chief Justice Terence Higgins, who suggested that the DPP could object to an election by the defence, with the matter then decided by a judge. Again, the government has been mute in relation to this option. Earlier this week, as Mrs Dunne has noted, the human rights commissioner recommended that "a less restrictive approach be taken to allow judge-alone trials to proceed, rather than the blanket approach in the bill." The government's response? Nothing.

The scrutiny of bills committee also made comment on this bill and called on the attorney to provide a justification for removing access to judge-alone trials. In its discussion, the committee noted the extrajudicial comment of Chief Justice Higgins that limiting the existing right to choose a judge-alone trial "clearly creates a real risk of offending the Human Rights Act 2004". In his response, Mr Corbell did little other than to affirm the government's view that the right to elect a judge-alone trial is not an element of the right to a fair trial—unless you are a terrorist, apparently; then, apparently, the government believes in the right to choose a judge-alone trial.

That is at the heart of the problem with this bill. It just gets it wrong at both ends. What this bill actually says is that it will affirm the right of alleged terrorists to choose absolutely whether they have a judge-alone trial. What will be proposed by Mrs Dunne is the far more sensible way forward. What it is saying is that no-one should have the right to choose a judge-alone trial—no-one in the Supreme Court should have the ability to choose a judge-alone trial. What should happen, though, is that in exceptional circumstances courts should be able to decide that there is a judge-alone trial. What the government is proposing is that the terrorists of the world can choose—that the terrorists can choose a judge-alone trial absolutely with nothing to stop them. For what reason we have not heard. And in the situation where there is serious potential for jury tampering, such as cases that involve organised crime, there can be no protection under this bill. So it gets it wrong at both ends.

In considering the bill, the committee also invited comment from the ANU and the University of Canberra. The ANU supports the government's bill but suggests that the increased penalties may not go far enough when compared with the commonwealth and other jurisdictions. Mrs Dunne has addressed this issue. UC, however, does not support the removal of the ability to elect judge-alone trials, stating that it does not consider this good policy. Where is the government's response to these views? Nowhere to be found.

The behaviour of this government in ignoring the views and advice of others, particularly those who use the systems that the government sets up, has become a hallmark of this government's culture. Is this an example of the new approach to openness in the Gallagher-led government?

Sadly, this bill has not come about to improve the process of justice in the territory. Like so many of the other reforms this government has introduced in the last year or two, the bill has come about simply in an attempt to clear the way for the Supreme

Court to clear its backlog. But it is a false strategy. It is false because it fails in its attempt to restrict judge-alone trials. It is false because the exclusion of offences from the ability to be heard before a judge alone is an extreme measure that is arbitrary and without foundation. It is false because it does not go far enough with its reform of offence penalties.

This bill fails in every respect. It fails in logic. It fails in construction. It fails in consultation. It fails in foundation. It fails in completeness. And it fails in effect. The amendments which will be moved by Mrs Dunne on behalf of the Canberra Liberals will fix those failures. Our amendments will fix them because the Canberra Liberals are the party in this place who listen to what the community have to say. We have listened to the experts. We have listened to those who use the system. We have considered the importance of the issue: the importance of ensuring that jury trials are affirmed—that no-one should have the arbitrary ability to avoid a jury trial and that we should maintain the ability, in exceptional circumstances across the board, for courts to decide when judge-alone trials should be enabled. That is the far more sensible course, and I commend Mrs Dunne's approach to the Assembly.

MR CORBELL (Molonglo—Attorney-General, Minister for the Environment and Sustainable Development, Minister for Territory and Municipal Services and Minister for Police and Emergency Services) (10.35), in reply: I thank the Greens and Mr Rattenbury for their support of this bill. I have to confess that I am unclear as to the Liberal Party's decision. Will they be voting in principle in favour of the bill or will they not? Will they be opposing it? They talk about the importance of placing juries at the centre of the criminal justice system but I sense that the Liberal Party are going to oppose this bill.

What are their arguments for opposing this bill? They say that it does not go far enough but because it does not go far enough they are not even prepared to go a little bit of the way towards improving the role of juries in our criminal justice system. Instead, they are going to say, "We don't support any change."

The Liberal Party are trying to have it both ways. They are trying to say that jury trials should be the norm, not the exception, but they are going to oppose the bill. They are going to oppose the bill today. They are going to vote against it in principle today.

Mr Seselja: That's not true.

MR CORBELL: It is not true? Mrs Dunne just indicated that she is going to oppose the bill. Who knows what the Liberal Party's position in relation to this matter is.

Let me respond to some of the issues that have been raised in the debate. Mr Seselja and Mrs Dunne have both argued that the government did not consider options other than to prescribe certain offences where a jury trial must be undertaken. That is simply not the case. In the 2008 discussion paper which the government released on the matter and which the Liberals conveniently ignore when they make their claims about lack of consultation, these models were canvassed. Both the judicial discretion model and the Crown veto model were canvassed as options for reform.

Not surprisingly, there were a range of views on this matter. The fact is, as Mr Rattenbury said, there is no clear consensus on the issue of how judge-alone versus jury trials should be managed either here in the ACT or in other parts of Australia.

The government took the view, and I said this at the time the bill was introduced, that there would not be a consensus on this matter, that there would be some stakeholders who did not agree with the government's preferred model, there would be some that argued for Crown veto, there would be some that argued for judicial discretion and there would some that argued for the status quo. And that is exactly what has occurred.

So the government's view is clear. It was never the intention of the 1993 reforms for trial by judge alone to become the norm in the ACT's criminal justice system. Regrettably that is what has occurred, and the government believes that that situation must be rectified. So that is what we are going to do. We are going to rectify the situation.

The ANU, in its submission to the scrutiny of bills committee, made a couple of very important and useful points. In particular, they said this:

> Criminal justice claims to represent the public and "to do" justice in the public interest. Juries represent one of the few ways in which the public actually are involved in the justice process. Recent seminal research conducted on juries in Tasmania has demonstrated the critical importance of juries as informed opinion-givers and decision-makers. This research shows that a number of potent myths are indeed false. Instead, the research confirms that juries, as representatives of the public, are generally not punitive and have views that are context specific and multidimensional.

That is, juries are capable of understanding complex and difficult evidence and reaching considered, impartial views.

Mr Seselja: But not in regard to terrorists.

MR CORBELL: I will come to that issue. So it is important in the government's view that we reassert the role of juries at the centre of our criminal justice system for some of the most serious offences that a person can be charged with.

Let me come back to the issue of consultation. The government tabled this bill in February this year, on 17 February this year. It has been on the table in the Assembly for four months. Stakeholders were well aware of the proposal and they were also well aware that the government was open to listening to concerns and issues that stakeholders had. I had a number of discussions with representatives of the bar and the Law Society in relation to the matter. It is fair to say there was no clear consensus amongst the range of individuals I spoke to.

But in terms of submissions, when was the submission that Mrs Dunne alludes to, the submission from the Law Society, received? The bill was tabled in February. It was received on Thursday last week, a full four months after the bill was first tabled. Did I

respond? Yes, I did respond. I responded on Monday of this week, two working days after the receipt of that submission. I responded to the Law Society's concerns and I indicated the government's view in relation to them.

The Law Society did not put on the table any new matters that they had not previously raised in the 2008 consultation. They restated their views as a result of the 2008 consultation. So there have been years of discussion in relation to this matter, and any suggestion about consultation is just wrong.

Let us talk about the model scheme proposed by Mrs Dunne in her amendments. She is proposing the judicial discretion model where the court decides whether or not a person should be permitted to have a jury trial. Of course, New South Wales has just adopted this model, after having for many years the Crown veto model where the DPP is able to veto whether or not a person's application for a jury trial should be agreed to.

The new model is causing serious problems in New South Wales. It has seen a dramatic increase in the number of judge-alone trials. Indeed, it has been of such serious concern that the Acting DPP in New South Wales, Mr Ian Temby, has indicated his concern at the sudden increase in judge-alone trials and has advocated a return to the Crown veto model.

Furthermore, he has specifically alluded to the ACT experience and has suggested that the large number of judge-alone trials in the ACT has led to a loss of confidence in the criminal justice system in the territory as a result. That is the New South Wales Acting Director of Public Prosecutions' position in relation to the model proposed by Mrs Dunne.

It is for that reason that the government will not be supporting it. It will, at best, maintain the current rate of election for judge-alone trial. It will not reduce it. It will entrench it. It will entrench the status quo. So for the Liberal Party to claim that they are interested in the prospect of increasing the role of juries in our criminal justice system and then to propose those amendments simply highlights that they are not in any way being sincere.

The government's proposal is to provide for juries to be the central finders of fact when it comes to serious matters such as murder, manslaughter, other offences involving the death of a person and sexual offences. These are matters which are overwhelmingly about findings of fact. And there is no doubt that juries can and do perform this function extremely well. The evidence provided by the ANU in a submission to the scrutiny of bills committee confirms this point.

Mr Seselja has criticised the government for not including other offences such as terrorism. Prosecutions in Australia in relation to terrorism-related offences have overwhelmingly been conducted under commonwealth law. And what is the requirement for trial in relation to offences under commonwealth law? It is a jury trial. Indeed, the trials that have been conducted in Melbourne and Sydney have been jury trials under commonwealth law.

Indeed, it would be the expectation that, because of the nature of the investigation which crosses state borders in relation to terrorism offences and the investigation that occurs by the Australian Federal Police using its national powers, those offences will continue to be overwhelmingly prosecuted under commonwealth law. Of course, the constitutional requirement is that charges made under commonwealth law and the federal statute are heard by a jury. So the suggestion that this is some weakness in the ACT law is really a furphy.

Let me then return to the important substance of this bill. This is not about conviction rates. The government has been very clear about that from day one. Indeed, there is no evidence to suggest that if the number of trials that have occurred in the territory before a judge alone and that have resulted in acquittal had been conducted by a jury there would have been any change in that acquittal rate. There is no suggestion by the government about that. Those are matters for the court to determine.

But what is important is that where a decision and a finding of fact are made by a jury of 12 citizens, whether it is an acquittal or whether it is a finding of guilt, the community responds in a manner that vests greater confidence in the criminal justice system. There can be no assertion that it is the view or the opinion of just one judge. It is 12 citizens, 12 fellow citizens, who have been asked to make that judgement.

This is fundamentally what this bill is about. If someone is charged with murder or manslaughter or a sexual offence, a jury will be asked to determine questions of fact. A jury will be asked to apply a community standard to the behaviour of the accused and to make a judgement about that and then to find whether or not that person is guilty or innocent. And that adds great legitimacy to the criminal justice process.

It is, I think, time to restate the importance of juries in the criminal justice system in the territory. It is not acceptable to have the high rate of judge-alone elections that currently occurs, and this bill today is an important step in restating that fundamental role of the jury. I commend the bill to the Assembly.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail stage

Bill, by leave, taken as a whole.

MRS DUNNE (Ginninderra) (10.49), by leave: I move amendments Nos 1 to 7 circulated in my name together *[see schedule 3 at page 2556]*.

There are seven amendments here. There is one substantive amendment, which I will speak to, and a number of consequential amendments. I have moved them together on the advice of the Clerk's office that this was the appropriate way to do it. Also, there was substantial warning of them in that members of the Assembly have had these amendments since Tuesday morning.

What the Canberra Liberals propose to do with these amendments is to create a better system which better reflects the needs of the community in relation to jury trials. This model is a model which is used in Western Australia where the court decides, on application by either side, as to whether the trial will be conducted before a judge alone or before a jury and that the election must be made before the identity of the trial judge is known. It would allow the Supreme Court to make an order for a judge-alone trial if it considered to be in the interests of justice to do so.

In making the order, the court can consider if a trial, through length or complexity, would be unreasonably burdensome or there was a likelihood of the jury being tampered with. The court may also refuse to make the order if it considers that the trial will involve factual issues that require the application of objective community standards on a range of issues such as reasonableness, negligence, indecency, obscenity or dangerousness. The process that is being proposed by the Canberra Liberals here today relates to all indictable offences, not just a select list.

Mr Assistant Speaker, I have to reinforce something again because the Attorney-General has done what I predicted he would do. He has attempted to verbal the Canberra Liberals. I will put it on the record again, as we did in May in relation to his attempts to change the approach to jury trials then: the Canberra Liberals believe in the paramountcy of jury trials. Jury trials have been part of our legal system since the end of the 13th century and we believe that they should continue to be so.

Since 1993 in the ACT it has been possible to elect for a judge-alone trial. The problem that we have with the ACT system is that this is an election where only one person has any say, and that is the accused. Once the accused can satisfy the court that he understands the process and he has made this decision independently, there is no impediment to any person to elect.

Even after this legislation passes today, for a range offences outside those involving death and those involving sexual offences, including inflicting grievous bodily harm, aggravated burglary, aggravated robbery—a whole range of things which have quite substantial penalties attaching to them—there is still the same, almost identical, capacity to elect with no gate, no check or balance.

I was discussing the proposal that is being put forward by the Canberra Liberals with my colleagues the other day. Mr Hanson actually said, "So what this means is that accused have to apply." Actually, that is the very simple way and very straightforward way of looking at it. I thought it cut through all the nonsense.

With this proposal an accused may apply. Also, the prosecutor may apply. But what they do is they apply and they put a position to the court. The court makes a decision in the interests of justice. So for the most part, keeping in mind that section 68A of the Supreme Court Act says quite clearly that there is primacy for a jury trial, the predisposition of the court must be for a jury trial under this process. As a result, there will be occasions when there may be an election for a judge alone, but they would be rare.

For instance, in Western Australia less than three per cent of trials are judge-alone trials using this system. Actually, I think it is 2.4 per cent from memory on the figures provided by the Attorney-General. It was interesting, of course, that the Attorney-General said that they have done something like this in New South Wales and that Mr Temby, who is a very experienced lawyer, is concerned about this. But actually what is being proposed here tonight is not what happens in New South Wales. There are differences.

The Canberra Liberals' amendments would allow either the accused or the prosecutor to seek an election for a judge-alone trial and allow the Supreme Court to make an order for a judge-alone trial if, as I have said before, it is considered to be in the interests of justice. They have to take into consideration things like the length and the complexity of the trial being burdensome for a jury or the likelihood of a jury being tampered with.

I think that Mr Seselja made a very good case with the example that he gave. We have had situations in the ACT where there have been murder cases which have involved members of organised crime gangs. In the particular case he mentioned, it was bikie gangs. It could reasonably arise that in those circumstances, with the involvement of organised crime, juries could be tampered with. There could be intimidation. You only have to intimidate one or two people and you do not get a verdict.

It could be reasonable in particular cases for, say, the prosecution to say to a judge, "I do not think that it is reasonable to subject a jury to the dangers of that sort of intimidation and risk a mistrial." All you have to do is intimidate one or two people. You do not have to go after everybody. These are serious considerations, but at the same time there is plenty of scope for the court to refuse this order because the amendment quite clearly says that the court may refuse if it considers the trial will involve factual issues that require the application of objective community standards on a range of issues.

I do want to draw the attention of the Assembly again to the views of the human rights commissioner, who expressed views about the government's proposal this week. The human rights commissioner said that she was concerned about the propensity for there to be a permanent stay in proceedings under jury trials in particular. She said in relation to this:

> The bill may be arbitrary in nature by requiring that a jury trial must proceed for all offences involving death or sexual assault, even where the Director of Public Prosecutions would agree with a judge alone trial. This has the potential to needlessly delay bringing criminal matters to trial, at a time when the Supreme Court is suffering well-documented waiting lists already. Delay in criminal proceedings, particularly in circumstances where the accused is remanded in custody, engages the right to a fair trial, as well as liberty and security of the person (s.18) and other rights in criminal proceedings (s.22).

The human rights commissioner went on to say:

> Judge-alone and jury trials are not equally susceptible to permanent stays of proceedings due to adverse media attention. It appears to be generally accepted that judge-alone trials are less susceptible to adverse media comment unfairly

> prejudicing the accused. This would seem particularly so in the ACT, where the Supreme Court includes visiting judges from the Federal Court. That is not to say that juries are automatically unfairly prejudiced by media reports.

Then she goes on to say:

> Stevens CJ of the New South Wales Court of Criminal Appeal has championed the ability of juries to disregard matters reported in the media, a position which has been strongly supported by judicial officers in Australia …

But the commissioner recommends, on balance, that a less restrictive approach be taken to allow judge alone trials to proceed, rather than the blanket approach. *(Second speaking period taken.)*

The commissioner concluded by recommending that a less restrictive approach be taken to allow judge-alone trials to proceed, rather than the blanket approach in the bill. She said:

> I am not opposed granting discretion to courts as is required in other jurisdictions, such as NSW, WA and Queensland, based on 'the interests of justice', with non-exhaustive factors such as significant pre-trial publicity, the complexity or length of a trial factual issues requiring the application of objective community standards etc.

So essentially the human rights commissioner has come down in favour of an approach like that in New South Wales, Western Australia or Queensland using almost the same language, unprompted, as is used in the Canberra Liberals' amendments. The substantial amendment, being amendment No 2, sets out all of these things which I have spoken on at length. As I have said, amendments Nos 1 through to 7 are consequential upon that amendment.

I commend this approach to the house because it is a better approach than that purported by the government. It has wide-scale support from the legal fraternity. In my consultations and discussions across the community with practitioners on both sides of the bar table, I have had wide-scale support. It is interesting that although the Attorney said that there was a diversity of views put forward, if the Attorney had bothered to sit down and talk with these people they would say, "Yes, our preferred position is X, but if we cannot have X, we would think about Y or Z." If the Attorney was actually serious and wanting to come to a community consensus, he could have actually heard a very much different story from the story that he says that he heard, which was a cacophony of disunity.

