



# Debates

WEEKLY HANSARD  
SEVENTH ASSEMBLY

Legislative Assembly for the ACT

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**Tuesday, 16 August 2011**

**MR SPEAKER** (Mr Rattenbury) took the chair at 10 am, made a formal recognition that the Assembly was meeting on the lands of the traditional custodians, and asked members to stand in silence and pray or reflect on their responsibilities to the people of the Australian Capital Territory.

## **Speaker**

### **Motion of want of confidence**

**MR SESELJA** (Molonglo—Leader of the Opposition) (10.02), by leave: I move:

That this Assembly no longer has confidence in the Speaker.

I rise today to discuss a very serious matter—that of a want of confidence in the Speaker of this Assembly. I do so with seriousness and purpose, and after considerable thought and discussion with my colleagues.

There are several reasons that lead us to this point, and there were several incidents that built, one upon the next, until I can no longer in good conscience or good faith continue to support our current Speaker in the role he currently occupies.

It may be best to start with the last of those reasons—but one which exemplifies above all others how utterly untenable the Speaker's position has become. I refer, of course, to the absolutely extraordinary stance of this Speaker in openly denigrating the rule of law and in publicly supporting illegal activity. On 14 July this year the *Canberra Times* reported:

At least two Greenpeace protesters have scaled a fence with whipper snippers to destroy a crop of genetically-modified wheat at a CSIRO farm in Canberra.

Later:

“We had no choice but to take action to bring an end to this experiment,” said Greenpeace Food campaigner Laura Kelly in a release this morning.

The article concluded:

Police are investigating the incident.

Just to make this crystal clear, the GM crop that was so hazardous it had to be destroyed, was so abhorrent that protesters broke into a scientific centre and systematically destroyed hundreds of thousands of dollars of property—it was all to destroy wheat being grown to see if it could have a lower GI rating. That is it. The threat was low GI wheat.

This motion is not about examining the detail of those illegal actions themselves; it is about dealing with the endorsement of illegal actions by the Speaker of the Assembly. The *Canberra Times* of the day reported:

Canberra Greens MLA Shane Rattenbury this morning condoned the action on ABC Radio, citing Greenpeace's long-held opposition to GM crops, and saying that sometimes the end justified the means.

The exchange on ABC that morning included the following:

Ross: But this is potentially breaking the law, they've destroyed someone else's property. That's breaking the law, surely?

Shane: Well I think Greenpeace has got a track record of at times breaking the law to draw attention to what might be a greater injustice or a greater problem ...

Ross: And that's ok?

Shane: Well, as you know Ross, I used to work for Greenpeace and I've certainly been involved in actions in the past where Greenpeace has broken the law and that has been necessary to highlight what we've considered at the time to be greater issues.

There we have it: the words from a person elected to this body to make the law encouraging others in the community to break the law. Extraordinarily, Shane Rattenbury did not realise the error he had made, the conflict he had created regarding his private beliefs and his public duty. Others did, myself included. Michael Moore, a previous independent member, correctly identified the flaw immediately. In the article "Greens thumb nose at the law" Mr Moore writes:

THE Greens have really stuffed up! Just when it was looking like they were taking their role in the Assembly seriously and making sensible decisions, they demonstrate ignorance of political priorities.

He continues:

The Greens sit in the Assembly entrusted with the balance of power by the Canberra community to make laws that they expect us to obey. They are not in a position to condone any form of breaking the law—even if they privately agree with the objective.

The ACT Speaker, Shane Rattenbury, is no longer an activist in a Zodiac putting himself between a harpoonist and whales. His priorities were simply wrong when he refused to condemn the illegal action of Greenpeace activists who destroyed the CSIRO's scientific research project.

Mr Moore further writes:

The other part of the Speaker's dilemma is that a higher priority, particularly for a member of parliament, is the rule of law. The Greens should be demonstrating to the community that they understand the priority of the rule of law for the maintenance of a democratic and civilised society.

The Greens are an integral part of making our laws. There are many people in the community who find Greens-initiated legislation an anathema to their own

views. They have the right to challenge such laws using all the democratic tools, again and again if necessary. It does not allow the right to simply ignore or disobey them.

He continues:

This incident raises a momentous question for people considering voting for the Greens. Is a vote for the Greens a vote for a party wanting to dictate their view of the world or is it a vote for a party wanting to fairly participate in and influence the democratic process?

Did Shane Rattenbury learn from this? Did he recant his clearly erroneous position? No. He went on not only to continue to defend the law breakers but to encourage others to do the same. Under an article entitled “Why I support illegal protests” Shane Rattenbury continues:

At the heart of those concerns appears to be the notion that, as a politician, I should no longer support the right of citizens to participate in peaceful, and even unlawful, protest.

That is actually the core of this debate: when you accept the responsibility to become a law-maker, you cannot take the side of the law breakers.

Shane Rattenbury then tries to blur the lines between peaceful protest or civil disobedience and violent, aggressive, intrusive, destructive and illegal behaviours. One is an important part of a free-speaking democracy. The other is anathema to all those who support the rule of law over the thuggery of the streets.

Lastly, Shane Rattenbury makes a truly astonishing statement:

Governments can be influenced by vested interests and don't always make decisions that are in the best interest of the community, and civil disobedience has been a powerful way to challenge Governments to rethink when other more “legitimate” forms of protest have failed.

Mr Rattenbury is a member of a party that supports a government, so I find this statement utterly baffling, and it triggered my motion today. I will outline the reasons why it is untenable for Mr Rattenbury to remain in the chair of the Assembly as Speaker with the confidence of the Assembly.

Reason 1: he has failed to uphold respect for the law. As I said in my response article, the rule of law is not an optional extra for law-makers. As members of the Legislative Assembly, our code of conduct states that we “agree to respect and uphold the law”. Mr Rattenbury has failed to do so. He has failed to do so explicitly and repeatedly.

There are very good reasons why this is important. No mainstream political party can or should condone the deliberate and illegal destruction of property, no matter how strongly held are the beliefs of the people who carry out these acts. Imagine the outrage if climate change sceptics decided to destroy the offices of the scientists at the CSIRO who conduct climate change modelling. What would happen if extremists

sought to destroy the Speaker's office or Mr Rattenbury's personal property? And what if the Speaker of the House of Representatives condoned such behaviour?

And this was no minor crime. This was not a peaceful protest. The actions of these vandals destroyed over a year of work, destroyed around \$300,000 worth of property and set the cause of feeding the world back significantly. It was an act of thuggery and intimidation as much as an act of property destruction.

And it was an act that flies in the face of any claim Mr Rattenbury makes about evidence-based policy or listening to the science. How can you base policy on evidence if that evidence is being destroyed? Do we only listen to scientists who carry out experiments we agree with?

Dr Christopher Preston, Associate Professor in the School of Agriculture, Food and Wine at the University of Adelaide, said the attack was upsetting:

“As an active scientist, I am appalled that a fellow scientist's experiments have been destroyed through this action,” he said, adding that the OTGR had assessed the trial to offer no significant threat to human health or the environment.

He said:

These trials are not just about the development of genetically modified crops that may at some future time be developed commercially, but frequently provide spin-off information that is of use in our understanding of gene action in the environment. This important information is also lost.

Professor Mark Tester, a plant scientist at the University of Adelaide, said that the protest was deeply disappointing. He said:

GM technology is not a magic bullet but it does offer new opportunities to improve the quality and quantity of wheat ...

One cannot make any generalisations about GM or any other technology—it all depends on how it is used ... One cannot say that all GM is good or that all GM is bad but it is one of many tools in our toolbox to try and help protect the environment and feed people around the world.

Even if their cause was just, which it is not, they would deserve condemnation. The alternative is that every group with a cause would be encouraged by Shane Rattenbury to take the law into their own hands. Where would it end?

We know where it ends; we have seen recently on the streets of London where that kind of attitude ends. There are people who claimed in London to have had a cause they were standing up for, who claimed that they had been let down by the laws of the land and therefore took the law into their own hands. This is not precisely the same situation, but the principle is very similar. The point is this: how would it appear if the Speaker of the House of Representatives in Britain said that he supported such an illegal protest? What would happen if he said he believed that the end justifies the means?

Just when the rule of law needs to be supported, it will be undermined by a person who is not just a law-maker but the person required to set the laws for the law-makers. This is the second reason this position is so utterly insupportable: this is not just a member of this Assembly; it is the Speaker himself. It is untenable for a law-maker to be an advocate for unlawful behaviour, but it is even more untenable for the Speaker of a parliament to do so. The Speaker holds a particular role in upholding the rule of law and maintaining the legitimacy of the Assembly. The role has been noted as being “representative of the House itself in its powers, proceedings and dignity”. It is hard to find precedents for Speakers being censured for their lack of respect for the law, let alone for the open encouragement of law breaking, because such a position is obviously and deeply contradictory to continuance in that role. Shane Rattenbury is not just an errant backbencher. He holds a particular role in a particular place to maintain respect for the Assembly and the law. His decision to endorse illegal destruction is completely incompatible with that role.

Shane Rattenbury has already raised more than the usual proportion of conflicts of interest, but this one goes right to the heart of his position as both a law-maker and the Speaker. The CSIRO action was carried out by Greenpeace, openly admitted. Mr Rattenbury is not just an ex-member of Greenpeace; he is a current member of Greenpeace giving support to activities, both legal and illegal.

Reason 4 is that the office is compromised by confusion of roles. One of the problems that have come up repeatedly, and which we believe have diminished the role of Speaker, is Shane Rattenbury’s confusion over his role. Sometimes he is a player; sometimes he is an umpire. Sometimes he is an observer; sometimes he is an advocate. Sometimes he is counting up the interjections and sending members letters; at other times he is in the chair catcalling with the best of them. Confusion and conflict are both added to contempt of the law for this Speaker.

Our role as law-makers is to advocate for the laws we want changed, respect the verdict of the Assembly and encourage those agitating for change to use legitimate means rather than engage in destruction and intimidation. As law-makers, we do not get to choose which laws should be respected. We do get the opportunity and responsibility to encourage peaceful, lawful means to create change.

The silence of the Greens’ leadership is also deeply concerning. Ms Hunter has been silent on the issue, which suggests either that this endorsement of illegal behaviours is now Greens policy or that Ms Hunter has no control over her parliamentary colleagues. This is deeply worrying for a party that holds the balance of power in the Assembly.

Mr Rattenbury has claimed that he must endorse the illegal destruction of property because to do otherwise would amount to hypocrisy on his part. I contend that endorsing property destruction and illegal protests, yet continuing to sit as the Speaker of the territory’s law-making body, is equally hypocritical, equally vacuous and completely indefensible.

In case I am accused of party-politicking in this debate, let me say that I would accept another person in this role even if it is not our preferred candidate. I would accept

another Green or I would accept a member of the Labor Party. We voted for Mrs Dunne, and we believe she would be the best person in this role. But given the seriousness of this, we would be prepared to relinquish that claim in order to see an alternative Speaker in Mr Rattenbury's place. This is not about Labor, Liberal or Green; it is about respect for the laws of this Assembly, the dignity of the office and faith in parliamentary process.

I implore this Assembly to respect the rule of law and the dignity of parliament and send a clear message that this Assembly is where violent, illegal acts are condemned, not encouraged. Protest should be done through voting, not violence. Change should be encouraged through listening to others' ideas, not destroying others' property. We have a Speaker who thinks differently. He openly encourages illegal acts, citing that sometimes the end justifies the means. It does not. I move no confidence in the Speaker.

**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) (10.15): I move the amendment circulated in my name:

Omit all words after "That this Assembly", substitute:

- "(1) expresses its ongoing confidence in the capacity of the Speaker to perform his duties fairly and impartially;
- (2) reaffirms the importance of all Members upholding and supporting the principle of the rule of law; and
- (3) urges all Members to refrain from comments which may be perceived as supporting unlawful protest."

Mr Speaker, the issues that Mr Seselja raises in his motion today are matters that are worthy of discussion in this place, and the government welcomes the opportunity to ventilate these issues this morning. But the government's view is also very clear: the perspective that Mr Seselja and the opposition have chosen to take on this particular matter is out of all proportion to the actual content of the comments made by you in relation to the Greenpeace protest.

I want to make it very clear that the government does not support or condone any unlawful action. Of course, it is also worth observing that these matters are still before the courts, and guilt has not yet been proven in relation to this matter. That is a matter that we should appropriately keep in that context.

Let us have a look very closely at what you said, Mr Speaker, in your interview. You did not say that the end justified the means. Indeed, I understand that the ABC apologised for the use of that term when it was tweeted by the presenter following your interview on that day, 14 July. What you said, Mr Speaker, was that there were circumstances where a certain organisation had chosen to break the law to pursue its political ends. Mr Speaker, we understand your past association with this organisation but that does not—



*Opposition members interjecting—*

**Mr Hargreaves:** On a point of order, Mr Speaker, Mr Seselja's initial speech was heard in silence. I believe that this is a sufficiently serious debate that those opposite ought to give their leader the credit of having the entire debate heard in silence. I am getting a bit sick of the interjections and the catcalling across the chamber. I ask you to bring them to order.

**MR SPEAKER:** Thank you, Mr Hargreaves. I think that is a fair point. Mr Seselja was heard in silence. Let us try and conduct this whole debate in the same manner. Mr Corbell, you have the floor.