There is a hollow level of unity on this matter. First and foremost, there is furious agreement about the primacy of jury trials. No-one disputes that. The community wants to see the restoring of jury trials as the rule, not the exception. The community is not satisfied with more than half of our indictable offences being tried by judge alone. But at the same time, there are exceptional circumstances—exceptional circumstances. We want to see a change in the ACT so that only a small proportion of offences are tried by judge alone, but we need to have that propensity, that capacity.

The risk is that if we are in a situation where we must have a jury trial, in a small community like the ACT, the potential for a stay for a lengthy period or a permanent stay is quite significant. Mr Rattenbury said one per cent. One per cent is significant and if the person who is waiting for that matter to be dealt with happens to be incarcerated, that is even more troublesome. These were the points made by the human rights commissioner. If we have a blanket approach proposed by Mr Corbell, the potential for stay, either long-term or permanent, is significant.

We are a small community. It is not like New South Wales where you have a notorious case in Batemans Bay or somewhere like that and you can move the matter to Sydney. We are not like that. We do not have that capacity. We are a small, landlocked community. We have one court system. We do not have the capacity to move trials around to allow for a fair trial.

These are all serious considerations that have not been given any attention by this Attorney. I commend the amendments to the house. They have the support of a wide cross-section of the community in the legal fraternity in the ACT and the support of the human rights commissioner.

MR CORBELL (Molonglo—Attorney-General, Minister for the Environment and Sustainable Development, Minister for Territory and Municipal Services and Minister for Police and Emergency Services) (11.05): The government will not be supporting the Liberal Party's amendments because, fundamentally, the Liberal Party's amendments entrench the status quo. They achieve the same outcome that has been achieved in New South Wales: the use-your-discretion model, which has seen an increase in the number of judge-alone trials in New South Wales.

Let me deal with some of the specific elements of Mrs Dunne's amendments. Mrs Dunne suggests, for example, that a reason for a judge-alone trial could be that juries will be unreasonably burdened. There might be lengthy and complex material, which is likely to be unreasonably burdensome for a jury. I just find this attitude patronising—to suggest that ordinary citizens will be burdened with complicated information that only lawyers and judges can understand. There is plenty of literature and analysis around this that makes it very, very clear that juries are capable of understanding complex and difficult concepts and evidence.

Indeed, the presence of a jury requires the different sides in the case to actually present the material in a manner that juries understand. In that respect, it increases the transparency of the criminal justice process because it requires prosecution and defence to explain these matters clearly in a straightforward manner and it improves the public's understanding of the issues that are in contest in a trial. So it is a good thing to have the presence of a jury there dealing with these complex matters. I do not accept that because a trial is going to be long or because evidence is going to be complex that disqualifies ordinary citizens. But that is the suggestion we have from Mrs Dunne.

Equally, we have the suggestion that there might be a risk of jury tampering and that if there is a risk of jury tampering we should just avoid that from the outset by not

having a jury. No, the government does not agree. If there is jury tampering, the remedy is to discharge that jury and to start again. It has been a perfectly satisfactory remedy in those jurisdictions that do not have judge-alone trial. It works perfectly well for all commonwealth offences. It works perfectly well in those other jurisdictions like Victoria, where jury trials are the only method of trial available. If there is jury tampering and if the jury is so compromised that it cannot reach an impartial decision, it is discharged.

But the fact is that these circumstances are extremely rare. They do not occur as a matter of course. They are rare and there is a remedy. So to suggest that the solution is simply to do away with the jury because there might be—not "there is"—the prospect of jury tampering is just silly. It is just silly.

The other proposal from Mrs Dunne is that there should be an application of community standards, that the court should have regard to whether or not there is a need to determine the application of community standards. I think this defeats the purpose of requiring a jury trial for these matters. Mrs Dunne is saying that the judge will decide whether there is a need to apply community standards in determining whether or not there should be a jury trial. No, the requirement is that the jury should be present to apply the community standard, not for the judge to decide whether or not community standards need to be applied. For all of those reasons, the government does not support the Liberal Party's argument.

I turn to the issues that Mrs Dunne raises in relation to the comments of Dr Watchirs. Dr Watchirs has argued that the bill may be arbitrary in nature by requiring that a jury trial must proceed for all offences involving death or sexual assault. No, it is not arbitrary. There is no right to a judge-alone trial. It is an added option. The right is to a fair trial, and the norm in the Australian context and the common law context is for a trial by jury. So it is not arbitrary. It is the norm.

Secondly, it is worth highlighting, of course, that the only other human rights jurisdiction in Australia with its own statutory protections under a human rights act is Victoria, and they require all trials to be heard with a jury. So the government does not agree with that argument. Equally, Dr Watchers has argued that limiting the rights of a judge-alone trial would needlessly delay bringing criminal matters to trial at a time when the court is suffering well-documented waiting lists already.

I would simply make the point that you may have a trial conducted more quickly with a judge alone. You may. That may occur. But I would draw to members' attention the fact that inevitably in those circumstances the judge reserves their decision because in judge-alone you have to have written reasons for the verdict, and that can take months.

But to suggest that jury trials are slower is, I think, wrong. With a jury trial you get a verdict promptly. Once the hearing is completed, the jury retires to consider the evidence and to determine its verdict. It is in fact quicker than a judge-alone trial; so I think that argument is wrong.

Finally, all of these issues, I think, are well summed up in the comments of Chief Justice Stevens in the New South Wales Court of Criminal Appeal. He says:

> … the system of jury trial is geared to enable juries to be assisted in every possible way to put out of mind statements made outside the court …

I say, just as an aside, that Mr Rattenbury has dealt, I think, quite well with the issues about protections for fair trial in the range of matters he outlined in his speech in principle, and the government concurs. I go back to what Chief Justice Stevens says:

> … the system of jury trial is geared to enable juries to be assisted in every possible way to put out of mind statements made outside the court, whether in the media or elsewhere. There is every reason to have confidence in the capacity of juries to do this. Judges do not have a monopoly on the ability to adjudicate fairly and impartially.

I repeat what he said:

> Judges do not have a monopoly on the ability to adjudicate fairly and impartially. Every Australian worthy of citizenship can be relied upon to discharge properly and responsibly his duty as a juror.

I note that Chief Justice says "his" but of course it is "his" or "her". He goes on to state:

> Particularly is this so in the context of being one of a number or group of others all similarly charged with this responsible duty. I have great faith in the multiple wisdom and balance reflected in the verdict of a jury.

The government concurs, Mr Assistant Speaker. For these reasons, the Liberal Party's proposals will not be agreed to by the government today. It will simply result in a continuation of the status quo with a high rate of election for judge-alone trials. It will only contribute further to undermining community confidence in the criminal justice system, a confidence that can be enhanced with a reassertion of the vital role of juries at the centre of the most serious matters that a person can be charged with.

MR RATTENBURY (Molonglo) (11.14): As I alluded to earlier, the Greens will not be supporting the amendments proposed by Mrs Dunne. We do understand the issue that the amendments seek to address. However, the difference is that we believe there are five existing checks and balances that are already in place that adequately address the issue, as I outlined earlier, and I do not intend to go over them again at this point, particularly given the hour of the night.

I would, however, like to reiterate that we believe those checks provide confidence for the changes that this bill seeks to make. We do believe that a dispassionate and unbiased jury will be able to be found in the ACT. In that context we believe Mrs Dunne's amendments are unnecessary.

We also have a concern that every time an additional application process is built into the law it raises the prospect of appeals and unintended consequences. Ironically, the 1993 reforms are an example of the unintended consequence. What was done with the intent of allowing at most a handful of judge-alone trials in actual fact resulted in 56

per cent of trials proceeding as judge alone. So the Greens have assessed Mrs Dunne's amendments in light of the existing checks and balances and the prospects of appeals and unintended consequences. At the heart of it, we understand the issue that Mrs Dunne is seeking to address. We just believe that the proposal is not necessary at this time.

I have spoken at length today about prejudiced juries and how the courts deal with that issue. That said, Mrs Dunne's amendments do cover another potential ground that may give rise to the need for a judge-alone trial. This is the scenario where the complexity of the trial or its length are beyond the capacity of a jury. The Greens have an issue with the premise of this ground that has not received as much commentary as the pre-trial publicity issue.

Having jury trials in place ensures that, however complex the law and however detailed it has become over the years, it is still able to be distilled into a format that is understandable by non-lawyers. This is another important aspect of jury trials. It guards against the prospect of runaway laws that have become so divorced from common principles and understanding that they are incapable of being explained to non-lawyers. This should be guarded against and jury trials, we believe, play an important part in guarding against it.

Justice Deane, when sitting on the High Court bench in a 1985 case, made compelling arguments in support of this principle. The case was Kingswell v the Queen. Justice Deane said:

> Trial by jury also brings important practical benefits to the administration of criminal justice. A system of criminal law cannot be attuned to the needs of the people whom it exists to serve unless its administration, proceedings and judgments are comprehensible by both the accused and the general public and have the appearance, as well as the substance, of being impartial and just. In a legal system where the question of criminal guilt is determined by a jury of ordinary citizens, the participating lawyers are constrained to present the evidence and issues in a manner that can be understood by laymen. The result is that the accused and the public can follow and understand the proceedings.

I think those observations by Justice Deane are very significant in the context of the discussion that we are having.

I promised to be brief and I intend to stick to that. I simply say in conclusion that I understand that Mrs Dunne's amendment has support from some of the profession and that the Greens' decision will not be welcomed by all. However, as I have said previously, reform in the justice portfolio is made up of differing views. It is the job of members of the Assembly to listen to all sides of the issue and make a decision based on the evidence.

I think it is instructive at this point to touch on the advice from the human rights commissioner which Mrs Dunne spoke about. I acknowledge that the commissioner concludes by saying that "on balance I recommend that a less restrictive approach be taken". What is interesting, though, in that judgement is that she says "on balance". With respect to the email that she sent, interestingly, it was forwarded to us, despite

Mrs Dunne's suggestion that we are not talking to the legal profession. I would be fascinated to know where she got that from, but that is for another day. The actual advice, I think, highlights the competing arguments here. It does highlight the comment from Justice Besanko in the Queen against Fearnside in which he notes:

> It might be said that it will be a surprising conclusion that a trial by jury would not secure to all accused persons a fair hearing by a competent, independent and impartial court. Furthermore, a jury trial would not result in an unfair hearing for the purposes of section 21(1) of the Human Rights Act.

This highlights the fact that there is a balance; there is an open question here and it is a matter of judgement to come down on one side or the other. I think I have set out that judgement. My earlier comments around the competing conclusions drawn by the Australian National University and the University of Canberra highlight the tensions here. But I believe that I have set out why the Greens have drawn the conclusion we have and why we will not be able to support the amendments put forward by Mrs Dunne today. We do not support them because we think they are unnecessary and that there are adequate processes already in place and in the laws that cover the situation that is sought to be addressed.

Question put:

> That **Mrs Dunne's** amendments be agreed to.

The Assembly voted—

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

Question so resolved in the negative.

MR ASSISTANT SPEAKER (Mr Hargreaves): The question now is that the bill, as a whole, be agreed to.

MRS DUNNE (Ginninderra) (11.23): The Canberra Liberals are now in a position where we cannot support this bill because, as Mr Seselja has rightly said, the reforms proposed by Mr Corbell get it wrong at both ends. They have a blanket prohibition at one end and really maintain the status quo at the other.

As the human rights commissioner and the Chief Justice have said, the distinction between those which fit into one category or the other is entirely arbitrary. It does not have anything to do with the severity of the crime or the penalties associated with it. I put on the record and firmly predict that the attorney will attempt to verbal the Canberra Liberals in the community, but he will do so at his own peril.

Members of the community recognise the work that has been done by the Canberra Liberals in listening to the legal community and trying to ensure that community standards are properly reinstated in relation to jury trials. I predict that we will continue to have problems and the attorney will be forced to return to this place and fix the mess that he has created today. If he does not, after 2012 the Canberra Liberals will.

Question put:

> That the bill, as a whole, be agreed to.

The Assembly voted—

Ayes 11		Noes 6	
Mr Barr	Mr Hargreaves	Mr Coe	Mr Smyth
Dr Bourke	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			

Question so resolved in the affirmative.

Bill, as a whole, agreed to.

Standing and temporary orders—suspension

MR CORBELL (Molonglo—Attorney-General, Minister for the Environment and Sustainable Development, Minister for Territory and Municipal Services and Minister for Police and Emergency Services) (11.27): I move:

> That so much of the standing and temporary orders be suspended as would prevent order of the day No 4, Executive business relating to the Administrative (One ACT Public Service Miscellaneous Amendments) Bill 2011, being determined during this sitting.

As foreshadowed at the government business meeting last week, the government indicated that we intend to declare this bill urgent or seek to exclude it from the operation of the standing orders in relation to the periods for sitting on the table, to allow it be debated cognately with the Public Sector Management (One ACT Public Service) Amendment Bill. The bill is technical and provides for the implementation of the effect of the public sector management bill through a range of technical amendments. I commend the motion to the Assembly.

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

Public Sector Management (One ACT Public Service) Amendment Bill 2011

[Cognate bill:
Administrative (One ACT Public Service Miscellaneous Amendments) Bill 2011]

Debate resumed from 5 May 2011, on motion by **Ms Gallagher**:

> That this bill be agreed to in principle.

MADAM ASSISTANT SPEAKER (Ms Le Couteur): I understand it is the wish of the Assembly to debate the Public Sector Management (One ACT Public Service) Amendment Bill 2011 cognately with the Administration (One ACT Public Service Miscellaneous Amendments) Bill 2011. That being the case, I remind members that in debating the Public Sector Management (One ACT Public Service) Amendment Bill 2011, they may also address their remarks to the Administration (One ACT Public Service Miscellaneous Amendments) Bill 2011.

MR SESELJA (Molonglo—Leader of the Opposition) (11.29): Does that mean that I get 40 minutes to respond? Do I get to speak for 20 minutes on each?

MADAM ASSISTANT SPEAKER: I fear not, Mr Seselja.

MR SESELJA: The opposition will be supporting this bill. The bill, as outlined by its explanatory statement, proposes to allow for the following: create a single ACT public service entity comprising directorates; establish the head of service role responsible for whole-of-government matters, employment matters and organisational structure matters; rename the chief executive as director-general, with continued ongoing management of the respective government agency; and provide consequential amendments to the Public Sector Management Act to reflect the new role of the head of service and new offices in a single entity structure.

In effect, this bill is expected to realise the single entity structure for the ACT public service that is recommended by the *Governing the city state: one ACT government, one ACT public service* report by Dr Allan Hawke. Consequently, the Public Sector Management (One ACT Public Service) Amendment Bill 2011 and the Administrative (One ACT Public Service Miscellaneous Amendments) Bill propose machinery-of-government changes, and the Canberra Liberals will not be opposing them.

Of the 76 recommendations put forth in the report in February this year, this bill seeks to address the recommendations for a more aligned and better operating administrative structure. The former Chief Minister said when tabling this bill:

> The focus will not be on the achievements and results of individual directorates. Success will be measured by what the whole of the ACT public service can achieve.

In the end it is up to the government to structure its administrative arrangements as it sees fit. In the end, what will matter is how well it manages them, what kind of leadership is delivered and whether we get better outcomes. There is nothing particularly objectionable about these changes. They may well make some improvements.

The one interesting thing to note that came out of the briefing was when we discussed some of the detail around how it would work, how it would change things. It certainly does in the technical legal sense give more power to the Chief Minister and to the head of service. That is neither a good nor a bad thing in and of itself; it is how well that power is used that will be the key. These machinery changes are really just a small part of any real reform. The real reforms will come in structure and in culture and leadership. But we have no objections to the bill as it is drafted.

MS HUNTER (Ginninderra—Parliamentary Convenor, ACT Greens) (11.32): The Greens will be supporting these bills, but I would like to take the opportunity to make some general comments about the proposed reforms inspired by the Hawke review.

In principle the Greens very much agree with the concept of bringing the public service together to make it more efficient, with greater collaboration and a better use of resources. It must be said that the amendments alone will not do this. While they facilitate a change in the legal structure of the service to some degree, cultural change and the practical application of the new approach is what will make the difference.

A whole-of-government approach is important on a range of issues and I hope these changes will facilitate this. Issues like housing affordability and homelessness, the 40 per cent greenhouse gas emissions reduction target and the transition to a green economy as well as more general issues like effective community engagement will depend on all the directorates being able to work together to provide solutions.

There has been much criticism around the existence of silos, and I know from my experience in the community sector that you often get very different answers depending on who you are dealing with. As I said, cultural change will be essential. The problem of silos, I think, is now well recognised, and opening this up and obliging engagement with other parts of the public service will be absolutely essential if the government is to be able to deliver broad policy objectives and align the stated aims with realised outcomes.

On that point, we do now have a very large range of broad plans, policies and strategies in some areas, particularly higher level ones that have few tangible outcomes. On the other hand, of course, it has been very difficult to get plans and strategies on key issues such as waste. But I understand that Mr Hargreaves's support for Collingwood has spread throughout his colleagues and all will come good in the fourth quarter this year.

These are important strategies and I do sincerely hope that increased collaboration between directorates will lead to better outcomes. This is a sensible basis for reform and there is a logical argument for the proposals that the Greens are happy to accept.

There are a couple of particular issues I would like to mention. One issue that the Greens have raised with the Chief Minister is that of transferring some parts of the parks service and other biodiversity experts back into the environmental sustainability directorate—more specifically, shifting the rangers and other non-urban park managers, as well as the weeds and pest team, into a section with other biodiversity specialists in the old DECCEW.