**MR CORBELL:** Thank you, Mr Speaker. Any past association that you have had with that organisation is not relevant in your current role. Your role as Speaker is to uphold the dignity of this place, to fairly and impartially oversight the debates of this place and to ensure the proper administration of the Assembly.

There is nothing in what you have said which leads the government to believe that you are unable to continue in that role and to perform those functions. That is why, in the amendment that the government are moving this morning, we express our ongoing confidence in your ability to perform your duties fairly and impartially.

But we also say to you, Mr Speaker, that the comments you made on ABC radio on 14 July were unwise. They were unwise because they have clearly created the perception that you perhaps condoned the actions of an unlawful protest. Perception is important, and it is a matter that we believe you should have close regard to. I think many in the community would have reflected on what would have been the reaction of yourself or other members of the Greens in other circumstances—if, say, the protest involved the storming of a climate change academic at the ANU and the destruction of their property and research. I think such actions would have been rightly condemned by all law-abiding citizens. And I think that is the quandary you have placed yourself in, Mr Speaker, in that perhaps unlawful actions which are contrary to your political beliefs would be perceived differently and responded to differently from actions which are consistent with your political beliefs.

That is why it is very important that all members in this place uphold the principle of the rule of law—that laws are made to govern us all and that they are obliged to be upheld by all. Further, I think it is very important that comments are made in such a manner as to not allow the perception to be created that there is support for unlawful or illegal action by any member of this place.

Are these comments worthy of a motion of no confidence? Not in the government's view. There is nothing to suggest that you, as the Speaker, cannot continue to perform your duties fairly and impartially as a member of this place. But in the cut and thrust of political debate, talkback radio and engagement with the media, were the comments wise? No, they were not. And I think it is important that the Assembly reflects on that.

Of course, this is not a dilemma that is faced purely by the Speaker. It is faced by all members in this place, where we seek to reconcile our own political beliefs and objectives with the actions of those who we are supportive of, but who we perhaps believe sometimes take it a step too far. It is a balancing act for all members in this place to perform.

For that reason the government will not support this motion of no confidence today. We believe it is absolutely essential that we reaffirm the importance of all members upholding and supporting the principle of the rule of law and that all members reflect on the importance of being judicious in their comments so as not to create any perception that they support any form of unlawful protest.

I want to briefly reflect on the history of the different political parties in this place, because it has been put to me this morning that there were many instances where the Labor Party was involved in some form of unlawful protest in history. There is no doubt that party activists, community activists and union activists have engaged in unlawful actions where they have trespassed on others' properties, for example, to make a particular political point. That is indeed the case, but the standard that is applied to a political activist or a union member is different from the standard that is applied to an elected representative, and we believe that that distinction is one that should be drawn and which regard should be had to.

Mr Speaker, in conclusion, when we view your comments in their entirety, I do not think it is fair to say that you have condoned unlawful action, but I think it is fair to say that you have created the perception that you are perhaps sympathetic to it, and that was an error. We all make errors. We all, with the ability of hindsight, perhaps wish that we had put our position somewhat differently, with a somewhat different nuance. But does this go to the heart of your capacity to perform your duties as Speaker? In the government's mind, no it does not. You have continued to demonstrate your ability to properly administer the affairs of this Assembly, to adjudicate fairly and impartially in the chamber during the course of debate and to represent the Assembly in the broader community.

For those reasons, the government will not be supporting Mr Seselja's motion today and instead propose the amendment in the form circulated.

**MS HUNTER** (Ginninderra—Parliamentary Leader, ACT Greens) (10.25): The Greens will not be supporting the motion today, because it is baseless and it ignores the position the Speaker has clearly enunciated. In fact, it is incorrect in its understanding of the theoretical underpinnings of a modern and vibrant democracy.

The first point to make, and perhaps the most important, is that despite what Mr Seselja tried to suggest, how he tried to twist things, the Speaker has been absolutely clear in his position, a position that supports the rule of law. To suggest otherwise is fanciful and reflects Mr Seselja's political agenda rather than something the Speaker has actually said.

I would like to be clear that this is also the position of the Greens, and this is spelled out clearly in our policies, which right up front indicate that the rule of law is fundamental to a democratic society.

What is also clear is that, within a democratic society, there should also be room for dissent. I think that is something that is accepted across the spectrum of this chamber. A modern, vibrant democracy is more than capable of incorporating dissent. In fact, I think that, again, most of us would hold the view that a level of dissent is healthy to ensure that our society is striving to be the best it can. Dissent can drive accountability, it can drive improvement and it can prevent injustice.

The underlying issue in today's motion is disagreement about what forms of dissent are considered legitimate and, specifically, what views members of this place might hold on how that dissent might be expressed.

Specifically, Mr Seselja's motion raises the question of civil disobedience and whether peaceful, and perhaps even unlawful, protest and the rule of law can stand side by side. The Greens believe that they can.

*Opposition members interjecting—*

Throughout history, many important political players have participated in civil disobedience. Civil rights activist Dr Martin Luther King is one of the most well known. Locally, many of those who fought against the dam on the Franklin River—

**Ms Bresnan:** On a point of order, Mr Speaker, we have already had a discussion today about speeches being heard in silence. Mr Seselja's was, Mr Corbell's was, and I ask that Ms Hunter's speech also be heard in silence.

**MR SPEAKER:** Yes, the point of order is upheld.

**MS HUNTER:** Thank you, Mr Speaker. Throughout history, many important political players have participated in civil disobedience. Civil rights activist Dr Martin Luther King is one of the most well known. Locally, many of those who fought against the dam on the Franklin River were arrested, but history and the nation now judge them as heroes. Right across the union movement, environment movement, the civil and women's rights movements, civil disobedience has featured. There are also contemporary examples where peaceful disobedience might come into play. For example, over the weekend debate emerged about whether farmers should be able to lock coal seam gas companies out of their land, in spite of the legal right to undertake exploration. I believe that Mr Abbott made some statements on this issue.

Figures on the conservative side of politics have accepted the legitimacy of civil disobedience. Former environment minister Senator Ian Campbell joined the board of Sea Shepherd, an organisation well known for controversial protests against Japanese whalers in the Southern Ocean. During the last term of the Assembly, and something which is even closer to home, Liberal MLA Steve Pratt was a regular. Attacking what he called the scourge of graffiti, Pratt took direct action and painted over what was in fact a legal artwork. Later, in the debate over the gas fired data centre at Macarthur, Pratt was quoted as saying, "If push comes to shove, I will chain myself to a bulldozer to stop this going ahead." I have been unable to find any comments from the party leader, Zed Seselja, condemning either of these actions.

Mr Seselja has been very quick to come in and say that he believed I should be reining in one of my members. I was fascinated to go back and do the research around Mr Pratt and to find that, as party leader, Mr Seselja said nothing. Yet all of these actions would be considered by many to be a form of peaceful civil disobedience, such as Mr Pratt's involvement in property destruction. They could also be considered unlawful.