The rationale for this is linked somewhat to concerns that have been raised around the parks service about low morale and a lack of an integrated service. Many of the people that are employed to look after our nature parks and national parks are highly skilled in areas of ecology and biology, yet we are missing the opportunity to get the benefits of that experience in the development of policy. The government has already decided to move the research and planning section that will support the conservator into the environmental sustainability directorate. We are simply recommending that they do the same with the other biodiversity experts that are currently located within what is effectively a town council directorate. That way we can close the feedback and implementation loops between those who are writing policy and those who are implementing it out in the parks—our rangers and weed and pest managers.

One great example over the past couple of years that demonstrates why this could be useful is to do with the management of our grasslands. When the commissioner released her grasslands report a couple of years ago, some of the problems identified with current management were that urban parks people and subcontractors were involved in the mowing of grassland areas. Mowing might sound like a simple task, but when mowing is part of grassland management it requires care—care that it is done at the right time and done with machinery that will not spread weeds into the area.

There are a whole range of issues that are different from the mowing that takes place in our urban parks. A specialised grasslands ranger or manager would be better placed to ensure that these special requirements are put in place. They would also be better placed to assess the status of the grassland and make decisions about management, and also feed this into ongoing monitoring and into policy development. This is just one small example of the opportunities we are missing; there may well be others.

We are still waiting to hear if the government can and will implement this change. We think that they agree that there is some merit in the idea. We would encourage them to do it now as the directorates are settling into their new structures. The government have a great opportunity here to build a team that can deliver integrated natural resource management, something the ACT desperately needs.

On the details of the bill, we are satisfied with the proposed structure of the public service and powers that are being given to the head of service as well as the other administrative arrangements being created by the provisions of the bill.

In relation to the miscellaneous amendments bill, the Greens have no issue and agree to the name changes throughout the statutes and instruments proposed.

The one comment I would like to make is in relation to the Henry VIII clause in proposed new section 281 of the Public Service Management Act proposed by the miscellaneous provisions bill. These types of clauses are not uncommon and do have their place. That said, the parliament should of course always be aware that it is potentially allowing the delegated decision maker to amend a determination of the parliament and be clear about the scope of the power that it is delegating.

This provision is noteworthy in that it allows for the amendment of all territory acts and instruments, the limitation being that it must be necessary or convenient to give effect to the one public service act, which is the other bill that we are cognately debating. In that context, it is perhaps lamentable that there is not an explicit objects clause to give a more explicit statutory basis upon which to make a decision as to whether or not the regulation is necessary or convenient. That point noted, I think it is probably sufficiently clear from the clauses themselves what is the nature of the change that bill is seeking to give effect to—and the obvious desire and manifest necessity to maintain the ongoing legal basis for everything the public service does.

Those points noted, the Greens accept that this is a reasonable provision, given the potential for something like an incorrect name to frustrate a legitimate legal proceeding or decision of the executive. It is a noteworthy provision; however, given the scope of the changes and the associated risks if anything has been missed, the Greens agree to the need for it to ensure that nothing unintended happens as a result of the changes.

The Greens will support these bills.

MR CORBELL (Molonglo—Attorney-General, Minister for the Environment and Sustainable Development, Minister for Territory and Municipal Services and Minister for Police and Emergency Services) (11.39): Madam Assistant Speaker, it has been drawn to my attention that the Assembly has not suspended the standing orders in relation to the 11 o'clock rule. Following discussion with the manager of opposition business, I now seek leave to move a motion to suspend standing order 76 for this sitting.

Leave granted.

MR CORBELL: I thank members. I move:

> That standing order 76 be suspended for the remainder of this sitting.

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

MS GALLAGHER (Molonglo—Chief Minister, Minister for Health, Minister for Industrial Relations and Treasurer) (11.40), in reply: I thank members for their comments in relation to both of these bills. On 16 May I made new administrative arrangements that represented the next stage of implementing the government's decision announced on 24 March 2011 by the former Chief Minister, Mr Jon Stanhope, that we would establish a single entity structure for the ACT public

service under a single head of service. The bills we are debating today give formal effect to that structure and I thank the Assembly for its agreement to debate them cognately.

Under the single entity structure the former departments are replaced by a single unified ACT public service comprised of administrative units called directorates, each headed by a director-general and reporting to a single head of service. The majority of the legislation before us today simply reflects the new names of these directorates and directors-general.

On the matters of substance, the Public Sector Management (One ACT Public Service) Amendment Bill 2011 will formally establish the single entity ACT public service, creating the office of the head of service and prescribing the functions of the new office. The amendment will also prescribe new functions for directors-general in relation to the administrative unit under their responsibility and in relation to their responsibilities to their relevant minister and the head of service.

It is important to keep in mind that the day-to-day accountabilities and responsibilities of directors-general for the operation of their directorates to their portfolio minister is unaffected by these changes.

The head of the service will be established by the inclusion of a new division in the act. This will enable the Chief Minister to engage a head to manage the service, develop and implement whole-of-government strategies, provide advice and reports to the executive about whole-of-government issues, coordinate activities and outcomes across service units, direct service units in relation to critical or potentially critical issues, approve the structure of service units, manage the employment of members of the service, and manage the exercise by directors-general of their functions. The bill also provides for the head of service to perform any other function given to them by the Chief Minister or by a territory law.

The head of the service will formally take on the employment functions previously undertaken by chief executives and the Commissioner for Public Administration. This rightfully reflects the head of service's responsibility for the management of the employment of members of the service. In practice, these functions formerly given to the commissioner, in relation to approval of the creation of new executive positions, for example, will be managed by the Deputy Director-General in the Chief Minister and Cabinet Directorate, who is also appointed as Commissioner for Public Administration, but not in that capacity. This properly reflects the head of service role.

The commissioner's role is realigned but will maintain the role as a "check" on decision making where vesting all employment powers in the head of service has the potential to create a conflict of interest. The commissioner also retains responsibility for resolution of grievances, authorisation of management standards, sponsorship of employee diversity programs and public sector values and ethics.

Directors-general will be engaged by the head of the service in consultation with the Chief Minister and the relevant minister. A director-general will, under the relevant minister, be responsible for the stewardship of their directorate, providing advice and

reports to the minister on matters relating to the directorate and implementing, at the direction of the head of service, whole-of-government strategies and responses to critical or potentially critical issues, consistent with the new single entity structure.

The Administrative (One ACT Public Service Miscellaneous Amendments) Bill 2011 contains the relevant and necessary consequential amendments required as a result of the introduction of the office of the head of service and the changes in terminology. Whilst largely uncontroversial, these amendments are wide reaching, affecting some 178 other pieces of legislation across the ACT public service statute book.

The miscellaneous amendments bill also contains particular transitional amendments for the Public Sector Management Act 1994 and the Children and Young People Act 2008 to ensure a smooth implementation of the single entity structure, for example by providing for matters or actions taken or commenced by a chief executive prior to 1 July 2011 to be continued or to be considered to have been taken by a director-general following commencement of the one ACT public service and miscellaneous amendment bills.

Given the importance and the extent of the chief executive's power, in particular under the Children and Young People Act for care and protection matters, the purpose of this amendment is to prevent, as far as possible, any unintended consequences arising as a result of the transition to the new structure.

These amendments represent the government's intentions for the future of the ACT public service. The introduction of the single entity structure is quite simply the first step or the laying of the foundations for the most significant refocusing of the ACT public service since its inception.

Fundamentally these bills provide a new model of operation for the ACT public service to meet the needs of the government and the community into the future, the implementation of which will be ongoing and will require significant ongoing operational and cultural change management.

As stated in my presentation to the Assembly on Tuesday in relation to the government's priorities, I am confident that the new structures we have established will assist in delivering the levels of coordination and alignment of effort behind identified priorities that the government and the people of Canberra expect. They will eliminate some of the inconsistency that recipients of our services have properly criticised in the past and foster greater cohesion and coherence in what our public service does. This will be reflected in a greater consistency in the community's dealings with the government and the public service.

If the government is to deliver its priorities for the community, we need a public service that is united in its pursuit of a common purpose and works in genuine partnership with groups in the community with whom, and to whom, it provides services. We need a public service that makes the most of its small size and works together in a genuinely agile, collaborative and cooperative way.

Our efforts in pursuit of these goals will be buttressed by an enhanced focus on ensuring the ACT public service workforce has the right skills, capabilities and capacity to deliver what the government and the community ask of it. They will be enhanced by a greater focus, under the head of service, on proactively managing and developing the ACT public service workforce over time.

As I indicated earlier, these formalise the single agency structure for the ACT public service that will be central to its capacity to continue to provide high quality services to the people of Canberra and advice and support to the government of the day.

In conclusion, I would like to thank the staff of the Chief Minister and Cabinet Directorate who have worked very hard on getting these bills together and on working on the details since the government announced these changes. I would also like to thank members for agreeing to treat these bills as urgent and work with the government over the last couple of days to deal with the briefings that have been required. I really genuinely do appreciate it.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

Administrative (One ACT Public Service Miscellaneous Amendments) Bill 2011

Debate resumed.

MS LE COUTEUR (Molonglo) (11.48): As Ms Hunter indicated, the Greens are in support of the Hawke reforms and the subsequent amendments. However, I would like to draw the Assembly's attention to page 184 of the Hawke report where he states:

> The operation of these sections of the Planning Act mean that legislative change will likely to be necessary to implement fully either of the options proposed below. Alternative approaches involving a combination of Ministerial Directions, Cabinet processes, administrative coordination processes and, in effect, "outposting" ACTPLA staff might be undertaken in the interim, but this approach is not preferred. They are administratively complex and do not engage the fundamental and underlying rigidities in the Planning Act. Nor do they serve to reinforce the line of delineation between independent decision making on Development Applications and matters of Government policy.

The reason I draw the Assembly's attention to this is that the Greens think that there is an appropriate role for politics in planning. I will miss Mr Barr's commentary on this. We have debated at length that the role for politics in planning is in policy; it is not in DAs. I think it is important that with the administrative changes we continue to have

the independent assessment of DAs and that we do not, because we have now moved it all into one big government directorate, lose one of the pluses of the independent system, that of an independent chief planning executive. I understand that this position is now also the position held by the Director of the Environment and Sustainable Development Directorate.

The Greens are very much in favour of the concept of moving planning, transport and all the other physical things together. We do not oppose this in any way. We just draw the Assembly's attention to this potential problem.

Bill agreed to in principle.

Question resolved in the affirmative.

Leave granted to dispense with the detail stage.

Bill agreed to.

Orders of the day—postponement

Motion (by **Mr Corbell**) agreed to:

> That orders of the day Nos 5, 6 and 7, Executive business, relating to the Planning and Building Legislation Amendment Bill 2011, the Gaming Machine (Club Governance) Amendment Bill 2011 and ACT light rail—Proposal to Infrastructure Australia, be postponed until the next sitting.

Bimberi Youth Justice Centre—human rights

MR CORBELL (Molonglo—Attorney-General, Minister for the Environment and Sustainable Development, Minister for Territory and Municipal Services and Minister for Police and Emergency Services) (11.51): I move:

> That the resolution of the Assembly of 8 December 2010 that required the Attorney-General to direct the Human Rights Commissioner to undertake a comprehensive human rights audit into conditions of detention in Bimberi Youth Justice Centre and report to the Assembly by 30 June 2011 be amended by omitting the words "30 June 2011" and substituting "31 July 2011".

On 8 December last year the Assembly resolved to call on me as the minister responsible for the Human Rights Commission Act 2005 to direct the Children and Young People Commissioner to undertake an inquiry into the youth justice system in the ACT, including Bimberi Youth Justice Centre and Community Youth Justice and report to the Assembly by 30 June 2011, and to direct the human rights commissioner to undertake a comprehensive human rights audit into the conditions of detention in Bimberi Youth Justice Centre and report to the Assembly by 30 June 2011.

On 7 January 2011 I wrote to the Children and Young People Commissioner and the Human Rights and Discrimination Commissioner, directing the Human Rights Commission to conduct an inquiry in the terms set out in the Assembly resolution. I

advised that the inquiry was to report to me to enable me to present its report to the Legislative Assembly by 30 June this year.

The inquiry, headed by the Children and Young People Commissioner, has completed its hearings and examination of submissions and evidence and has produced a draft report. I understand that the draft report is a substantial one, covering a broad range of complex issues and incorporating a very large number of recommendations. The commission has only recently provided parts of the draft report to agencies for appropriate comment.

I am concerned that agencies should have a proper opportunity to verify the accuracy of material relating to their activities and make any appropriate comments to the commission to assist it in finalising its report. I am also concerned that agencies be able to properly address the matters set out in the extensive draft report and provide comments to the inquiry in time to allow those comments to be properly taken into account and allow me to table the final report.

This is an inquiry of considerable significance to the ACT community. Because of its significance, it is important that the final report accurately reflects the facts and circumstances it discusses. It is therefore my view, as the responsible minister and the minister making the reference to the commission, that the commission should be granted a further period of time to complete its report and, in particular, provide adequate time for government agencies to respond to the draft report with which they have been provided by the commission and ensure that the commission is able to consider those comments and take them into account as the commission sees fit.

Therefore, I am proposing in this motion that the reporting date for the inquiry be changed from 30 June this year to 31 July this year. I believe this will allow agencies adequate time to properly comment and for comments to be appropriately taken account of by the commission in determining its final report. Given that 31 July is a non-sitting day, I would propose that once the report is presented to me, either on or before that day, the report be made available to members out of session and subsequently tabled in the Assembly when the Assembly meets in August.

I regret that we are in this situation. It would have been desirable for the process of the commission's inquiry to be completed on the date originally specified by the Assembly. However, I believe it is equally important that where there has been a very short period of time for response by agencies who are directly affected by a large number of recommendations and findings in the commission's draft report, appropriate process is followed, an opportunity is provided for those matters to be responded to and for the commission to conclude its view on those matters and deal with the matter as it sees fit in its final report.

For that reason I am prepared to issue a direction to the commission, amending its reporting date. I do not—and I would like to put this on the record—expect and I will not accept requests for further extensions of time, given this proposal today. But I think in these circumstances this extension is reasonable and will provide for a detailed and complete report to be provided to Assembly members as soon as possible. I commend the motion to the Assembly.

MRS DUNNE (Ginninderra) (11.56): This is a very disappointing turn of events and it is worth noting that, by the minister's own admission, there was a month's delay between the passage of the resolution in the Assembly in December and the minister writing and commissioning this inquiry. From my perusal of documents that I obtained under the Freedom of Information Act—and it is already on the public record—I cannot now remember whether it was 21 or 31 January before the inquiry formally began. So there was a considerable delay of almost six or seven weeks, and maybe almost two months, between the resolution of the Assembly and the formal establishment of the inquiry. Now the Assembly and the community are being asked to wait.

I would also seek some guidance from you, Mr Speaker, about the status of the report between the time when it is presented to members of the Assembly and when it is tabled in this place in terms of privilege, whether the contents of the report can be promulgated. These are issues which were not addressed by the attorney in his comments and I am unclear as to the precise nature of the status of the report, if it is provided out of session in this way. I think that this is a matter that the attorney might address. I would be happy, if there is not a ready answer for that this evening, that we come back next week and finalise the matter.

MR SPEAKER: Mrs Dunne, I obviously do not have an answer for you straight away. I will look into it and I will perhaps have some informal discussions and report back to the Assembly next week as well.

MRS DUNNE: On that basis, I will move that the debate be adjourned.

MR SPEAKER: We cannot have a debate on this.

MRS DUNNE: We cannot debate it.

MR SPEAKER: You have spoken, Mrs Dunne. You cannot adjourn the debate.

MRS DUNNE: I seek leave to—

MR SPEAKER: No.

MRS DUNNE: No-one can answer the question: what is the status of the report? Does it attract privilege? I do not think it does. What can members do with the report, after they have read it, between 31 July when members would receive it and when it is tabled in the Assembly? The attorney did not address these issues. It is unclear what the status of the report would be. The attorney has not discussed this with anyone and he is unprepared.

MR CORBELL (Molonglo—Attorney-General, Minister for the Environment and Sustainable Development, Minister for Territory and Municipal Services and Minister for Police and Emergency Services), by leave: First of all, in relation to the matter Mrs Dunne alluded to in relation to wanting to adjourn debate, if the debate is adjourned, if this matter is not concluded today one way or the other, the commission

will have to assume that the Assembly is not going to extend the reporting date and it will move to proceed to prepare the report for printing.

Mrs Dunne: We could do this next week, on Tuesday.

MR CORBELL: I am advised that the commission cannot wait until Tuesday. The reason for that is that the commission has to proceed and if it is to meet its reporting date, it must put certain steps in train early next week, on Monday in fact, to go to print with what it has, to ensure that it meets the reporting date, because it cannot take the chance that the Assembly will change its mind and permit it to report later. So we have to take this decision tonight and not adjourn the debate. We have to conclude it one way or the other so that the commission knows what it has to do and what steps it has to take.

In relation to the matter of privilege, I am unclear what the status of the report would be in relation to the privileges granted by this place but the commission does have certain protections in place in relation to reports it produces under its act. The extent and the range of those I am not in a position to advise the Assembly on tonight but, as is the case in relation to any report produced by the commission, there are protections granted to the commission in relation to reports it produces.

But beyond that point, I am not going to venture an opinion. I would need to seek further advice on that. But I do not believe that this is such a substantive matter as to delay the report and indeed, if there is a need to subsequently determine the matter of privilege, the Assembly has an opportunity next week to make some decisions about that and determine how, if there is a need for additional protections, they can be dealt with when the Assembly reconvenes next week.