This does not mean that peaceful protest does not have a legitimate role in our society. Of course, the rule of law must be upheld. Those who break the law will be dealt with by the law. The Greens have never disputed this, nor has the Speaker, which is why today's motion is a misuse of the Assembly's time. The Speaker has been unequivocal in his position, a position that is supported by both history and political theory.

As a party committed to peace and non-violence, the Greens are also committed to dissent being peaceful. Protest or dissent should be non-violent. It should not put life in danger, nor put fear into people. We believe that violence is never a forward step along the road to building positive social change.

The debate will always be subjective. The assessment of what is acceptable and unacceptable dissent in our community will always be subjective. Some people agree with trespass or blockading their properties if it is in the name of defending their land. Some people will want to chain themselves to bulldozers to defend their patch. Some will put themselves in front of harpoons to prevent whaling.

That is where the subjectivity comes into it. It seems that, at different times on different issues, people will have varying views on the legitimacy of those actions. And that debate is fair enough. Once again, it is a legitimate and healthy part of our democracy. But that does not change the central point that in a modern, vibrant democracy there is space for dissent.

As members, as people whose jobs it is to defend that democracy, surely we can be mature enough not to feel threatened by that dissent. Yes, we will also put the mechanisms in place to ensure that the rule of law prevails. We will uphold the rule of law. But we should also be open to the dissent, open to the idea that the community is demanding change from us and open to people expressing that in different ways.

This motion cannot be supported for two reasons. The first is for the reasons that I have spelled out—that there is a legitimate place for dissent in our society and that civil disobedience and the rule of law can stand side by side.

The second reason is that the Speaker has been clear in his position. He is committed to the rule of law. He has been unequivocal in stating his position that those who break the law should and will face the consequences. Mr Seselja may disagree with that analysis or he may twist it to try and be something it is not. But in the end we can only judge the Speaker on his own stated words. I am confident that the Speaker is committed to the rule of law. Anyone who has read his comments knows that this is the case.

**MR COE** (Ginninderra) (10.33): Once again it is disturbing that we on this side of the chamber have to be addressing issues which are not core business for the people in

Canberra. I think the 350,000 people in Canberra expect this place and expect the 17 members in this place to be concentrating on things that will contribute to improvements in quality of life for Canberrans. Instead, what is happening today is that we are getting sidetracked because a person in this place has, I believe, not upheld the dignity and standards expected of this place and has indeed brought this place into disrepute.

We heard just then from the now leader of the Greens—she was once the convenor and she is now the leader of the Greens—that in actual fact we should uphold the rule of law, but. There is a “but”. Let me say that we on this side of the chamber, the Canberra Liberals, believe there are no buts when it comes to upholding the rule of law. We believe that the laws that are set in this place and in other parliaments around Australia should be upheld. We believe that there are processes in place to change laws if we do not like them. We believe in democracy and we believe in making sure that Canberrans know that their laws are going to be upheld by the people that set them.

What we have here is complete hypocrisy. We hear the leader of the Greens say that it was about peaceful process, it was about civil disobedience. Well, there was nothing civil and there was nothing peaceful about what happened on 14 July in Canberra. There was nothing peaceful about that whatsoever. In actual fact, if you read an extract from an article produced by the St John’s Innovation Centre in Cambridge, they talk about just how bad it was. They said:

On 14 July, a GM wheat trial (modified to have a lower glycaemic index and a high fibre content) run by the CSIRO in Ginninderra near Canberra, was destroyed by a group of protesters ... The finely tuned Greenpeace propaganda machine was once again organised to gain maximum impact. Both the women who destroyed the crop wore full protective clothing including gloves, helmets and face masks of the sort used when handling hazardous materials. Just one problem: they were dealing with a perfectly harmless plot of young wheat plants which represent no risk to them whatsoever. That they were grown under cover was merely part of a very cautious approach taken to the development and trialling of GM crops.

Unfortunately, this finely tuned Greenpeace propaganda machine included the Speaker of this place, because it was the Speaker of this place that came out and contributed to this debate. He flared this debate and, indeed, he incited others to take part in such activities. He did, in effect, condone the criminal activity which took place on 14 July. This is hypocrisy.

Imagine if I had done something along these lines. Imagine if I had taken part in criminal activity or I had supported some form of criminal activity. What would those on the crossbench or those in the government say? What would they expect the leader of the Canberra Liberals, Mr Seselja, to do? Would they expect him to be as gutless as the leader of the Greens has been? No. No, they would not.

**Ms Bresnan:** Point of order, Mr Speaker.

**MR SPEAKER:** Yes, Ms Bresnan. Order, Mr Coe, one moment. Stop the clocks, thank you.

**Ms Bresnan:** I ask that Mr Coe withdraw that statement calling Ms Hunter gutless. It is unparliamentary and he should withdraw the statement.

**MR SPEAKER:** Yes. Mr Coe, I would ask you to withdraw the reference.

**MR COE:** I withdraw. Would they have expected Mr Seselja to show the complete lack of leadership that Ms Hunter has shown? Now, it is interesting that she should interject and she should call me names across the chamber, but perhaps she should in fact be calling the member of her own party to account.

Perhaps she should be the one that says to a person for whom she is the leader that what he did was unacceptable and that what he did was unbecoming of a member of this place, and certainly unbecoming of the person who is the Speaker of this place. It is hypocrisy. What the Greens are showing here is complete hypocrisy and they are showing just how militant they are. They are not the third-party insurance. They are not a responsible coalition partner. They are a militant political body who are determined to see the way of life that we enjoy here in Canberra destroyed.

Another angle which I think we should be looking at is the example that a member of this place sets—not just any member; the example that a Speaker sets in this place. We all know that we get hundreds, if not thousands, of school students coming into this place every year. We know that in actual fact the Speaker is the formal host of all these visits. On many occasions I go and speak to the students, as does the Speaker, as do other people in this Assembly.

I wonder what example Mr Speaker is setting to those students when he takes part in conversations which do, in effect, condone criminal activity. What example is he setting? How can he possibly look these students in the eye and say, “I take the laws of this place seriously. I take my role as a legislator seriously and I take you as Canberrans seriously”?

It was disgraceful, absolutely disgraceful, and I am embarrassed to be a member of this place to think that the person who is the host of this place, the person that hosts thousands of students in this place is indeed condoning criminal activity in effect. He not only hosts students but he also represents our parliament at many conferences both here in Australia and abroad.

Again, I am embarrassed by the fact that the person who represents this parliament does, in effect, condone criminal activity. I am embarrassed by the fact the Speaker of the ACT parliament who represents Canberrans, who represents the legislators in Canberra, does, in effect, condone criminal activity.

Canberrans are sick of this place being an experiment. They do not like us to be trailblazers on everything under the sun. They do not expect us to go out there trying to be some kind of revolutionary for a cause which is not relevant. What they want is for people in Canberra to live better lives, to live cheaper lives and to have the quality of life which is constantly improving because of the laws that we set in this place.

Instead, the example that Mr Speaker has shown in recent weeks is that this place is not concentrating on core business. Instead, we are, in effect, condoning criminal activities. It is a great shame and for all those reasons that is why I believe the Speaker is not fit to serve in his current role.

**MS GALLAGHER** (Molonglo—Chief Minister, Minister for Health and Minister for Industrial Relations) (10.41): Speakers of Westminster parliaments play a central role in maintaining the dignity and efficient functioning of our parliaments. Traditionally it is a role to which those who are elected are reluctantly dragged by their colleagues, as it is an onerous duty to maintain order amongst one's sometimes unruly colleagues. I think we have seen plenty of examples of that in this term of the Assembly.

Any motion, therefore, of no confidence in the Speaker is a very serious step for a parliament to take. It reflects that one of our number whom we have elevated to the highest office in the parliament no longer has our support. It has happened once in the history of this Assembly, in December 1997, when the allegation of bias made went to the core of the Speaker's role. That motion was lost, and that is the only precedent against which the current motion can be judged.

It is not a decision we should take lightly or, indeed, for short-term political gain. The institutions of the parliament and the system of government in the ACT are too important for us to allow them to become pawns in a game of political point scoring. It is certainly, I think, regrettable when we reflect on the issues that led to this motion that the office of the Speaker has been brought into a debate about what amounts to alleged criminal activity, and we would certainly prefer that it was not the case.

Indeed, in our parliament of 17, given its small size, it has become accepted practice that Speakers do participate in party political debate and public life. It is important for them to be mindful of the responsibilities they carry to this place and to uphold its place in the eyes of the community. I think Mr Rattenbury seeks to juggle the duality of his roles and his competing roles in this parliament.

We all have causes and beliefs about which we are passionate and about which we make public statements from time to time. We all meet with groups and individuals whose views accord with our own and with groups fundamentally opposed to our view of the world. We are also sometimes embarrassed by the activities of the members of groups with whom we are associated. It is beholden on all of us as members to stand up for what we believe in and speak out on issues about which we are passionate. But we should also be careful about how we do that, mindful of our responsibilities as members of this place, as community leaders and as law makers.

We believe the motion put forward by the Liberals is out of proportion to the situation created by Mr Rattenbury with his comments about alleged unlawful behaviour by a group of people. I am sure that with the benefit of hindsight and careful reflection, Mr Speaker may have chosen words which could not have been construed in the way that the Liberals seek to today.

Do Mr Speaker's comments following that alleged unlawful behaviour warrant one of the highest sanctions afforded to members in this place? The government think not.

We believe that Mr Rattenbury is able to ably and impartially perform the duties of Speaker and we do express our ongoing confidence in Mr Rattenbury to perform the role of Speaker in this place. Having said that, the government do not support in any way the incident that occurred at CSIRO last month. Science and the study of science are important, even if you disagree with the research underway.

The government have made some amendments to Mr Seselja's motion which we believe better reflect a reasonable response to Mr Rattenbury's comment, and that is that we express our ongoing confidence in the capacity of the Speaker to perform his duties, but at the same time we reaffirm the importance of all members upholding and supporting the principle of the rule of law and we also urge all members to refrain from comments which may be construed as supporting unlawful protests. We believe that this is a suitable response to the issue that is being discussed this morning, Mr Speaker.

**MS LE COUTEUR** (Molonglo) (10.46): I will speak only very briefly on this today, but I was astounded to hear Mr Coe's speech in which he said that there was absolutely never, ever, ever, ever any possibility that there could ever, ever, ever be any unlawful action. My understanding is that Mr Coe is a Christian and my memory of reading the *Bible* suggests that there were considerable amounts of unlawful actions in that text.

I will also draw the Liberal Party's attention to the war crime trials after World War II in Nuremberg. I think that we have established in Western democracies that the rule of law is important, and we all as parliamentarians I think agree that the rule of law is important and to be upheld. But we have also, as a Western democratic community, established that there other issues as well. The trials after World War II if nothing else made that abundantly clear.

In terms of hypocrisy, I do not think that any party has a mortgage on that. I think the Liberal Party could equally be regarded as being involved in this. I think Mr Pratt's actions have already been talked about. I believe also former Senator Ian Campbell is currently on the board of Sea Shepherd. I think that we are all clear about this. The rule of law is important, and people who engage in civil disobedience believe in the rule of law. We all here believe in the rule of law. People who engage in civil disobedience expect to be arrested for breaking it and they believe in moral principles, political conscious and in the public good. That is why they are doing it. They are acting on these principles in the public good and they are prepared to suffer the consequences.

I think that what we need here is a much more nuanced debate about what the Speaker may or may not have said. The Speaker at all times, as I have heard, upheld the concept—more than the concept; the rule of law. I think that this is what the Assembly here should also be saying—that we do all support the rule of law. I think that is what we all are saying. We also support that the Speaker is doing a good and impartial job as Speaker. So I think that we should all be here to vote against the Liberal Party's motion and to support the Speaker and uphold the law as well.

**MRS DUNNE** (Ginninderra) (10.49): Mr Speaker, this matter has been brought forward without a great deal of joy on behalf of the Liberal Party, because we believe



that the job of members of the Legislative Assembly is first and foremost to uphold the dignity of this place. The code of conduct for members requires us to uphold the law. Let us go back to what was said in that interview on 14 July which caused so much concern. What you said, amongst other things, Mr Speaker, was:

It has become clear that there are mixed views in the community. There is no doubt about that. I don't think it's my place to condone or condemn. It is the question of why they did it. I'm not going to condemn their actions. I think they're people who have strong beliefs and they took the actions they think that it was necessary to take.

So that is a message of support from one of the most senior law-makers in this territory to his colleagues in a political ginger group to say that, "It's all right; I'm not going to stand in your way." And by doing that, Mr Speaker, you actually undermine the rule of law which we are all charged with upholding and which you as Speaker are especially charged with upholding.

Let us do the mental exercise here. If a member of this place in the course of a heated debate was so injudicious as to call another member of this place a liar, you would demand, rightly, that that comment be withdrawn. Let us do the mental exercise. Let us transpose this a bit. What if the member refused to withdraw and said: "I'm sorry, Mr Speaker, I have strong beliefs about the correctness of my position. In describing the member as a liar, I took the action that I thought was necessary to take. Mr Speaker, there are mixed views in the community about whether the member is a liar or not, and you aren't in a position to condemn or condone my actions." If I said that to you, Mr Speaker, I would be out on my ear before I got those sentences out. And that is exactly, Mr Speaker, what you did when you spoke on this matter on 666 in July.