Friday, 24 June 2011

MR CORBELL: Obviously we will have a full month to determine that question, should the Assembly agree to my motion to adjust the reporting date. So I would not accept Mrs Dunne's argument as a reason for deferring this decision. The fact is it is in the interests of everybody that the commission be given more time to complete its report so that its report is complete, comprehensive, considered and has regard to the important comments from agencies who have been scrutinised by the commission and on which commentary has been made by the commission in a draft report. I think this is the only sensible way to proceed with this matter.

MS HUNTER (Ginninderra—Parliamentary Convenor, ACT Greens) (12.02 am): I am pleased to hear that we are close to having outcomes for the young people and staff at Bimberi. At times this has been a difficult journey and while I keenly await the outcomes, I am not surprised that we are here with this motion before us. I understand that this is a large report and we will be supporting this motion for a one-month extension. We believe that giving extra time will allow the commissioner to produce a more polished report and will allow for agencies to provide comment on the draft report, which of course is very important for that final report. As with any document of this magnitude, an important, adequate time to ensure that the input provided by

residents, families, workers, the directorates, community organisations, experts and individuals is incorporated is essential if we are to receive and make sure that all of that is incorporated.

I was aware that a six-month time frame, including January, was always going to be tight to gather the vast quantities of information, to analyse, interpret and report back on. However, in saying that, I was also a little wary about this extension, at first request. I was contacted by the Attorney-General earlier this week, informing me about the need to extend the reporting date.

After consideration and speaking with the commissioner, I have satisfied myself that this extension of time would be beneficial. In speaking with the commissioner, I received an agreement that an extension of time would be valuable to the quality of this report and that they would be able to meet the extended deadline.

The issue of Bimberi and the whole of the youth corrections area is one that many of us in this place would like to see positive reform and improvements to. The target group are vulnerable, for a variety of reasons, and if we are to look at the strengths of this type of intervention it has to be that we use this as an opportunity to influence behaviours that have such negative impacts on young people in the broader community.

The ACT Greens have, as one of their key justice principles, that the safety, health and rehabilitation of victims and offenders and the reduction of recidivism and trauma should be given high priority in the justice system and that children and young people require protection in all areas of the justice system. Research on much of Australia's juvenile justice policy is about diversion of young people from the criminal justice system. The ACT Greens hope this report, when delivered, will be a part of a suite of interventions that will deliver diversion from the system and better outcomes for those in the youth justice system. We heard the minister talk about some reforms that were announced today and I am sure that they can also be informed by this report.

For many years I have had grave concerns about the issue of the unsatisfactorily high incarceration rates of young Indigenous people within Quamby and now Bimberi. The motion we passed in December 2010 was of critical importance in driving an agenda of change for all young people in the youth justice system. However, I must say it is particularly important for our Indigenous young people. I believe that there are ways of reducing these figures for the ACT through the right supports and culturally appropriate early intervention for children, young people and families. The Greens take the rehabilitation and restoration of young people into the community very seriously and realise the broad range in negative impacts that affect children, young people, families and the community at large when this goes wrong.

This issue, in itself, is too important for us to risk by faltering so close to the end of this inquiry. This report will spark the beginning of many changes into the future, all of which I hope will have a positive impact and work towards strengthening our response to juvenile offenders.

I am satisfied that supporting this motion tonight will allow the commissioner and his team to properly complete their work, and that of course will, I believe, lead to better outcomes in the system that needs to work to support young people better. Tonight the Greens are prepared to agree to the motion because I have satisfied myself, as I said, that the commissioner requires more time to finalise the report that has come after a comprehensive consultation and engagement process with many individuals and organisations.

Question resolved in the affirmative.

Bimberi Youth Justice Centre—human rights
Privilege

MRS DUNNE (Ginninderra) (12.07 am), by leave: I move:

> That, in relation to the motion of the Attorney-General on the rescheduling of the report into youth justice, the Speaker report to the Assembly by the adjournment on Tuesday, 28 June 2011 on the privilege matters relating to the presentation of this report out-of-session.

As to the issues, there is general agreement in this place at the moment that we are not quite sure what those issues are. I have a view of what they might be but I think at five past midnight it is not the time to determine that. I suspect that a report presented to the attorney, which is then circulated directly to members, would not attract the privilege of this place. I think that there are mechanisms for dealing with that and I think that we should take the time to do that before the Assembly rises next Thursday. I therefore commend the motion to the house.

Question resolved in the affirmative.

Adjournment

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

> That the Assembly do now adjourn.

Free-Rain Theatre

MRS DUNNE (Ginninderra) (12.09 am): Last Friday night I had the privilege and the great pleasure, as it always is, to attend a performance by the Free-Rain Theatre Company—on this occasion a presentation performance at the Tuggeranong Arts Centre of David Williamson's *The Removalists*. This is a play which has become an icon of Australian theatre but it was still interesting to discuss with theatregoers the number of people who had not had the opportunity to see the play before and also to reflect upon the fact that although this is now a play which is 40 years old it is still quite pertinent and in a sense timeless.

I want to take this opportunity, as I have done in the past, to congratulate the extraordinary Anne Somes, the Artistic Director of Free-Rain Theatre, on the work

that she does, and through her congratulate the entire company. I pay particular tribute to Cara Irvine, who as a young graduate was the director and designer of the production, and Ross Walker, her assistant director. Some in the cast were experienced and some were quite young. Sean Ladlow is an experienced thespian around town and we have seen him in things like *Miss Saigon* and *Oklahoma*. He played Sergeant Simmons, but Jordan Sanfrancesco, as Constable Ross, is a recent graduate of Narrabundah college and is currently studying at the ANU. Kate Mason was played by Shanon Steele and Rachel Battams played Fiona Carter. Duncan Ragg, who is also a fairly experienced actor around town, played Kenny Carter.

I think that the great find of this production was Brendan Kelly, who is a very young performer and who played the removalist and added, despite his young years, a gravitas and seriousness to the role that belied his years and made him seem like a much older character than his young years would indicate.

Again this was an opportunity for a mixture of quite experienced actors and emerging actors to work together in an iconic play. I do not know that one necessarily enjoys a play like *The Removalists*. I think it makes you more uncomfortable than anything, but the extraordinary performance of the Free-Rain Theatre cast and the whole company needs to be complimented. I do want to reinforce my congratulations to Anne Somes as a dramateur—she does such fabulous work for theatre in the ACT.

Flynn primary school

MR COE (Ginninderra) (12.12 am): In the last week or so I received a letter from the Flynn Primary School Parents and Citizens Association and the John Flynn Community Group, and I will be reading that into *Hansard* now. The letter reads:

> The Flynn community is responding to allegations by Joy Burch MLA on 30 March 2011, in which she claimed that a 'small group' has 'held up' refurbishment of the Flynn Primary School through 'disruptive and legal actions', in 'stark contrast to the completed refurbished work' at other closed schools.
>
> Ms Burch should be aware that the group—actually two incorporated associations—have a wide membership and have worked tirelessly to bring forward the grassroots views of the Flynn community. In a 2006 survey by these groups, around 900 of the 1200 households in Flynn wanted the school to stay open—only 33 thought the school should shut. In 2010, these groups presented a petition with about 700 signatures from Flynn residents in support of the heritage listing of the school. Hardly a small group.
>
> Contrary to Ms Burch's accusations, the Flynn community has consistently tried to work with government for a good outcome that meets local needs. The Flynn community developed a proposal for community use of the school on the advice of John Hargreaves in early 2007. It is this proposal that the government agreed to negotiate following the school closures inquiry in 2009. In mid-2011 the Flynn community is still waiting to see this recommendation implemented and the government engage in genuine negotiations with the Flynn groups.

> Instead, the government has consistently been disruptive and obstructive at every opportunity—unlawfully and corruptly closing the school, then blocking and delaying an appeal for two years rather than arguing the case on its merits; twice proposing demolition of the school; simultaneously supporting and opposing heritage protection of the place; refusing for years to meet with any Flynn group; then running a sham consultation that is now the subject of a formal investigation; and misleading and telling outright lies to the Assembly and the community on multiple occasions.
>
> Indeed, Ms Burch's own department advocated demolition in 2009, only days after the government's commitment to protect the heritage value of the school. Ms Burch can now move two childcare centres into the school only because it is still there.
>
> But what Ms Burch is now proposing falls well short of remediating the social impact of closing Flynn's only school and community facility—which was well used by residents from beyond the immediate school community. All Flynn will see is a damaged building and a hall to rent for, in Ms Burch's words, 18th birthday parties. If Ms Burch has her way, most of Flynn's only facility, which has Flynn money tied up in the bricks and mortar, will be declared off-limits to Flynn residents.
>
> It is disturbing to see a government disrupt and delay efforts by a community to protect a building for the people who live there, and then blame that community for the government's failures. It is not the community that has held up the future of Flynn. It is the ACT Government who has worked against rather than with the people of Flynn.

As I said, that is signed by the Flynn Primary School Parents and Citizens Association and the John Flynn Community Group.

SHOUT expo

MR HANSON (Molonglo) (12.15 am): On 9 May I opened the SHOUT, that is, the Self-Help Organisations United Together, chronic conditions self-management expo. It was a great event attended by many organisations, which I will cover later. But the point of the expo was to assist people, and to provide information to people who have chronic conditions, in how they can self-manage those conditions that they have.

There were a number of organisations there that were providing that vital information to people. There were numerous groups from ACT Health and it was great to see so many organisations there from ACT Health. Arthritis ACT were there. They have a partnership between themselves and SHOUT which delivers a chronic condition self-management course in the community called living a healthy life with chronic conditions.

There were Exercise and Sports Science Australia, ACT Chapter, Alzheimer's Australia ACT, the ACT ME/CFS Society, the Prostate Cancer Support Group ACT Region. They have challenged me to hold a sausage sizzle this year and I intend to invite all members of the ACT Assembly to that in a similar fashion to what the minister did last year.

The ACT Division of General Practice, Parkinson's ACT, Bosom Buddies, Health Care Consumers, continence promotion continuing care program, the Stroke Association of the ACT, Diabetes ACT, Creative Therapies, lung life support group, People with a Disability ACT, pain support group, MS Australia, ANU Centre for Health Stewardship, ACT Hepatitis Resource Centre, RSI and Overuse Injury Association, Catholic Care, Red Cross, Motor Neurone Disease Association and the Asthma Foundation of the ACT—it was wonderful to see all of those organisations together under the umbrella of SHOUT, raising the awareness and assisting people by providing information to people who suffer from chronic conditions on how they can self-manage those conditions.

The one point I would make is that we need to do all that we can to promote that event and certainly it is a point that I can bring forward to the minister. It is good to see her here to listen to this point. The expo itself, although very well attended by all of the organisations and indeed by ACT Health, could be better attended by people that actually suffer from chronic conditions so that they could make best use of the expo. So I ask the minister to look at what methods she could use to advertise that expo when it is held next year.

Question resolved in the affirmative.

The Assembly adjourned at 12.19 am (Friday) until Tuesday, 28 June 2011, at 10 am.

Schedules of amendments

Schedule 1

Planning and Development (Lease Variation Charges) Amendment Bill 2011

Amendments moved by Mr Seselja (Leader of the Opposition)

1
Clause 10
Proposed new section 277A (1) to (3)
Page 11, line 20—

omit proposed new section 277A (1) to (3), substitute

(1) In working out ***V1*** and ***V2*** under section 277, an improvement in relation to the land must be taken into account.

2
Clause 10
Proposed new section 278
Page 17, line 16—

omit proposed new section 278, substitute

278 When commissioner must remit lease variation charge

(1) The commissioner for revenue must remit an amount of a lease variation charge for a chargeable variation of a nominal rent lease as follows:

(a) if a development application is approved before 30 June 2016 in relation to the variation—75% of the charge;

(b) if it is a condition of a development approval for a chargeable variation of a nominal rent lease that the lessee carry out work on land outside of the lease—an amount equal to the reasonable cost to the lessee of the work;

(c) as prescribed by regulation.

(2) This subsection and subsection (1) (a) expire on 30 June 2016.

Schedule 2

Planning and Development (Lease Variation Charges) Amendment Bill 2011

Amendments moved by Ms Hunter

1
Proposed new clause 3A
Page 3, line 2—

insert

3A Contents of public register
New section 28 (1) (ba) and (bb)

insert

(ba) for each lease variation charge for a s 277 chargeable variation of a nominal rent lease—the amounts represented by ***V1*** and ***V2*** in section 277 for the charge;

(bb) for each remission of an amount of a lease variation charge for a chargeable variation of a nominal rent lease under section 278 to section 278E—

(i) a description of the chargeable variation; and

(ii) the lease variation charge; and

(iii) the amount of the lease variation charge remitted;

2
Clause 10
Proposed new section 276, proposed new definition of *gross floor area*
Page 5, line 14—

insert

gross floor area—see the territory plan (13 Definitions).

3
Clause 10
Proposed new section 276, definition of *prescribed chargeable variation*
Page 5, line 19—

omit

4
Clause 10
Proposed new section 276, definition of s 277 *chargeable variation*
Page 5, line 23—

omit the definition, substitute

s 276D chargeable variation—see section 276AA.

s 277 chargeable variation—see section 276AA.

5
Clause 10
Proposed new section 276AA
Page 6, line 2—

insert

276AA Meaning of s 276D *chargeable variation* and *s 277 chargeable variation*—div 9.6.3

(1) In this division:

s 276D chargeable variation, of a nominal rent lease, means a chargeable variation that is 1 of the following:

(a) if a development application relates to the chargeable variation of only 1 residential lease—a variation to increase the number of dwellings permitted on the land under the lease;

Example

a variation of a nominal rent lease to increase the maximum number of 20 residential units permitted on the land under the lease to 40 units

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

(b) if a development application relates to the chargeable variation of only 1 residential lease—a variation to limit the number of dwellings permitted on the land under the lease;

Example

A lease permits land to be used for residential purposes but does not state any limit on the number of permitted residences on the land. The lessee proposes to subdivide the land under the Unit Titles Act 2001. That Act, s 20 (2A) does not allow the lease to be subdivided unless the lease provides for the number of dwellings on the land. The lessee must vary the lease to limit the number of dwellings permitted on the land before subdividing the land.

(c) if a development application relates to the chargeable variation of only 1 non-residential lease—a chargeable variation of the lease that—

(i) increases, or has the effect of increasing, the maximum gross floor area of any building or structure permitted for non-residential use on the land under the lease; or

(ii) increases or limits the number of dwellings permitted on the land under the lease;

(d) the consolidation of 2 or more nominal rent leases;

(e) the subdivision of 1 or more nominal rent leases;

(f) if 2 or more nominal rent leases are consolidated—a variation that—

(i) increases the number of dwellings permitted on the land under the consolidated lease; or

(ii) increases, or has the effect of increasing, the maximum gross floor area of any building or structure permitted for non-residential use on the land under the consolidated lease;

(g) if 1 or more nominal rent leases are subdivided—a variation that—

(i) increases the number of dwellings permitted on the land under the subdivided lease; or

(ii) increases, or has the effect of increasing, the maximum gross floor area of any building or structure permitted for non-residential use on the land under the subdivided lease;

(h) a chargeable variation prescribed by regulation.

Note If a chargeable variation is not a s 276D chargeable variation the lease variation charge is worked out under s 277 (see s 276B).

s 277 chargeable variation means—

(a) a chargeable variation that is not a s 276D chargeable variation; or

(b) a s 276D chargeable variation if no lease variation charge is determined in an LVC determination for the variation.

(2) In this section:

consolidated lease means a lease granted during a consolidation involving the surrender of 1 or more nominal rent leases.

non-residential lease means a lease other than a residential lease under section 234.

subdivided lease means a lease granted during a subdivision involving the surrender of 1 or more nominal rent leases.

6
Clause 10
Proposed new section 276A (1)
Page 6, line 8—

omit

section 278

substitute

section 278A to section 278F

7
Clause 10
Proposed new section 276B (1) (a)
Page 6, line 25—

omit proposed new section 276B (1) (a), substitute

(a) for a s 276D chargeable variation—the determined charge for the variation; or

8
Clause 10
Proposed new section 276B (2) (a)
Page 7, line 4—

omit

prescribed

substitute

s 276D

9
Clause 10
Proposed new section 276D
Page 8, line 9—

omit proposed new section 276D, substitute

276D Lease variation charges—s 276D chargeable variations

(1) The Treasurer may determine a lease variation charge for a s 276D chargeable variation.

Note 1 The Legislation Act contains provisions about the making of determinations and regulations relating to fees (see pt 6.3).

Note 2 Power to make a statutory instrument (including a determination) includes the power to make different provision for different categories (see Legislation Act, s 48).

(2) In considering whether to determine a lease variation charge for a s 276D chargeable variation, the Treasurer must, before the start of each financial year—

(a) obtain and have regard to advice from an accredited valuer; and

(b) comply with any other requirement prescribed by regulation.

(3) A determination must—

(a) as far as is practicable, represent the average market value in relation to the variation; and

(b) if a variation increases the number of dwellings permitted on the land under the lease—state an amount for each additional dwelling permitted on the land under the lease; and

(c) if a variation increases, or has the effect of increasing, the maximum gross floor area of any building or structure permitted for non-residential use on the land under the lease—state an amount for each additional square metre of gross floor area permitted on the land under the lease; and

(d) otherwise be made in accordance with any guideline approved under section 276E.

(4) The determination must state—

(a) the reasons for determining the lease variation charge; and

(b) how the charge was determined.

(5) A determination is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

(6) In this section:

average market value means the value worked out in accordance with a guideline approved under section 276E.

(7) Subsection (3) (a) does not apply to a determination made within 1 year after the day this section commences.