The issue is that it could have been passed off as an injudicious comment that you did not think about. You have had the opportunity. This matter has been raised in a number of ways. It was raised by me almost immediately. It was raised by Mr Moore and it was raised by Mr Seselja in the pages of the *CityNews*. You have responded to Mr Moore and I understand that you responded to Mr Seselja by way of letter to the editor, most of which was read out by Ms Hunter this morning. You have not recanted any of those views, Mr Speaker. You try to walk both sides of the track. You say that it is all right to practise civil disobedience when, at the same time, you are trying to maintain that you are upholding the rule of law.

There is a difference between the practice of civil disobedience and breaking and entering and wanton destruction of hundreds of thousands of dollars worth of property. I think it is offensive to people in the civil rights movement for you, Mr Speaker, and your leader to equate your actions with the actions of someone as eminent as Dr Martin Luther King. Dr Martin Luther King did not condone breaking and entering—criminal destruction of property. Dr Martin Luther King did not condone violence, and the destruction of property and breaking and entering is essentially a violent action. Dr Martin Luther King condoned a peaceful way.

The problem that you have, Mr Speaker, is that you spoke without engaging your brain, and you have sufficient hubris about your position that, even when it has been

pointed out to you how erroneous your position is, how incompatible it is with your position as the Speaker, you have not taken the opportunity to withdraw those comments. If a member of this place in the heat of battle calls someone a liar, they have to withdraw the comments. In a moment when you may have been put on the spot, you made injudicious comments. You have had ample opportunity to withdraw them, and you have failed to do so. In failing to do so, you reinforce time and again that you do not uphold the rule of law.

It was quite interesting in this place to hear the speeches by Mr Corbell, the leader of the house, and the Chief Minister. Mr Corbell and the Chief Minister essentially made speeches in favour of Mr Seselja's motion. Everything they said was essentially in favour of Mr Seselja's motion, but in making those speeches and then at the last minute drawing back and saying, "But we can't actually support Mr Seselja's motion," they make the situation worse. They actually condone your actions, Mr Speaker, when they think that they are not doing so.

To say that they continue to have confidence in the capacity of the Speaker to perform the duties fairly and impartially is not the question. The question is: were the words that you used, Mr Speaker, in neither condemning nor condoning the actions of Greenpeace appropriate? Your continued action in not withdrawing the inference that it is all right to break the law, to break and enter and violently destroy hundreds of thousands of dollars worth of property, condones those actions and says again that it is all right not to uphold the rule of law in this place.

The Attorney-General, the first law officer, has just stood up and said: "It's all right, because Shane's our mate. It's all right because we need the Greens to support us here." Political expediency is essentially what this is about. Mr Seselja dwelt briefly on the London riots, and I was thinking about this last week when I was driving home from work and I heard an interview with Ms Luciana Berger, who is a Labour MP for Liverpool. The interviewer from *PM* asked her about this mindless violence—they are the interviewer's words—the disenfranchisement of people and their attempt to gain a voice. Ms Luciana Berger MP said:

If people are intent on regaining power and voice then they should be carrying out legitimate protests to government.

She said she was an opposition MP and she would be happy to support anyone who would protest against what the new government was doing, and then she went on:

But attacking people's property, attacking people's businesses, attacking people's homes is an attack on our community and there can never be any excuse for criminality which is what we've seen in the course of the past few nights.

Those same words could be used by any member of this place, including the Speaker, in relation to the attack of Greenpeace upon the CSIRO experiment, but we did not hear that. The Speaker—who is a current member of Greenpeace, I understand—could not bring himself to condemn the actions of violence and of breaking and entering.

The Labor Party here does not have the courage to stand up for one of its own, because if this motion were successful, it is most likely that Ms Porter or one of the

other members of the backbench would replace Mr Rattenbury. The discussions have been had, and it is quite clear—Mr Seselja made it quite clear—that we would be prepared to support a member of the Labor Party to replace Mr Rattenbury. That offer has been made, the discussions have been had, and the Labor Party has turned down an opportunity to have one of its own look after this Assembly. I am quite confident that one of the current backbenchers could do a better job in upholding the rule of law than the current Speaker does.

**MS BRESNAN** (Brindabella) (10.58): I would just like to re-emphasise some of the points that have been made by Ms Hunter today. The Greens will not be supporting this motion from Mr Seselja. Still we have not heard anything from any of the Liberal Party members today about Mr Pratt—that same Mr Pratt who said he was going to chain himself to a bulldozer, which I would imagine would have the perception of breaking the laws we have been talking about. And there is also the fact that he destroyed property. We still have not heard anything from any of the Liberal Party members about that one. We have had Mrs Dunne talk about rank hypocrisy. For me, that is the biggest example of rank hypocrisy that we have seen today.

I will go back to your quote, Mr Speaker, where you said:

... my commitment to the rule of law is also strong ... It is for the courts to review the context of what took place and administer a penalty consistent with the community's values.

I heard that interview, and you, Mr Speaker, have been consistent in saying that it is about upholding the law and that the actions taken by Greenpeace in this instance would mean they would have to face the full consequences of the law. That has been consistently stated throughout this whole debate.

I also go back to the issues Ms Hunter raised about civil disobedience. Of course, I was expecting that we would hear this statement from one of the Liberal Party members, but it took a couple of speakers to get to Mrs Dunne to somehow suggest that we are equating what you had said, Mr Speaker, in line with the actions of Martin Luther King. I know it is a concept that is a little bit too complex for the Liberal Party to get their heads around—they are not known for getting their heads around the detail and complexities of issues—but it is actually about the issue of civil disobedience and the role that peaceful civil disobedience plays in the history of many countries. In fact, it has played a major role in the history of Australia.

I will go to a quote from James Goodman in a speech about civil disobedience at a forum which took place in New South Wales which I think encapsulates what we are talking about here today:

People engaging in civil disobedience believe in the rule of law, and expect to be arrested for breaking it. They also believe in moral principles, political conscience, and in the public good. They act on those principles, for the public good, and are prepared to suffer the consequences.

I will list a few examples of defining moments in Australian political history where acts of civil disobedience have played a major part in changing laws in this country, and I reinforce that point. These are the 1965 freedom rides, the 1966 Gurindji walk-

off, the creation of the Women's Action Committee in 1969, the 1970-80 anti-Vietnam war moratorium movement, the Kelly's Bush green ban in 1971, the 1972 Aboriginal tent embassy, the 1978 mardi gras and the 1983 Franklin dam blockade.