(8) This subsection and subsection (7) expire 1 year after the day this section commences.

10
Clause 10
Proposed new section 277A (2)
Page 11, line 26—

omit proposed new section 277A (2), substitute

(2) However, an existing improvement by way of clearing, filling, grading, draining, levelling or excavating the land may be taken into account.

11
Clause 10
Proposed new section 277A (3)
Page 12, line 1—

omit

12
Clause 10
Proposed new section 277A (4) (e)
Page 12, line 12—

omit

13
Clause 10
Proposed new section 277A (4) (g)
Page 12, line 21—

insert

(g) anything mentioned in paragraphs (a) to (e) proposed in a development application in relation to a chargeable variation of a nominal rent lease to be carried out on land outside of the land under the lease.

14
Clause 10
Proposed new section 278
Page 17, line 16—

omit proposed new section 278, substitute

278 When commissioner must remit lease variation charge—sustainability

(1) This section applies if—

(a) a development application for a chargeable variation of a nominal rent lease is approved; and

(b) the approval also relates to the development of a building on the land under the lease; and

(c) the building complies with a requirement for energy efficiency determined by the Minister.

(2) The Minister may determine a requirement for energy efficiency under subsection (1) (c).

(3) The Treasurer may determine—

(a) an amount to be remitted for a lease variation charge for the chargeable variation; and

(b) when the amount must be remitted.

(4) A determination is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

(5) The commissioner for revenue must remit the amount determined under subsection (3) (a) for the lease variation charge for the chargeable variation when the amount is determined to be remitted under subsection (3) (b).

278A When commissioner must remit lease variation charge—certain zones

(1) This section applies to a chargeable variation of a nominal rent lease if—

(a) the variation—

(i) increases the number of dwellings permitted on the land under the lease; or

(ii) increases, or has the effect of increasing, the maximum gross floor area of any building or structure on the land under the lease; and

(b) the land is in a zone determined by the Minister; and

(c) any circumstances determined by the Minister apply to the variation.

(2) The Minister may determine—

(a) a zone for subsection (1) (b); and

(b) circumstances for subsection (1) (c).

(3) The Treasurer may determine an amount to be remitted for a lease variation charge for the chargeable variation.

(4) A determination is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

(5) The commissioner for revenue must remit the amount determined under subsection (3) for the lease variation charge for the chargeable variation.

278B When commissioner must remit lease variation charge—community purpose

(1) This section applies to a chargeable variation of a nominal rent lease that authorises development in relation to a community purpose determined by the Minister.

(2) The Minister may determine a community purpose for subsection (1).

(3) The Treasurer may determine an amount to be remitted for a lease variation charge for the chargeable variation.

(4) A determination is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

(5) The commissioner for revenue must remit the amount determined under subsection (3) for the lease variation charge for the chargeable variation.

278C When commissioner must remit lease variation charge—heritage significance

(1) This section applies if—

(a) a development application for a chargeable variation of a nominal rent lease is approved; and

(b) a place or object on the land under the lease is registered under the Heritage Act 2004; and

(c) any circumstances determined by the Minister apply to the variation.

(2) The Minister may determine—

(a) circumstances for subsection (1) (c); and

(b) criteria for working out the cost to the lessee of complying with the Heritage Act 2004 in relation to the place or object.

(3) The Treasurer may determine an amount to be remitted for a lease variation charge, having regard to any criteria determined under subsection (2) (b).

(4) A determination is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

(5) The commissioner for revenue must remit the amount determined under subsection (3) for the lease variation charge for the chargeable variation.

278D When commissioner must remit lease variation charge—environmental remediation

(1) This section applies if—

(a) a development application for a chargeable variation of a nominal rent lease is approved; and

(b) it is a condition of the approval that the lessee carry out remediation of the land under the lease; and

(c) any circumstances determined by the Minister apply to the variation.

(2) The Minister may determine—

(a) circumstances for subsection (1) (c); and

(b) criteria for working out the cost to the lessee of the remediation of the land.

(3) The Treasurer may determine an amount to be remitted for a lease variation charge, having regard to any criteria determined under subsection (2) (b).

(4) A determination is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

(5) The commissioner for revenue must remit the amount determined under subsection (3) for the lease variation charge for the chargeable variation.

(6) In this section:

remediation—see the *Environment Protection Act 1997*, dictionary.

278E When commissioner must remit lease variation charges—other

(1) The Minister may determine circumstances in addition to section 278 to section 278D in which an amount of a lease variation charge for a chargeable variation of a nominal rent lease must be remitted.

(2) The Treasurer may determine an amount to be remitted for a lease variation charge for a chargeable variation in a circumstance determined by the Minister.

(3) A determination is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

(4) The commissioner for revenue must remit the amount determined under subsection (2) for the lease variation charge for the chargeable variation.

278F When commissioner must remit lease variation charges—chargeable variations generally

(1) The Treasurer may determine, for a financial year, an amount to be remitted for each lease variation charge for a chargeable variation for which a notice of assessment has been given under section 276C in the financial year.

(2) The amount must be expressed as a percentage of the lease variation charge for a chargeable variation.

(3) The determination must be made not less than 1 year before the beginning of the financial year for which the determination will apply.

(4) The commissioner for revenue must remit the amount determined under subsection (1) for a chargeable variation to which the determination applies.

(5) A determination is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

(6) Subsection (3) does not apply to a determination made within 1 year after the day this section commences.

(7) This subsection and subsection (6) expire 1 year after the day this section commences.

15
Clause 10
Proposed new section 279 (3)
Page 18, line 7—

insert

(3) Subject to any disallowance or amendment under the Legislation Act, chapter 7, the regulation commences—

(a) if there is a motion to disallow the regulation and the motion is negatived by the Legislative Assembly—the day after the day the disallowance motion is negatived; or

(b) the day after the 6th sitting day after the day it is presented to the Legislative Assembly under that chapter; or

(c) if the declaration provides for a later date or time of commencement—on that date or at that time.

16
Clause 12
Proposed new schedule 1, item 29 and item 29A
Page 21—

omit

17
Clause 15
Dictionary, proposed new definition of *gross floor area*
Page 22, line 4—

insert

gross floor area, for division 9.6.3 (Variation of nominal rent leases)—see the territory plan (13 Definitions).

18
Clause 17
Page 22, line 16—

[oppose the clause]

19
Clause 19
Dictionary, proposed new definition of *s 277 chargeable variation*
Page 23, line 11—

omit the definition, substitute

s 276D chargeable variation, of a nominal rent lease, for division 9.6.3 (Variation of nominal rent leases)—see section 276AA.

s 277 chargeable variation, of a nominal rent lease, for division 9.6.3 (Variation of nominal rent leases)—see section 276AA.

20
Clause 21
Page 24, line 6—

[oppose the clause]

21
Clause 22
Page 26, line 11—

omit clause 22, substitute

22 Division 5.5.2

substitute

Division 5.5.2 Independent valuation of s 277 lease variation charge

171 Appointment of independent valuer—Act, s 277D (4) (b) (ii)

The president of the ACT division of the Australian Property Institute Incorporated ABN 49 007 505 866 is prescribed.

172 Requirements for independent valuer—Act, s 277D (4) (c)

A valuer preparing an independent valuation must be a current member of the Australian Property Institute Incorporated ABN 49 007 505 866.

22
Clause 23
Page 26, line 16—

[oppose the clause]

23
Clause 24
Page 26, line 18—

[oppose the clause]

24

Clause 25

Page 27, line 1—

[oppose the clause]

25
Clause 29
Page 27, line 16—

[oppose the clause]

Schedule 3

Criminal Proceedings Legislation Amendment Bill 2011

Amendments moved by Mrs Dunne

1
Clause 3, note
Page 2, line 13—

omit

2
Clause 10
Proposed new section 68B
Page 5, line 4—

omit proposed new section 68B, substitute

68B Trial by judge alone in criminal proceedings

(1) A criminal proceeding against an accused person must be tried by a judge alone if—

(a) the—

(i) person elects in writing to be tried by judge alone; or

(ii) prosecutor elects in writing for the person to be tried by judge alone, and the person consents to the election; and

(b) an election under paragraph (a) is filed in the court before—

(i) the court first allocates a date for the person's trial; and

(ii) the person, or the person's legal representative, knows the trial judge's identity; and

(c) the court is satisfied that it is in the interests of justice to make an order that the person be tried by judge alone.

(2) Without limiting subsection (1) (c), the court may—

(a) make the order if it is satisfied that—

(i) the length and complexity of the person's trial is likely to prove unreasonably burdensome for a jury; or

(ii) there is a reasonable risk of the commission of an offence against the Criminal Code, division 7.2.3 (Protection of people involved in legal proceedings) involving a juror in the trial; or

(b) refuse to make the order if it is satisfied that the trier of fact in the person's trial will be required to decide important issues of fact by applying community standards.

Examples—important issues of fact

- reasonableness
- negligence
- indecency
- obscenity
- dangerousness

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

(3) However, the court must not make the order if—

(a) the criminal proceeding against the person is for more than 1 offence against the person, and the court is not prepared to make the order for each offence; or

(b) the person is to be tried with 1 or more other people (the ***co-accused***) and the court is not prepared to make the order for each co-accused.

(4) If the court makes an order that a person be tried by a judge alone, the court must not revoke the order after the trial judge's identity is known to the parties.

3
Clause 11
Page 6, line 9—

[oppose the clause]

4
Clause 12
Page 6, line 16—

[oppose the clause]

5
Clause 13
Page 7, line 1—

[oppose the clause]

6
Clause 14
Page 9, line 1—

[oppose the clause]

7
Schedule 1
Page 10, line 1—

omit

This page is intentionally blank.

Answers to questions

Art—public database
(Question No 1395)

Mrs Dunne asked the Minister for the Arts and Heritage, upon notice, on 15 February 2011:

(1) In relation to the answer to question on notice No 1184 given on 26 October 2010, why are there works of art (a) displayed on *Public Art Database* webpage of the artsACT website at www.artsact.act.gov.au as at 19 January 2011 that (i) fell within the scope of question on notice No 1184 and (ii) were not included in the table provided with the answer and (b) listed in the table provided with the answer that are not listed in the Public Art Database webpage of the artsACT website as at 19 January 2011.

(2) For each work of art displayed on the *Public Art Database* webpage of the artsACT website, as at 19 January 2011, that is not included in the table provided with the answer to question on notice No 1184, (a) what is the title of the work of art, (b) where is it located, (c) what is the name of the artist, (d) what is the artist's state/territory or, if outside Australia, country of residence, (e) what was the cost of the work of art and (f) what was the total installed cost of the work of art.

(3) Are there any other works of art purchased from public funds that are not on either the *Public Art Database* webpage of the artsACT website or the table provided with the answer to question on notice No 1184 and which fell within the scope of question on notice No 1184; if so, (a) why and (b) for each work of art (i) what is the title of the work of art, (ii) where is it located, (iii) what is the name of the artist, (iv) what is the artist's state/territory or, if outside Australia, country of residence, (v) what was the cost of the work of art and (vi) what was the total installed cost of the work of art.

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

(1)

(a) (i) Question on notice No 1184 asked for information on each work of public art purchased or commissioned under the percent-for-art scheme since it started. The artsACT website shows works commissioned through the percent-for-art scheme and other programs.

(ii) Only works purchased under the percent-for-art scheme were included in the table provided with the answer to question on notice No 1184.

(b) Projects listed in the table provided for question on notice No 1184 include projects that are currently under contract with the Territory. Projects are not uploaded onto the Public Art Database webpage prior to installation.

(2)

(a) In relation to each work of art displayed on the Public Art database webpage that is not included in the table provided with the answer to question on notice No 1184, the title of each work is as follows:

The Little Big Man
Choice of Passage
Resilience
Angel Wings
Dinornis maximus
Rain Pools
The Goongarline
Red and Blue
Gather
Aquila
Reclamation: Culture, Spirit and Place
Fractal Weave
ACT Bushfire Memorial
Running Lights
Twilight
Mohandas Karamchand Gandhi
Civic Memory Quilt
Living Space
Sweet Justice
Laserwrap
The Glebe
Centricity
The World Peace Flame Monument
Crossing
Shorelines
Bogong moths
Pods
The Master's Voice
Ainslie's Sheep
Cushion
Circuitry
Untitled
House Proud
Commemoration,
Kullas Crossroads
Untitled - Koomari Pool
Fused Glass,
The View From Here
Narrabundah: A Site Marker
We Are Fishes
Decollete
Stepping Out
Fireline
Untitled,
The Fourth Pillar
Illumicube
Egle Queen of Serpents
Tango
Untitled
Wind Sculpture
Eternity
Untitled
The Canberra Times Fountain

Seqvanae,
Dreaming
Sculptured Form
Untitled
Thespis
Untitled
Father and Son
Untitled
Ethos
Civic Merry Go Round

(b) In relation to each work of art displayed on the Public Art database webpage that is not included in the table provided with the answer to question on notice No 1184, the location of each work is as follows:

The Little Big Man - Petrie Plaza
Choice of Passage - Cnr London Cct & Akuna St
Resilience - Cnr Binara Street & City Walk
Angel Wings - Lake Tuggeranong foreshore, cnr of Soward Way & Drakeford Drive
Dinornis maximus - Median strip Yarra Glen Drive
Rain Pools - Clare Holland house
The Goongarline - Gungahlin Place Park
Red and Blue - Cnr West Row & London Cct
Gather - cnr Flinders Way & Bouganville St, Griffith
Aquila - City Walk, behind the National Convention Centre
Reclamation: Culture, Spirit and Place - cnr City Walk & Garema Place
Fractal Weave - Civic Square
ACT Bushfire Memorial - Stromlo Forest Park, near the intersection of Cotter Road and Eucumbene Drive, Weston
Running Lights - Lake Ginninderra
Twilight - Centre of Ainslie Ave median near the intersection with Currong St, Civic
Mohandas Karamchand Gandhi - Glebe Park
Civic Memory Quilt - Intersection of Petrie Plaza and City Walk, Civic
Living Space - Adjacent to Canberra Times Fountain, City Walk, Civic
Sweet Justice - Hobart Place, Civic
Laserwrap - ACT Health Building, Cnr Alinga and Moore Sts, Civic
The Glebe - Glebe Park, Civic
Centricity - Craft ACT entrance, Civic Square, Ground Floor foyer North Building
The World Peace Flame Monument - Glebe Park, Civic
Crossing - Coranderrk Street pedestrian bridge, close to intersection with Constitution Ave
Shorelines - Cnr Reed and Cowlishaw Streets, Tuggeranong
Bogong moths - National Museum of Australia car park
Pods - City Walk
The Master's Voice - Akuna St end of City Walk, Civic.
Ainslie's Sheep - Intersection of Petrie Plaza and City Walk
Cushion - Garema Place
Circuitry - Civic Bus Internchange, corner Alinga and Mort Streets, Civic
Untitled - Civic Bus Interchange, Alinga and Mort Streets, Civic
House Proud - Canberra Playhouse, Civic Square
Commemoration - Canberra Stadium, Battye Street, Bruce

Kullas Crossroads - Akuna St end of City Walk
Untitled - Koomari Pool - Miller Street, O'Connor
Fused Glass - Civic Square, Civic
The View From Here - Tuggeranong Police Station, Soward Way, Tuggeranong
Narrabundah: A Site Marker - Iluka Street, Narrabundah
We Are Fishes - Cnr Reed and Cowlishaw Streets
Decollete - Manning Clarke House
Stepping Out - Hughes Shopping Centre, Hughes
Fireline - Civic Square, London Circuit (opposite intersection with Ainslie Ave), Civic
Untitled - Queen Elizabeth II Family Centre Carruthers St
The Fourth Pillar - ACT Magistrates Court, Civic
Illumicube - Intersection of Ainslie Ave and Ballumbir Street
Egle Queen of Serpents - Glebe Park, Civic
Tango - London Circuit, Civic
Untitled - Perpetual Building, Rudd St, Civic
Wind Sculpture - Intersection of Akuna St and City Walk
Eternity - London Circuit, Civic
Untitled - Margaret Timpson Park, Benjamin Way, Belconnen
The Canberra Times Fountain - City Walk and Ainslie Ave axis, Civic
Seqvanae - ACT Health Building forecourt, Cnr Alinga and Moore Streets, Civic
Dreaming - Park adjacent to Reserve Bank of Australia, London Circuit, Civic
Sculptured Form - Woden Town Square
Untitled - outside wall of Commonwealth Bank, cnr of London Circuit and Ainslie Avenue
Thespis - Civic Square
Untitled - Banking chamber, Reserve Bank of Australia, London Circuit
Father and Son - Garema Place, Civic
Untitled - Entrance to David Jones from City Walk, Canberra Centre, Civic
Ethos - Civic Square, Civic
Civic Merry Go Round - Intersection of Petrie Plaza and City Walk

(c) In relation to each work of art displayed on the Public Art database webpage that is not included in the table provided with the answer to question on notice No 1184, the artist of each work is as follows:

The Little Big Man - Dean Bowen
Choice of Passage - Phil Spelman
Resilience - Ante Dabro
Angel Wings - Phil Price,
Dinornis maximus - Phil Price
Rain Pools - Stephen Newton
The Goongarline - Malcolm Utley
Red and Blue - Inge King
Gather - Matthew Tobin
Aquila - Phil Spelman
Reclamation: Culture, Spirit and Place - Sandra Hill (Nyoongar) & Jim Williams (Ngunnawal)
Fractal Weave - David Jensz
ACT Bushfire Memorial - Tess Horwitz, Tony Steel and Martyn Jolly
Running Lights - Thylacine Art Projects
Twilight - Christopher Chapman and Ivan Siebel
Mohandas Karamchand Gandhi - Ram V Sutar
Sweet Justice - Wendy Mills