In fact, I come from a state—the state of Queensland—where, under Premier Bjelke-Petersen, street marches were made illegal. If people were just walking five abreast down the street, that was considered breaking the law. Many people went out and protested against that. Many people across the board went out and protested against that. Mr Seselja made the suggestion in his speech that it was somehow outrageous for anybody, whether it be somebody in parliament or whether it be someone from the community, to question laws made by law-makers and that somehow the laws which are made might not always be right. We have got so many examples of that in Australia and across the world. Apartheid, for one, is a perfect example. Is the Liberal Party suggesting that it was wrong for people to get out and protest against and question the laws of apartheid?

In fact, Mrs Dunne said that Martin Luther King was not breaking the law. In fact, he was questioning laws; he was questioning the laws of segregation. When Rosa Parks went and sat at the front of a bus, she was breaking the law at the time. I can hear Mr Seselja muttering away there, saying somehow we are equating the comments with those actions. We are not, and again I go to the point that you cannot seem to get your heads around the complexity of what civil disobedience is and the role it plays in our society. That is what we are talking about. We are not equating that with any particular person. We are actually using examples that have changed history about the role that it can play in our society, and we have got many examples of that.

I will go back to apartheid. We have the example where sporting teams refused to go. Rugby players and cricketers, not known for exactly being radicals, were going out and protesting against laws. There is also the example I cited with Queensland where you were not allowed to protest. There is the Tea Party style protest that is happening up at Parliament House today, which I imagine the Liberal Party would support.

**Mr Hanson:** But they're not breaking the law.

**MS BRESNAN:** No, they are not breaking the law, but if that was held in Queensland at the time I was referring to, they would have been breaking the law at the time. I am not actually suggesting they are breaking the law; what I am saying is that there have been times in our history and times in politics across the country where laws have been made, where protests have been outlawed in a particular state and where it was suggested that people should not be able to go out and protest against things that they disagree with. People should be able to protest against things they disagree with, and that is why I fully support the protest which is happening today. They have every right to protest against laws which they do not support.

*Opposition members interjecting—*

**MR SPEAKER:** Thank you, members. I have made clear my expectations about the debate. Ms Bresnan.

**MS BRESNAN:** Thank you, Mr Speaker. The Liberals just cannot get their heads around anything which is complex—for example, the complexity of what civil disobedience entails. I go back to the fact, Mr Speaker, that you have said consistently that the actions taken by Greenpeace will have to be subject to the full consequences of the law. That is what has been stated, and that is why we cannot support the motion which has been put out here by Mr Seselja today. As I said, the greatest act of hypocrisy has come from the Liberal Party today when we have an example of where one of their members actually destroyed property and said that he was prepared to break the law and yet Mr Seselja, who was leader at the time, did not rein that member in. So there you go. That is the greatest example of rank hypocrisy we have seen today—not anything that has been said by Ms Hunter. I applaud everything that Ms Hunter said in her speech. I applaud everything that Ms Le Couteur said in her speech, and we will not be supporting this motion today.

**MR HANSON (Molonglo) (11.06):** I thank Mr Seselja for bringing on this most important motion today. There have been some interesting contributions. I think that Mrs Dunne's point was a particular highlight, where she turned the language that the Speaker had used to essentially support Greenpeace's actions into an analogy for a similar incident that had occurred in the Assembly and just showed the rank hypocrisy of the position and the contradiction between Mr Rattenbury's, the Speaker's, support for Greenpeace in the media and his actions here as the Speaker. It just goes to the point that you cannot walk both sides of the fence.

We support some of the points that have been made by the Greens and some of those that have been made by Labor. We do not deny that there are some times when protests will occur. There are actions which will be taken. But the point is that you cannot sit in that chair, you cannot be the Speaker, and condone these sorts of actions. You may wish to, as a radical backbencher or as a member of Greenpeace. You may say that that is what you support: radical protest, illegal activity, wilful destruction of property. Maybe you can get away with it. I would suggest that it would not behave any member of this place to support that. But certainly it does not behave the Speaker.

What Mr Rattenbury has done by deciding to be the radical, to support Greenpeace, to support criminal activity, to say that the wilful destruction of property is okay, that break and enter is okay, whilst also sitting in that chair and presiding over the laws of this Assembly and us as the law-makers of this jurisdiction, is that he has put himself and put the position of Speaker, more importantly, in an untenable position. And what he has done has eroded the dignity of the position and has weakened the authority of the position. There is no question that, from this point forward, when Mr Rattenbury speaks as Speaker on any issue that comes before this Assembly, be it an issue of bias, be it unparliamentary language, be it an issue of privilege, his position has been severely weakened.

I think that it has been weakened in the eyes not only of those who sit on these benches but also those on the government benches. I would have to say that Mr Corbell and Ms Gallagher actually made some valid points in their speeches. Mr Corbell particularly made the point that Mr Rattenbury has been hypocritical in his selection of what he condones and what he condemns and made quite a good example,

I think, of how Mr Rattenbury has condoned, in essence, the actions of Greenpeace but pointed out how quickly Mr Rattenbury no doubt would be there to condemn if a similar action had taken place against climate change scientists, if people had broken into the offices of climate change scientists, if they had smashed their computers, if they had intimidated the staff.

Do not think that this is a crime that is without victim. Do not think that the staff who have been working tirelessly, the staff who have been working for years, literally, on trying to do science, on trying to feed the starving, on trying to make sure that we have wheat crops that can feed the world, are not traumatised by this action. So when you say, "It is okay that this crime occurred, we do not mind destruction of property, the \$300,000, we do not mind the break and enter, we support that," do not forget that there are people that have been traumatised.

If I went into your office, Mr Speaker, and smashed your computers and I went into your office and ripped up all of your work and that of all of your staff, how would you feel? How would you feel about that? Would you condone my actions? Would you say, "That is okay. I know Mr Hanson does not particularly like the Greens. So that is all right. I support that unlawful action. That is all right. I do not condemn that. He can get away with it"?

This is the point: you cannot pick and choose what you will condone and what you will condemn. You are the Speaker of the Assembly. You are there to uphold the laws and to make sure that the people of the territory and the people of this parliament—and we represent all of them—uphold the laws and obey the laws. Indeed, we make the laws and we expect people to adhere to the laws. You cannot have it both ways.

You cannot make your decision to pick and choose based on severity. Where is the threshold that it is okay if it is \$200,000 worth of damage or \$300,000, but not if it is \$1 million? You cannot pick and choose based on the motive: "It is okay. If it is Greenpeace, then I will condone it. I certainly will not condemn it. But if it was someone else, I would."

What about the London riots? And that point has been made. Do you condone what is happening there? Do you condemn it? It is no different. The motive is different. One is a bunch of hooligans that are motivated by God knows what. And with Greenpeace the motive is different. But the crime is the same. Do you condemn that? The crime is no different and you cannot pick and choose based on the motive or the severity and you cannot pick and choose based on an ideology that you happen to favour over another ideology.