Civic Memory Quilt - Urban Art Projects (Floor Design) and Mary Hutchinson (writer)
Living Space - KunstForce (Angela Dufty and Geoffrey Farquhar Still)
Laserwrap - Geoffrey Drake-Brockman and Richie Kuhaupt
The Glebe - Hew Chee Fong and L M Noonan
Centricity - Matthew Harding and Mark Woolston
The World Peace Flame Monument - Jim Williams et al
Crossing - Wendy Mills
Shorelines - Andrew Townsend and Suzie Bleach
Bogong moths - Jim Williams and Matthew Harding
Pods - Matthew Harding
The Master's Voice - Sonia Leber & David Chesworth
Ainslie's Sheep - Les Kossatz
Cushion - Matthew Harding
Circuitry - Fiona Hooton
Untitled - Paul Piesley
House Proud - Neil Roberts
Commemoration - Malcolm Munro
Kullas Crossroads - Tim Spellman
Untitled - Koomari Pool - Andrew Townsend and Suzie Bleach
Fused Glass - Klaus Moje
The View From Here - David Watt
Narrabundah: A Site Marker - Andrew Townsend and Suzie Bleach
We Are Fishes - Andrew Townsend
Decollete - Michael Le Grand
Stepping Out - Giovanna Ianniella and Gerard Murphy
Fireline - Nola Farman
Untitled - Andrew Townsend and Suzie Bleach
The Fourth Pillar - Neil Roberts
Illumicube - Kerry Simpson
Egle Queen of Serpents - Ieva Pocius
Tango - Michael Le Grand
Untitled - G Duncan, B and F Waterman
Wind Sculpture - Ernst Fries
Eternity - John Robinson
Untitled - Bert Flugelman
The Canberra Times Fountain - Robert Woodward
Seqvanae - Michael Kitching
Dreaming - Milan Vojsk
Sculptured Form - Margel Hinder
Untitled - S Maritti
Thespis - Robert Cook
Untitled - Gerald and Margo Lewers
Father and Son - John Dowie
Untitled - Frank Hinder
Ethos - Tom Bass
Civic Merry Go Round - Herbert Thompson

(d) In relation to each work of art displayed on the Public Art database webpage that is not included in the table provided with the answer to question on notice No 1184, the artist's state/territory or, if outside Australia, country of residence at time of the commission is as follows:

The Little Big Man - VIC
Choice of Passage - ACT
Resilience - ACT
Angel Wings - New Zealand
Dinornis maximus - New Zealand
Rain Pools - QLD
The Goongarline - ACT
Red and Blue - VIC
Gather - QLD
Aquila - ACT
Reclamation: Culture, Spirit and Place - ACT
Fractal Weave - ACT
ACT Bushfire Memorial - ACT
Running Lights - ACT
Twilight - ACT
Mohandas Karamchand Gandhi - Unknown
Civic Memory Quilt - ACT
Living Space - ACT
Sweet Justice - QLD
Laserwrap - WA
The Glebe - QLD
Centricity - ACT
The World Peace Flame Monument - ACT
Crossing - QLD
Shorelines - QLD
Bogong moths - ACT
Pods - ACT
The Master's Voice - VIC
Ainslie's Sheep - VIC
Cushion - ACT
Circuitry - ACT
Untitled - ACT
House Proud - ACT
Commemoration - ACT
Kullas Crossroads - ACT
Untitled - Koomari Pool - ACT
Fused Glass - ACT
The View From Here ¬- ACT
Narrabundah: A Site Marker - ACT
We Are Fishes - ACT
Decollete - ACT
Stepping Out - Unknown
Fireline - NSW
Untitled - NSW
The Fourth Pillar - ACT
Illumicube - ACT
Egle Queen of Serpents - SA
Tango- ACT
Untitled - Unknown
Wind Sculpture - VIC
Eternity - UK
Untitled - NSW
The Canberra Times Fountain - NSW

Seqvanae - NSW
Dreaming - ACT
Sculptured Form - USA
Untitled - Unknown
Thespis - USA
Untitled - NSW
Father and Son - SA
Untitled - USA
Ethos - NSW
Civic Merry Go Round - Unknown

(e) In relation to each work of art displayed on the Public Art database webpage that is not included in the table provided with the answer to question on notice No 1184, the cost of the work of art (exclusive of GST where known) is as follows:

The Little Big Man - $90,000
Choice of Passage - $55,000
Resilience - On loan from Consolidated Builders
Angel Wings - $125,000
Dinornis maximus - $125,000
Rain Pools - $125,000
The Goongarline - $72,000
Red and Blue - $70,000
Gather - Donation
Aquila - $35,000
Reclamation: Culture, Spirit and Place - $105,000
Fractal Weave - $220,000
ACT Bushfire Memorial - $200,808
Running Lights - $140,000
Twilight - $85,000
Mohandas Karamchand Gandhi - Donation
Civic Memory Quilt - Not available
Living Space - On loan
Sweet Justice - Not available
Laserwrap - $85,000
The Glebe - $121,000
Centricity - $76,000
The World Peace Flame Monument - Donation
Crossing - $44,000
Shorelines - Not available
Bogong moths - $55,000
Pods - $55,000
The Master's Voice - $115,000
Ainslie's Sheep - $152,000
Cushion - $93,500
Circuitry - $50,000
Untitled - Not available
House Proud - $35,200
Commemoration - Not available
Kullas Crossroads - On loan
Untitled - Koomari Pool - Not available
Fused Glass - Not available
The View From Here - Not available
Narrabundah: A Site Marker - $15,000

We Are Fishes - $9,000
Decollete - $26,000
Stepping Out - $28,500
Fireline - Not available
Untitled - $23,000
The Fourth Pillar - $55,000
Illumicube - $60,000
Egle Queen of Serpents - Donation
Tango - On loan
Untitled - Private commission
Wind Sculpture - NCDC commission
Eternity - Donation
Untitled - Not available
The Canberra Times Fountain - Donation
Seqvanae - NCDC commission
Dreaming - NCDC commission
Sculptured Form - NCDC commission
Untitled - Private commission
Thespis - NCDC commission
Untitled - Not available
Father and Son - Donation
Untitled - Private commission
Ethos - 7,580 pounds (includes private contributions and NCDC funds)
Civic Merry Go Round - 7,000 pounds NCDC commission

(f) In relation to each work of art displayed on the Public Art database webpage that is not included in the table provided with the answer to question on notice No 1184 please note that most works of art are commissioned and this price includes both the purchase and installation costs. These works will be denoted as a commission and will not vary from the cost of the work of art listed in the answer to question 2(e). The cost of the installed work of art is as follows:

The Little Big Man - Design installation package to a total value of $316,000 included The Little Big Man, Choice of Passage, Red and Blue, Angel Wings and Dinornis Maximus
Choice of Passage - Included in the above design installation package
Red and Blue - Included in the above design installation package
Angel Wings - Included in the above design installation package
Dinornis maximus - Included in the above design installation package
Resilience - On loan
Rain Pools - $137,500
The Goongarline - $72,000
Gather - Donation
Aquila - $35,000
Reclamation: Culture, Spirit and Place - $105,000
Fractal Weave - $220,000
ACT Bushfire Memorial - $200,808
Running Lights - $140,000
Twilight - $85,000
Mohandas Karamchand Gandhi - Donation
Civic Memory Quilt - Not available
Living Space - On loan
Sweet Justice - Not available
Laserwrap - $85,000

The Glebe - $121,000
Centricity - $76,000
The World Peace Flame Monument - Donation
Crossing - $44,000
Shorelines - Not available
Bogong moths - $55,000
Pods - $55,000
The Master's Voice - $115,000
Ainslie's Sheep - $152,000
Cushion - $93,500
Circuitry - $50,000
Untitled - Not available
House Proud - $35,200
Commemoration - Not available
Kullas Crossroads - On loan
Untitled - Koomari Pool - Not available
Fused Glass - Not available
The View From Here - Not available
Narrabundah: A Site Marker - $15,000
We Are Fishes - $9,000
Decollete - $26,000
Stepping Out - $28,500
Fireline - Not available
Untitled - $23,000
The Fourth Pillar - $55,000
Illumicube - $60,000
Egle Queen of Serpents - Donation
Tango - On loan
Untitled - Private commission
Wind Sculpture - NCDC commission
Eternity - Donation
Untitled - Not available
The Canberra Times Fountain - Donation
Seqvanae - NCDC commission
Dreaming - NCDC commission
Sculptured Form - NCDC commission
Untitled - Private commission
Thespis - NCDC commission
Untitled - Not available
Father and Son - Donation
Untitled - Private commission
Ethos - 7,580 pounds (includes private contributions and NCDC funds)
Civic Merry Go Round - 7,000 pounds NCDC commission

(3)

(i - vi) In relation to whether there are any other works of art purchased from public funds that are not on either the *Public Art Database* webpage of the artsACT website or the table provided with the answer to question on notice No 1184 and which fell within the scope of question on notice No 1184;

artsACT, Community Services Directorate maintain a database of public artwork owned by all agencies throughout ACT Government at **Attachment A**. Information not listed in this database has previously been provided to you. This database includes a wide range of works of art ranging from paintings to play

equipment designed by an artist. Individual agencies purchase works of art that may not be considered public art however may be purchased for the specific needs of that agency such as children's play equipment.

(A copy of the attachment is available at the Chamber Support Office).

Finance—ethical investment (Question No 1589)

Ms Hunter asked the Treasurer, upon notice, on 10 March 2011:

(1) Does the ACT Government invest in any way in Exxon Mobil; if so, how did or will the Territory vote, or instruct our representative to vote, on the resolution to the last Annual General Meeting (AGM) (a) regarding the adoption of quantitative goals for the reduction in greenhouse gas emissions from the company's products and operations and (b) to create a comprehensive policy articulating the company's respect for and commitment to the human right to water.

(2) How does the Territory intend to vote at this year's AGM on the disclosure of known and potential environmental impacts of Exxon Mobil's fracturing operations.

(3) Does the ACT Government invest in any way in Carnival Corporation Inc or Delta Air Lines Inc; if so, how does the Territory intend to vote, or instruct our representative to vote, on the respective resolutions to be put to this years AGMs regarding adopting a human rights policy that includes prohibiting the sexual exploitation of minors.

(4) Does the ACT Government invest in any way in (a) Chevron Corp and (b) ConocoPhillips; if so, how did the Territory vote, or instruct our representative to vote, on the resolution regarding the financial risks resulting from climate change and its impacts on shareowner value over time.

(5) Does the ACT Government invest in any way in Royal Dutch Shell; if so, how did the Territory vote, or instruct our representative to vote, on the resolution to the last AGM regarding the provision of a report setting out the assumptions made by the company in deciding to proceed with oil sands projects regarding future carbon prices, oil price volatility, demand for oil, anticipated regulation of greenhouse gas emissions and legal and reputational risks arising from local environmental damage and impairment of traditional livelihoods.

(6) Does the ACT Government invest in any way in McDonald's Corp; if so, how did the Territory vote, or instruct our representative to vote, on the resolution to the last AGM regarding a response from the company to public concerns regarding linkages of fast food to childhood obesity, diet related diseases and other impacts on children's health and an assessment of the potential impacts of public concerns and evolving public policy on the company's finances and operations.

(7) Does the ACT Government invest in any way in Philip Morris International; if so, how did the Territory vote, or instruct our representative to vote, on the resolution to the last AGM regarding an independent study on the affect of the company's marketing on the purchasing practices of poor people and what might be done to mitigate the harm to innocent children, such as food insecurity, of such poor people who smoke, including reducing the nicotine in cigarettes to non addictive levels.

(8) Does the ACT Government invest in any way in Nucor Corp; if so, how did the Territory vote, or instruct our representative to vote, on the resolution to the last AGM regarding the adoption of a human rights policy to protect fundamental human rights in its global operations.

(9) Does the ACT Government invest in any way in Honeywell International Inc; if so, how did the Territory vote, or instruct our representative to vote, on the resolution to the last AGM regarding the inclusion of human rights in the company's Code of Business Conduct.

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

A summary response in relation to the questions asked is attached.

(A copy of the attachment is available at the Chamber Support Office).

Alcohol—liquor licences (Question No 1605 — supplementary answer)

Mr Rattenbury asked the Attorney-General, upon notice, on 31 March 2011:

(1) In relation to question on notice 1380 and the apparent internal inaccuracy contained in answers to parts 5(b)(i), 6(a) and 6(b), can the Attorney-General provide the number of liquor licences in each category by completing the column entitled *Number of licences* in the tables below.

Table A—On, club, general and special licences

Licence characteristics	Closing time	Number of licences
Total occupancy loading of ≤ 80 people with an annual liquor purchase of ≤ $100 000	Midnight	
	4 am	
	5 am	
Total occupancy loading of ≤ 80 people with an annual liquor purchase of > $100 000	Midnight	
	4 am	
	5 am	
Total occupancy loading of 81-150 people with an annual liquor purchase of ≤ $100 000	Midnight	
	2 am	
	4 am	
	5 am	

Total occupancy loading of 81-150 people with an annual liquor purchase of > $100 000	Midnight	
	2 am	
	4 am	
	5 am	
Total occupancy loading of > 150 people with an annual liquor purchase ≤ $100 000	Midnight	
	2 am	
	4 am	
	5 am	
Total occupancy loading > 150 people with an annual liquor purchase > $100 000	Midnight	
	2 am	
	4 am	
	5 am	

Table B—Off licences

Annual liquor purchase	**Number of licences**
≤ $100 000	
$100 001 – $500 000	
$500 001 – $1 million	
$1 million – $2 Million	
$2 million – $3 million	
$3 million – $4 million	
$4 million – $5 million	
$5 million – $6 million	
$6 million – $7 million	
$7 million – $8 million	
$8 million – $9 million	
$9 million – $10 million	
$10 million – $11 million	
> $11 million	

(2) In relation to the review of the *Liquor (Fees) Determination 2010 (No.1)* agreed to by the Assembly on 18 November 2010 and due to report no later than 1 October 2011 (a) what timeline will the review follow, (b) will all liquor licensees be consulted; if so, how will they be consulted and how long will they be given to provide input; if not, why not and (c) how will the Liquor Advisory Board be involved in the review

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

Further to the answer I gave on 4 May 2011 and following the end of the transitional period for processing licence applications I can provide the following information:

Licence characteristics	Closing time	Number of licences
Total occupancy loading of ≤ 80 people with an annual liquor purchase of ≤ $100 000	Midnight	87
	2am	3
	4 am	2
	5 am	1
Total occupancy loading of ≤ 80 people with an annual liquor purchase of > $100 000	Midnight	17
	2am	5
	4 am	9
	5 am	0
Total occupancy loading of 81-150 people with an annual liquor purchase of ≤ $100 000	Midnight	118
	2 am	1
	4 am	0
	5 am	0
Total occupancy loading of 81-150 people with an annual liquor purchase of > $100 000	Midnight	12
	2 am	3
	4 am	5
	5 am	0
Total occupancy loading of > 150 people with an annual liquor purchase ≤ $100 000	Midnight	75
	2 am	8
	4 am	2
	5 am	3
Total occupancy loading > 150 people with an annual liquor purchase > $100 000	Midnight	46
	2 am	16
	4 am	25
	5 am	9

These numbers differ slightly to the numbers provided in my answer to QON 1380 as the information provided at that time was based on the fees paid for applications, not on the actual licence information. Where an occupancy loading had not been determined or was in the process of review the occupancy of the premises was assumed to be greater than 80, unless the licensee applied for a lower level.

There are currently 48 licences pending determination of the occupancy loading for the premises. 40 of those are with the Chief Fire Officer for recommendation and the remaining 8 are in progress of re-determination. For this response, where no recommendation has been made the licence is classed as having an occupancy of less than 80.

Table B—Off licences

Annual liquor purchase	Number of licences
≤ $100 000	53
$100 001 – $500 000	44
$500 001 – $1 million	51
$1 million – $2 Million	17
$2 million – $3 million	12
$3 million – $4 million	6
$4 million – $5 million	3
$5 million – $6 million	1
$6 million – $7 million	0
$7 million – $8 million	0
$8 million – $9 million	0
$9 million – $10 million	0
$10 million – $11 million	0
> $11 million	3

These numbers differ slightly to those provided in my answer to QON 1380 as the information provided previously was based on the application for a licence rather than the actual licence information. Information on purchases <$100,000 also includes licensees with no purchase information (either the licence has been created since 1 December 2010 and there is no previous information or the licensee is a self producer and does not purchase from a wholesaler).

Children—kinship carers (Question No 1607)

Ms Hunter asked the Minister for Children and Young People, upon notice, on 5 April 2011:

(1) Was a 2008 election commitment made to Grandparent and Kinship Carers for funding of $800 000; if so, was Marymead and Relationships Australia successful in gaining parts of the funding.

(2) Can the Minister provide an update on the tender arrangements for the Aboriginal and Torres Strait Islander support to be provided under this $800 000.

(3) Can the Minister provide information on the other component that was not successfully tendered for in the area of Education, Awareness and Support.

(4) How will the savings incurred through not providing a complete service response in 2010 be allocated to support kinship carers in the ACT in 2011.

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

1. Yes, I refer the Member to the response to Questions on Notice 1195, 1425 and 1426.

2. Further to my response to Question on Notice 1195, the department has not been able to identify an organisation within the community sector with the specialised knowledge and capacity to provide the required support services to Aboriginal and Torres Strait Islander carers. Instead, a full time Aboriginal and Torres Strait Islander Carer Liaison Officer position is being established. This will be a temporary position, for 12 months, during which time the position will work with the Aboriginal and Torres Strait Islander community to develop capacity in the sector with a view to transferring the program to the community. The position will be based at the West Belconnen Child and Family Centre, which has a focus on Aboriginal and Torres Strait Islander families and will work across the Territory providing workshops, support groups and other assistance. It is expected that the position will be operational before 30 June 2011.

3. Up to $10,000 has been provided towards kinship carers' attendance at conferences and workshops in 2010/11. The Kinship Carers Advocacy and Support Service, provided by Marymead Child and Family Centre, commenced operation on 6 December 2010. This service provides information and support to kinship carers including a telephone hotline, web-based information and social activities. It will also facilitate a reference group that will advocate on kinship carer needs and develop resources to support kinship carers.

4. A total of $200,000 has been committed annually to support grandparent and kinship carers. Unspent funding of approximately $50,000 in 2010- 2011 relating to programs that commenced after 1 July 2010 has been maintained in the Out of Home Care Budget and has been used to offset the cost of providing out of home care services to children and young people in care.

   In addition to the $200,000 commitment, the Office for Children, Youth and Family Support has allocated a further $57,000 from within existing resources in order to top up the $40,000 allocated for the full time Carer Liaison Officer position to support Aboriginal and Torres Strait Islander grandparent and kinship carers. Included in this funding is $5,000 to be used as brokerage to support clients.

   As part of the 2011/12 budget, the Government has provided funding of $1.693 million over four years for the Community Kinship Care Program. This initiative recognises the importance of children and young people staying with kin and provides a specialised support service model that targets the needs of kinship carers. The funding provides for dedicated outreach workers to support carers and children and young people in kinship care.

   The Government also provides funding ($61,732 in 2010/11) to the ACT Foster Care Association who support kinship carers.

   In the 2009/10 financial year the Department paid $2.3 million in ongoing subsidies to kinship carers and a further $1.4 million in contingencies for one off or additional needs.

Youth—support
(Question No 1608)

Ms Hunter asked the Minister for Children and Young People, upon notice, on 5 April 2011 *(redirected to the Minister for Community Services)*:

(1) In relation to the *Youth and Family Service and Delivery Framework* and the Minister's media release, dated 8 March 2011, *ACT Government looks to support youths in care beyond 18*, in which it was stated that all other Australian jurisdictions provide support beyond the age of 18 and as the parent of young people in the care of the Government, we should strive to provide support to this group of young people the same way other parents in the ACT support their young people to transition to independent living, can the Minister provide a copy of the evidence or background paper that was written by the Government to inform the development of the Service Delivery Framework that was released in September 2010.

(2) Does the new service delivery framework cater for young people aged 18 to 25 years.

(3) How does the Minister propose to support the extension of services for young people aged 18 to 25 years leaving care, but are removing the provision of services by the Youth Services Programs to other young Canberrans aged 18 to 25.

(4) Does the Youth and Family Service Delivery Framework identify that early intervention and prevention work will take place in schools, child and family centres and childcare centres; if so, how will early intervention work occur for young people not engaged with these institutions in the community.

(5) What procedures will be used to gather informed consent considering the need for all clients' information to be provided to the proposed Central Intake System.

(6) Has the Minister considered that young people who will be required to give a range of personal information to access a service in the ACT may be put off by this process and will not engage with service providers; if so, how does the Minister propose to overcome this issue.

(7) What privacy protections will be put in place to protect children, young people and families' right to privacy in regards to information provided to the proposed Central Intake System.

(8) Will support and training be provided to community organisations to assist them to understand their obligations in relation to the Central Intake Service and the management of clients personal information.

(9) When will organisations, who have submitted tenders, be informed of the outcomes of this tendering process.

(10) When does the Minister expect this Service Delivery Framework to be fully operational in the Territory.

(11) What transitional arrangements will be put in place to allow organisations to time to become fully operational.

(12) Will organisations be given financial support to assist in delivering redundancy packages to workers who will no longer have employment following announcement of the tendering process.

(13) What supports will be put in place to assist workers to re-skill and seek new employment considering the realignment of this framework.

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

(1) Yes, see **Attachment A**.

The Service Delivery Framework 2011-2014 - community organisations funded to provide services to vulnerable and in need children, young people and their families is based on the public health model as represented in the Australian Research Alliance for Children and Youth *Inverting the Pyramid – enhancing Systems for Protecting Children* report. Stakeholder consultations with the sector have also informed the development of the Framework.

Further, the Discussion Paper: "*Developing a service delivery framework for Office for Children, Youth and Family Support funded services working with vulnerable children, young people and their families*" released to the sector in December 2009 provides a comprehensive list of relevant research to inform the evidence base for the Service Delivery Framework. A copy of this discussion paper is attached.

(2) Yes.

(3) As indicated in my media release of 8 March 2011, the range of supports provided to young people transitioning from formal care could include such things as supporting young people to access Commonwealth benefits, assisting them to engage with existing services, providing emotional support and guidance.

The Framework outlining these transitional supports is currently being finalised following feedback from the community consultation process.

The Government has not removed service provision to young adults aged 18-25 years under the *Service Delivery Framework 2011-2014, community organisations funded to provide services to vulnerable and in need children, young people and their families*.

(4) No. Organisations will work in partnership with children, young people, their families, their communities and other key stakeholders in a range of settings that are appropriate, accessible and best meet the needs of the client.

(5) Procedures used to gather informed consent and maintain clients personal information will comply with relevant legislative requirements. A number of common processes and tools have been bought together under the Framework to support consistency and improved information sharing, including referral forms. Processes to support the implementation of these tools will be further discussed with organisations as part of the planned transition.

(6) Yes, this has been considered and is a continuation of current requirements that all organisations engaged with young people are required to gain the consent of the young person to share information. The personal information required will be dependent on service to be provided.

Lessons learnt from current experience will be part of the consultation that will occur as part of the planned transition.

(7) Refer to response to question 5 above.

(8) Yes.

(9) It is expected the outcome of the tendering process will be finalised in June 2011.

(10) All Service Funding Agreements negotiated as part of the current tender process will be executed in March 2012. As articulated in the Service Delivery Framework (Section 2.8 Procurement) if the Territory does not fulfil its needs through select source procurement, a further procurement will need to be undertaken.

Following the outcome of the tender process, negotiations with successful providers will commence as soon as possible. Where contracts can be finalised and any transition issues managed, services may commence prior to 1 March 2012. It is envisaged that all other new contracts will be executed by 1 March 2012.

(11) The transition to the new service models will occur over an eight (8) month period (July 2011-February 2012). During the interim period, the Department will work closely with the sector to ensure the smooth transition of services and clients. This period will also allow for the fine tuning of administrative processes, data collections, performance measures and staff training and development that are critical to the successful implementation of the new service delivery model

(12) I am not able to pre-empt the outcome of the tender process nor am I able to comment on the numerous employment arrangements through which community service workers are employed.

(13) I am not able to pre-empt the outcome of the tender process nor am I able to comment on the numerous employment arrangements through which community service workers are employed.

(A copy of the attachment is available at the Chamber Support Office).

Bimberi Youth Justice Centre—closed circuit television (Question No 1609)

Mrs Dunne asked the Minister for Children and Young People, upon notice, on 5 April 2011:

(1) What testing has been undertaken to ensure that the closed circuit television (CCTV) security system at Bimberi Youth Justice Centre fully covers all common areas of the centre frequented by detainees, staff and visitors.

(2) When was the last time that the testing was undertaken.

(3) Have any CCTV blind spots been detected at any time since the centre was opened; if so, what action was taken to eliminate those blind spots.

(4) Are there any areas of Bimberi not covered by CCTV; if so, why.

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

(1) I will not release this information as it is likely to compromise security and good order at Bimberi Youth Justice Centre.

(2) The electronic security system is maintained by an external provider SECOM who were responsible for installing the security system at Bimberi Youth Justice Centre. Centre staff at Bimberi Youth Justice Centre, during shifts, check that CCTV footage is working and SECOM undertake testing of the security system three times a year, with the last testing occurring from 18 April 2011 until 29 April 2011.

(3) See response to (1) above.

(4) See response to (1) above.

Insurance—compensation claims (Question No 1610)

Mr Smyth asked the Treasurer, upon notice, on 6 April 2011:

(1) What has been the compulsory third party premium and the registration fee for taxis operating in the ACT for each of the past five years.

(2) How have these premiums and fees compared with those which have applied in New South Wales.

(3) What has been the number of crashes involving taxis for each of the past five years and how many of these crashes resulted in injuries to any person.

(4) How many claims for compensation have been made as a result of crashes involving taxis for each of the past five years.

(5) How many of those claims referred to in part (4) are still outstanding.

(6) What was the quantum of the compensation paid for those claims which have been finalised for each of the past five years.

(7) Have any claims for compensation involved a person who has received catastrophic injuries; if so, how many of these claims have been lodged for each of the past five years.

(8) What has been the quantum of claims made for persons who have received catastrophic injuries.

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

(1) The position in the ACT with respect to compulsory third party (CTP) premiums and registration fees for taxis over the past five years is as follows:

Year	CTP Premium	Registration Charge
2006	$6,976.95	$535.00
2007	$5,947.70	$556.00
2008	$5,826.80	$579.60
2009	$7,270.50	$599.80
2010	$7,897.80	$620.70

(2) The corresponding position with respect in New South Wales (NSW) is set out in the following chart.

Year	CTP Premium	Registration Charge
2006	$6,403.00	$552.00
2007	$6,432.00	$567.00
2008	$6,023.00	$583.00
2009	$6,091.00	$602.00
2010	$6,249.00	$650.00

The New South Wales CTP premium set out above represents the average premium payable across the whole of NSW, including the Sydney -Wollongong - Newcastle metroplex. In addition, NSW includes a Medical Care and Injury Services (MCIS) Levy within the CTP premium. This includes a Lifetime Care and Support component, a component for costs incurred by the Motor Accident Authority (MAA) and ambulance services.

There are also a large number of taxis aligned with various cooperative and liability pool arrangements in NSW that reduce the premium for those taxis significantly (by $2000 plus). Accordingly, this skews the "pure" CTP premium payable by an individual or independent taxicab operator not party to cooperative liability arrangements. The NSW CTP premiums set out above reflect the over-the-counter CTP price for an individual or independent taxi operator.

(3) The table below represents raw numbers largely taken from AFP and TAMS data in respect of the reported number of injuries and property damage. (While this table does not record the total number of crashes, the information reflects the risk profile where more than one person may be injured in a single crash.)

Year	Fatal	Injury	Property	Total
2006	0	5	76	81
2007	0	8	120	128
2008	0	6	133	139
2009	0	17	305	322
2010	0	18	277	295
Total	**0**	**54**	**911**	**965**

NRMA considers that the underlying problem is that taxis in the ACT travel faster and simply hit objects and other vehicles harder with more people in them than the typical family car. Consequently, injuries suffered by taxicab passengers are likely to be more serious than for other motorists in the typical course of events. As the data in answer to questions (4) and (6) therefore shows, in connection with a small market (as at the 2/04/2011 there were 310 registered taxis) with the above injury numbers,

provisioning for ultimate claims payouts necessitates a higher premium than the average family car (passenger vehicle) - in other words, the risk relativities are much higher.

(4) The table below indicates the number of claims made in relation to injuries sustained in a motor crash involving a taxi.

Accident Year	Claims outstanding
2006	16
2007	21
2008	20
2009	28
2010	26

The number of claims for the average family car (passenger vehicle) is between 800-1000 for approximately 250,000 motor vehicles. It is however, insufficient to consider the number of claims in raw terms as there are only 310 taxis (as at the 2/04/2011). Comparatively the percentage of claims per registered vehicles is much higher for taxis (8.4 per cent), being 21 times that of the percentage for the average family car (0.4 per cent using the upper band of 1000 claims).

(5) The table below indicates the number of those claims in answer to (4) that are still outstanding. As the table below reflects, around half of the claims in that last two years are still outstanding.

Accident Year	Claims outstanding
2006	1
2007	2
2008	2
2009	12
2010	13

(6) The information in the table below (provided by NRMA) in respect of the compensation paid for those claims in relation to taxis that have been finalised.

Accident Year	Compensation Paid	Claims Finalised
2006	$929,785.23	15
2007	$1,326,491.63	19
2008	$626,540.30	18
2009	$266,902.62	16
2010	$301,319.57	13
TOTAL	**$3,451,039.35**	**81**

The information above (provided by NRMA) is accurate but not indicative of the overall position. It is also necessary to understand that the long-tail nature of CTP claims means that the compensation paid in any given year represents a snapshot in time, in other words it does not correspond directly to the claims that are made in that year. If one takes the total incurred costs into account, as at 2009, NRMA indicated it was carrying a rolling loss position on taxi CTP premiums in excess of $5 million.

Since 2009, the taxi industry has embarked on a road safety strategy to reduce the incidence of crashes among its members. Despite the weather in 2010, overall claims have reduced, albeit modestly.

(7) According to NRMA, no CTP claims were made for catastrophic injuries in relation to motor crashes involving taxis.

(8) Not applicable, see answer to question (7).

Government—Hawke Review (Question No 1626)

Ms Le Couteur asked the Chief Minister, upon notice, on 7 April 2011:

In relation to the fundamental reasons for the Government restructuring following the Hawke Review and given that (a) in his report, Dr Hawke stated that the current arrangements in relation to land and planning are, at best, hindering if not actively obstructing and frustrating achievement of the Government's priorities and (b) in a question without notice the Minister identified land release as one area where the current administrative arrangements caused issues, can the Minister (i) list other areas where the current arrangements are frustrating achievement of government priorities and (ii) state how the proposed changes will aid the achievement of the governments priorities.

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

(i) As stated in the Assembly on 31 March 2011, the context was not land release as you state, it related to the more complex policy area of housing affordability. The Government undertook the Hawke Review as it was seeking greater coordination to deliver on government priorities particularly in areas which crossed traditional agency parameters, such as sustainability, housing affordability and transport. It was believed then, as it is now that the fragmentation of the ACTPS was not the most effective way to deliver services to the community.

(ii) The move to a 'one government' model, led by a new ACT Public Service Strategic Board, chaired by the Head of the Service and comprising all other Directors-General will ensure greater coordination and alignment of effort on delivering the Government's priorities.

A number of initiatives funded in the 2011-12 Budget seek to support a more effective One ACTPS, these include:

- a scoping study on Government 2.0;
- a new Government Information Office (GIO);
- the implementation of a single Performance and Accountability Framework to be used across all directorates;
- to enhance, build and maintain ACTPS capacity and capability, with a focus on increasing the representation of Aboriginal and Torres Strait Islander people and people with a disability;
- the development of the next Canberra Plan, due for release in 2013 with improved on-line capability through the 'Measuring our Progress' website; and

- a more proactive injury prevention service for ACTPS workers and increased casework activity to enable better outcomes related to injury management of ACTPS workers.

Roads—London Circuit (Question No 1629)

Ms Le Couteur asked the Minister for Territory and Municipal Services, upon notice, on 7 April 2011:

(1) What road and maintenance work was being undertaken on London Circuit during the week of 20 March 2011 and why was this work being done.

(2) Can the Minister provide a breakdown of the costs of the work referred to in part (l).

(3) When did it become apparent that this Work was required.

(4) Was this further work planned at the time when work was done on London Circuit in 2010.

(5) Are the curbs that received maintenance in March 2011 the same curbs that also underwent treatment in 2010; if so, why was this further work undertaken.

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

(1) Replacement of broken kerb and gutter which resulted from a defect in the road rehabilitation works undertaken in 2010.

(2) This information cannot be provided at this time. However, as the work was the result of a defect, the majority of the cost is paid for by the contractor.

(3) The contractor was advised of the need for the work on the 21/7/10.

(4) No. This work resulted from a defect from the works undertaken in 2010.

(5) Yes. Because they were defective.

Environment—management plans (Question No 1631)

Ms Le Couteur asked the Minister for the Arts and Heritage, upon notice, on 7 April 2011:

(1) Do all the cultural facilities have Environment Management Plans.

(2) Which agency creates and monitors these plans.

(3) Have the cultural facilities been made aware of the Government's revolving $1 million Resource Management Fund.

(4) What has the take up been by cultural facilities and other arts organisations in eligible buildings

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

(1) Environment Management Plans are not required for Government-owned cultural and arts facilities including ACT Library and Information Service (ACTLIS) under the *Environment Protection Act 1997* for development works or ongoing activity.

The Cultural Facilities Corporation (Corporation) undertakes a range of initiatives relevant to environment management at its facilities, such as paper recycling and use of renewable energy. The Corporation reports on these initiatives in its annual reports.

Arts facilities are occupied by arts organisation under licence agreements with the Territory. Facility Resource Management Plans are not currently required under licence agreements however, aspects such as use of hazardous materials are documented and managed in accordance with the relevant legislation. Arts organisations are encouraged to consider other aspects of building occupation that would be covered in a Resource Management Plan such as waste reduction, recycling and minimising energy use to improve the sustainability of their operations.

(2) Not applicable to cultural facilities.

A Resource Management Plan to cover arts facility operations would be the responsibility of arts organisations to prepare as part of their business planning activities. It would be monitored by artsACT with advice from the Department of the Environment, Climate Change, Energy and Water (DECCEW).

ACTLIS do not have individual branch Resource Management Plans however, are considering an ACT-wide Plan covering issues relevant to all branches as well as branch specific concerns. This Plan would be monitored by the applicable ACT Government Department as leaseholder.

(3) The Cultural Facilities Corporation has been made aware of the $1 million Resource Management Fund (Fund).

Arts organisations occupying arts facilities have not been made aware of the Government's Resource Management Fund as the fund is only accessible to ACT Government agencies. artsACT is aware of the Fund.

ACTLIS is aware of the Fund and is continuing discussions with ACT Property Group about utilising the Fund.

(4) The Cultural Facilities Corporation has not applied under the Resource Management Fund to date but would consider opportunities to do so in the future.

artsACT has not applied for a loan for arts facilities under the Fund. Arts organisations occupying arts facilities cover their own power costs under current licence agreements and the organisations would make direct savings from reduced resource use. This would prevent artsACT from generating sufficient savings to repay a loan under the Fund. Discussions will continue with the DECCEW about improvements to the environmental management of arts facilities and other possible sources of funding for such improvements.
ACTLIS has not applied for a loan under the Fund however, is interested to consider opportunities under the Fund.

Labor Party—election commitments (Question No 1635)

Mr Seselja asked the Chief Minister, upon notice, on 3 May 2011:

(1) Which of ACT Labor's 2008 election commitments, as listed and costed in the ACT Treasury document entitled Summary of Election Commitments dated 17 October 2008, had the Government not implemented by 31 December 2010;

(2) For each commitment not implemented, (a) why was it not implemented and (b) what cost was saved.

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

(1) Details of the implementation of Government programs is routinely provided in relevant Budget papers, Annual Reports and the mid-year Budget review. In addition, the Government released in December 2010 a Mid-Term Report on Achievement of Election Commitments. This is available at www.chiefminister.act.gov.au/uploads/ot/election_commitments_report.pdf

(2) At the mid point of this Government's current term, the Government considers that substantial progress has been made in the delivery of election commitments. The Government assesses a range of priorities through Budget deliberations, and election commitments form part of that process. Commitments not yet delivered which require budget funding will be considered in the context of future Budget deliberations.

Black Mountain nature reserve—recreational events (Question No 1636)

Mr Rattenbury asked the Minister for Territory and Municipal Services, upon notice, on 4 May 2011:

(1) In relation to the Capital Punishment cycling event that passed through Black Mountain Nature Reserve on 29 May 2010, (a) what monitoring of ecological impacts in the Black Mountain Nature Reserve was undertaken prior to and after the event, (b) what environmental management conditions were placed on the event that needed to be undertaken by the organisers, (c) who gives approval for the event to be conducted through the nature reserve, (d) was the public made aware of the event and the environmental conditions put on the event's operation; if so, how; (e) was there any public consultation about the event being held, (f) how many cyclists passed through Black Mountain Nature Reserve for the event and (g) did the evaluation of the event, if conducted, lead to any recommendations for changes to the operation of the event in future years.

(2) In relation to the Capital Punishment cycling event that passed through Black Mountain Nature Reserve on 19 March 201, (a) what monitoring of ecological impacts in the Black Mountain Nature Reserve was undertaken prior to and after the event, (b) what environmental management conditions were placed on the event that needed to be undertaken by the organisers, (c) who gives approval for the event to be conducted through the nature reserve, (d) was the public made aware of the event, and

the environmental conditions put on the event's operation; if so, how, (e) was there any public consultation about the event being held, (f) how many cyclists passed through Black Mountain Nature Reserve for the event, (g) did the evaluation of the event, if conducted, lead to any recommendations for changes to the operation of the event in future years, (h) what changes were made to the course from the previous year and why were these changes made and (i) is it envisaged that the Capital Punishment Race will be an annual event and that it will continue to pass through Black Mountain Nature Reserve.

(3) What other recreational events are planned for Black Mountain Nature Reserve in 2011.

(4) Can the Minister provide a list of all the events and the dates on which they were held, that have been held in Black Mountain Nature Reserve since January 2009.

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

(1) (a) Prior to the event being held, Rangers inspected the proposed event route with the event organiser to ensure the proposed management trails were suitable for the event. Following the event, an ecologist and ranger inspected the event route to identify any damage.

(b) The organiser was required to limit the event to management trails within the Black Mountain Nature Reserve. The event permit also required the removal of any litter or temporary signage immediately following the event.

(c) An event of this nature is approved by a Delegate of the Conservator for Flora and Fauna under the provision of the Nature Conservation Act 1980.

(d) The public was made aware of the event through signage and emails to local ParkCare Groups. In the week preceding the event, the organiser placed signage along the proposed route advising other users of the reserve of the timing and location of the event within the reserve. If the event passed through a reserve with an active ParkCare Group, this group was notified. The ACT Equestrian Association was also notified as the event used local horse trails. The environmental conditions placed upon the event organiser were made available upon request.

(e) See (1)(d) above.

(f) Approximately 1,200 cyclists.

(g) Following the conclusion of the event, a debrief was conducted with the event organiser. The recommendations outlined that similar events should include conditions on the amount of rainfall permitted prior to the event being approved to proceed. It also concluded that for future events, temporary barriers would be placed along sections of management trails where participants may be inclined to short cut a corner and, therefore, ride off the management trail.

(2) (a) Prior to the event being held, Rangers inspected the proposed event route with the event organiser to ensure the proposed management trails were suitable for the event. Cycling is permitted on the management trails within Black Mountain Nature Reserve under the *Canberra Nature Park Management Plan 1999*. Following the event, a senior ranger inspected the event route to identify any damage. No environmental damage was observed.

(b) The event conditions outlined that if the rainfall exceeded 1mm in the 24 hours preceding the event or 10mm in the 5 days preceding the event, the Parks and Conservation Service had the ability to cancel or modify the event. This condition was put in place to prevent damage to the network of trails being used, particularly the management trails within Black Mountain Nature Reserve. The event organiser was also required to place temporary barriers along sections of the route where it was perceived that event participants may ride off the management trails. The event permit also required the removal of any litter or temporary signage immediately following the event.

(c) See (1)(c) above.

(d) See (1)(d) above.

(e) See (1)(d) above.

(f) Approximately 1,482 cyclists.

(g) Following the Senior Rangers' inspection of the event route, a debrief was held. This debrief concluded that the additional conditions placed upon the event assisted with the protection of the conservation values of the Reserve. It has since become apparent that a follow-up inspection is required to ensure that all the temporary signage is removed. This will be addressed for future events.

(h) The event organiser proposed a number of changes to the 2011 event route. These changes were made for safety and environmental reasons. The 2011 event used fewer high speed roads such as the Federal Highway and Gungahlin Drive. The event also used fewer designated horse trails as some of these do not include a formed road but are rather grassy trails outside the Nature Reserve system.

(i) The organiser for the Capital Punishment Event has not submitted an event application for a future event. The impacts on the environment and other recreational users would be considered prior to approving any future event applications of this nature.

(3) A duathlon is proposed for 3 July 2011. However this event has not yet been approved. There is also potential for smaller activities such as orienteering on 25 May 2011 and 15 June 2011.

(4) A list of approved events in Black Mountain Nature Reserve since January 2009 is provided at Attachment A.

Attachment A

Activities in Black Mountain between January 2009 - May 2011

ActivityType	**Booking Date**
Fun run	15/01/2009
Fun run	17/02/2009
Fun run	17/03/2009
Fun run	28/03/2009
Fun run	20/04/2009
Bushwalking	10/05/2009
Fun run	19/05/2009

Orienteering	27/05/2009
Fun run	16/06/2009
Orienteering	28/06/2009
Bushwalking	01/07/2009
Orienteering	01/07/2009
Duathlon	05/07/2009
Fun run	21/07/2009
Bushwalking	24/07/2009
Fun run	24/07/2009
Bushwalking	28/07/2009
Orienteering	01/08/2009
Bushwalking	05/08/2009
Fun run	18/08/2009
Fun run	15/09/2009
Orienteering	17/10/2009
Orienteering	18/10/2009
Fun run	20/10/2009
Bushwalking	20/10/2009
Community Group activities - indentifying plants	10/11/2009
Bushwalking	15/11/2009
Fun run	17/11/2009
Orienteering	02/12/2009
Educational / School Event	07/12/2009
Fun run	15/12/2009
Fun run	16/02/2010
Fun run	16/03/2010
Wedding	20/03/2010
Fun run	20/04/2010
Fun run	18/05/2010
Orienteering	26/05/2010
Fun run	15/06/2010
Orienteering	16/06/2010
Orienteering	03/07/2010
Fun run	20/07/2010
Fun run	30/07/2010
Fun run	17/08/2010
Bushwalking	08/09/2010
Fun run	21/09/2010
Fun run	19/10/2010
Bushwalking	20/10/2010
Fun run	16/11/2010
Duathlon	21/11/2010
Multi sports	26/11/2010
Multi sports	27/11/2010
Orienteering	08/12/2010
Fun run	21/12/2010
Private functions	27/01/2011
Bicycle Riding - on management trails	19/03/2011
Orienteering	08/05/2011
Bicycle Riding - on management trails	29/05/2011

Namadgi national park—walking tracks (Question No 1637)

Mr Rattenbury asked the Minister for Territory and Municipal Services, upon notice, on 4 May 2011:

(1) In relation to walking track maintenance at Namadgi National Park, who checks the walking tracks to assess their condition and how often are they checked with a view to requiring maintenance.

(2) How often are tracks cleared, in general.

(3) When were the tracks to Square Rock and Nursery Swamp last maintained.

(4) Is there a plan that outlines which tracks will undergo maintenance activities and when this will happen for (a) 2010-2011 and (b) 2011- 2012; if so, can the Minister provide the plan; if not, why not.

(5) What records does Parks Conservation and Lands (PCL) keep in regard to the usage of walking trails.

(6) Is there data available for the numbers of walkers and/or groups that use the walking tracks; if so, can the Minister provide this data for (a) 2007-08, (b) 2008-09, (c) 2009-10 and (d) 2010-11 to date.

(7) Is PCL aware of any incidences of walkers becoming lost due to poor track maintenance.

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

(1) Park Ranger and Field staff check the condition of walking tracks within the Park to assess their overall condition and to program future maintenance work. Given the extensive nature of the walking track system within the Park and other competing priorities these inspections are scheduled to coincide with the delivery of other land management programs such as vertebrate pest and weed control programs.

(2) Walking tracks are generally cleared when inspected, depending on the extent and nature of material to be cleared. This, however, is dependent on weather conditions.

(3) Maintenance work was recently undertaken along Square Rock walking track with further work planned for implementation within the next two months. Once this program of works has been completed, maintenance work will then commence on the Nursery Swamp walking track.

(4) No. Overall walking track maintenance is undertaken on a 'as required basis' and forms part of individual ranger work programs. It is a component of other land management functions such as the delivery of bushfire operational activities, weed control and vertebrate pest management programs, along with the delivery of visitor services programs.

(5) There are visitor registration books located at the beginning of many walking tracks throughout the Park that enables visitors to record their details before commencing

walks. There is also a visitor book at the Visitor Centre that walkers may record their details in.

(6) No. Many visitors to the park do not come into the Visitor Centre before venturing into the Park or sign in at trail heads. As there are several entrances to the Park and the Visitor Centre is only open during business hours, there is no way to accurately maintain a record of the number of people using the Park's walking trail network.

(7) While there have been a small number of bushwalkers who have become lost in the park over a number of years, none of these incidents has been attributed to poor track maintenance.

Questions without notice taken on notice

Health—life expectancy

Ms GALLAGHER *(in reply to a supplementary question by Ms Le Couteur on Thursday, 7 April 2011)*: I am advised that the answer to the Member's question is:

The ACT Government has not, I understand, formally adopted the World Health Organisation's social determinants of health framework, outlined in the 2008 Final Report of the Commission on Social Determinants of Health – *Closing the Gap in a Generation*.

ACT Government policy, particularly the Canberra Plan and associated plans, and the 2010-2011 ALP ACT Branch Platform do, however, have a significant focus on addressing the social determinants of health within a social justice framework. The determinants are also referenced in a range of ACT Health policies and programs, including *Towards a Healthier ACT – A Strategic Framework for the Population Health Division 2010-1015; Building A Strong Foundation: A Framework for Promoting Mental Health and Wellbeing in the ACT 2009-2014*; and strategies relating to primary health care and ambulatory services. Similarly the business of other government agencies, such as the Chief Minister's Department, Department of Education and Training, the Department of Disability, Housing and Community Services is influenced by the need to address the social determinants of health.

I am confident therefore that, although not a Member State of the World Organization, the ACT Government is responding comprehensively to Resolution 14 of the 62nd World Health Assembly in 2009 in response to the Final Report of the Commission on Social Determinants of Health. This resolution urges Member States

1) to tackle the health inequities within and across countries through political commitment on the main principles of "closing the gap in a generation" as a national concern, as is appropriate, and to coordinate and manage intersectoral action for health in order to mainstream health equity in all policies, where appropriate, by using health and health equity impact assessment tools;

2) to develop and implement goals and strategies to improve public health with a focus on health inequities;

3) to take into account health equity in all national policies that address social determinants of health, and to consider developing and strengthening universal comprehensive social protection policies, including health promotion, disease prevention and health care, and promoting availability of and access to goods and services essential to health and well-being; and

4) to ensure dialogue and cooperation among relevant sectors with the aim of integrating a consideration of health into relevant public policies and enhancing intersectoral action.

The policies and programs of all ACT Government agencies impact, directly or indirectly, on the health and wellbeing of Canberrans. As I stated in the Assembly on 7 April 2011, I have asked the Chief Health Officer for advice on these issues. There are further opportunities through the recommendations of the Hawke Review and the

development of a framework to assist agencies to work together on shared priorities, to make further progress towards a comprehensive whole of Government response to the social determinants of health.

Health—midwives

Ms GALLAGHER *(in reply to a supplementary question by Ms Hunter on Thursday, 7 April 2011)*: I am advised that the answer to the Member's question is:

In line with other jurisdictions, ACT Health is in the process of establishing a cross jurisdictional, multi-disciplinary Maternity Services Advisory Committee (MSAC) to monitor implementation of the National Maternity Services Plan (the Plan) 2010 – 2015. The MSAC will establish a number of working groups to progress a range of actions in the Plan including the development of a framework for clinical privileging and scope of practice, credentialing, including prescribing and collaborative arrangements and visiting rights for privately practicing 'eligible' midwives in the public hospital system.

Action 1.2.2 of the Plan requires jurisdictions in the initial year (2011) to develop consistent approaches to the provision of clinical privileges within public maternity services to enable admitting and practice rights for eligible midwives and medical practitioners. This work is underway through the national Maternity Services Interjurisdictional Committee (MSIJC) which reports through the Health Policy Priorities Principle Committee (HPPPC) to Australian Health Ministers Advisory Council (AHMAC). The MSIJC has requested advice from the Commonwealth regarding issues related to Private Health Insurer (PHI) funding of private bed day costs in a public facility if the private midwife also has MBS access.

At this point, the Women and Children's Service at the Canberra Hospital is only aware of one privately practicing eligible midwife providing homebirth in the ACT. This midwife is providing Canberra Hospital with her MIGA (Commonwealth supported professional indemnity insurance provider) Midwifery Care Plan. The hospital acknowledges receipt of the maternity care plan and creates a file for the woman to cover the eventuality that she may be admitted. The midwife is invited to consider offering the woman a tour of the maternity facilities and a pre-admission visit so that she is familiar with and comfortable with the public facility if admission is required.

The Australian College of Midwives acknowledges the need for the midwife to take full responsibility for consultation with other midwives and with obstetricians (GP or specialist) and the need for the midwife to organize their own time to attend different women in their caseload as required, including being on call for labour and birth.1

Under current arrangements, if the woman is admitted to the Canberra Hospital, her private midwife must then hand over care to the public midwives and she becomes a birthing support person.

A Medicare provider number will only be issued if the eligible midwife is in private practice. To access the MBS and PBS arrangements, midwives need to meet the

'eligible midwife' registration standard which includes the requirement for the midwife to provide evidence that she/he is working in a 'collaborative arrangement with an obstetrician, GP obstetrician or public maternity service. The minimum requirement of evidence of a collaborative arrangement is for the midwife to submit a maternity care plan to the medical practitioner or public maternity service. Receipt of a maternity care plan is an administrative arrangement only and does not confer a duty of care on the receiving party.

Prescriptions written by eligible midwives are claimed following existing processes. Under the Commonwealth supported insurance product from MIGA, there is no cover available for the provision of intrapartum services for planned homebirths because homebirths can potentially involve a higher level of clinical risk in some home-based circumstances.

For antenatal and postnatal care, the eligible midwife may choose to either bill a patient directly or to bulk bill Medicare Australia. If bulk billing, The *Assignment of Benefit Form* is completed before the patient signs it, the patient is given a copy and does not pay for the service. If the midwife is charging the patient, a receipt for payment is provided to the patient who subsequently claims the applicable Medicare benefit.

Australian College Midwives Position Paper: MBS Eligibility of Midwives, P5

Planning—Northbourne Avenue

Mr CORBELL *(in reply to a question by Ms Le Couteur on Wednesday, 6 April 2011)*: In response to your question, I provide you with a detailed map of the site and location. The requested information is at Attachment A.

The location of the proposed tree removals are indicated on the maps as red dots. The removal sites include trees that have been assessed as dead, in the final stages of decline or potentially unsafe.

I can confirm that no replanting will occur in the project area, along Northbourne Avenue from London circuit to Antill Street (south), until the outcomes of the Transport Feasibility study are decided upon by the Government.

You also asked specifically about the location of the proposed Dickson Bus Station.

I am advised that Challis Street in Dickson is being investigated for the feasibility of establishing a bus station. This is consistent with the ACT Strategic Public Transport Network Plan.

(A copy of the attachment is available at the Chamber Support Office).