There are plenty of examples of people who conduct protests. Mr Seselja had a good example. What if, at that protest today up at Parliament House, the people who are protesting against the carbon tax that you support took illegal action? What if they stormed parliament? What if they turned a bus over and burned it? Would you condemn that? Or is that not just protest? Is that not just unlawful protest that you condone?

So the point is that you can have your beliefs, you can have your ideology, and that is fine. We all do. But what we have not chosen to do is take the responsibility and the

immense privilege that comes with sitting in that chair there. And you have decided to do that. When you went from that chair to the Speaker's chair, there was a requirement for you to change your actions, not your beliefs but your actions, and your behaviour, because you accepted the highest office in this jurisdiction, that of the Speaker. In doing so, there were responsibilities.

By your actions, by your actions today and by your actions since Greenpeace conducted their crime, you have failed in your responsibility as the Speaker and you have failed in your responsibility to this Assembly, Mr Speaker. And that is the argument. That is the point. So some esoteric debate about Martin Luther King and what is appropriate action for people to take is not the issue. The issue here is your responsibilities, your role, your behaviour as the Speaker.

It is quite clear, based on the speeches that have been made and evidence that has been provided not only by us but also by Mr Corbell and Ms Gallagher, that the way that you have behaved has brought disrepute and has reduced the dignity and the authority of the role of Speaker. And it is quite untenable, whilst you continue to condone Greenpeace's action, while you continue to say that you are going to pick and choose which laws you are going to say are okay to break and which are not okay to break, and it is impossible for you to continue on in the Speaker's role.

I turn to the government. I am very disappointed that you have not supported our motion today. There are times in this place when we do things which are politically motivated. This is not one of them. And Mr Seselja has made that very clear. The role of Speaker, if this motion were successful today—and I believe we should discuss it further—would not be going to a member of the opposition but to a member of the government. We actually have more to lose than to gain if this motion is successful today.

But this is a matter of principle. This is a matter of democratic principle. This is a matter of doing what is right by this Assembly. As members of this Assembly, we should put that before our own political convenience. And that is what we are doing. Let me make it very clear that if Mr Rattenbury is no longer Speaker, we understand that it will be Mr Hargreaves or Ms Porter or one of the other members of the government. So we have much to lose by this motion getting up and nothing to gain.

It is, I think, a turning point or a watershed moment for members on that side of the house, members of the government, that they are prepared to say, "Although we understand the arguments, although we believe in the arguments"—and Mr Corbell has made that clear, and so has Ms Gallagher—"and we understand what you are saying, we are not prepared to do anything about it." And I know that Mr Hargreaves has written words on this. He has had a paper published on this issue actually before Mr Rattenbury went to this latest extreme.

I think members of the government would understand that Mr Rattenbury's position and his beliefs in his actions have now eroded the authority of the Speaker. But they are not prepared to do anything about it. I think it is very disappointing that the government is, in essence, putting its political expediency, for whatever reason, in front of the democratic principles and the responsibility that we all have as members of this Assembly to make sure that our first obligation is to make sure that this

Assembly functions properly and that the democratic rights of the people of the ACT are adhered to. And we cannot have that and that cannot work whilst we have a Speaker who will not condemn illegal and criminal acts.

**MR SMYTH** (Brindabella) (11.16): I move the following amendment to Mr Corbell's proposed amendment to Mr Seselja's motion:

Omit paragraph (1), substitute:

“(1) censures the Speaker for his comments, which may be perceived as supporting unlawful protest;”.

The question really comes down to what is the role of the Speaker. When you become Speaker, you become the representative of this place. Anyone in the population would be entitled to take the view that when you speak, you speak on behalf of the Assembly and that what you say is what the Assembly believes. And I think that is the nub of the problem that we face here today.

It says in the *Companion to the Standing Orders of the Legislative Assembly for the Australian Capital Territory*, in paragraph 5.1:

The Speaker of the Assembly presides at meetings of the Assembly, is responsible for the maintenance of order and rulings on questions of order in the Assembly, and speaks for and represents the Assembly in dealings with outside bodies and personages.

What do you do? You represent us. You speak on behalf of the Assembly. And that is the dilemma for a Speaker who is a Speaker and a spokesperson for a political party. The two roles are incompatible. We can fool ourselves and we can talk about the new paradigm and we can say, “This is another way of doing business,” but at the heart of it, it goes to the dignity of the house. The dignity of the house, in many ways, is what sets us apart.

If you go to *House of Representatives Practice*, there is a chapter on the Speaker, chapter 6. It says:

The Speaker ... is the representative of the House itself in its powers, proceedings and dignity. The Speaker's functions fall into three main categories. First, the Speaker is the spokesman or representative of the House in its relations with the Crown, the House of Lords and other authorities and persons outside Parliament.

And that is why this is different. It is different for Mr Pratt. It is good to see the Greens hiding behind Mr Pratt. Mr Pratt was not the Speaker. Mr Rattenbury is the Speaker. And that is where it differs. *House of Representatives Practice* goes on to say:

The role the Speaker plays by virtue of the office requires the position to be filled by a dedicated, senior and experienced parliamentarian. The qualities required in a Speaker have been described in the following ways:

It is parliamentary rather than legal experience ...



I will not read it all, but it goes on to say:

He must have a deep-seated reverence for the institution of Parliament ...

And what that requires is for the Speaker to put aside party politics so that people can have confidence in that position. Indeed, *House of Representatives Practice* goes on to say:

Traditionally the Speaker in the House of Representatives has been a person of considerable parliamentary experience.

It says further:

One of the hallmarks of good Speakership is the requirement for a high degree of impartiality in the execution of the duties of the office.

It goes on to say:

Confidence in the impartiality of the Speaker is an indispensable condition of the successful working of procedure ...

And that is the problem with this arrangement that we have and that is the problem with the statements you have made. You cannot say, “Today I am a Green.” An hour later, you cannot say, “I am the Speaker.” You are always the Speaker, first and foremost the Speaker, and you have roles which you have let down.

The problem for the government seems to be—and we have heard speeches in support of Mr Seselja’s motion today from both the Chief Minister and Minister Corbell—that they think the punishment does not fit the crime. In one way, there is only one level of punishment: you must be a good Speaker or you must go. You cannot say, “I’m going to be a reasonable Speaker today or a 70 per cent Speaker today.” You cannot do it; you just cannot do it. You are the Speaker first and foremost. Everything else is incidental. By the way, there actually should not be anything else because it compromises you and, if it compromises you, it compromises us as a place of law-makers.

We cannot have a code of conduct, a code of members’ conduct, that says, “We agree to respect and uphold the law except when I am being a Greens spokesman.” It does not work that way. It cannot work that way. When you make other decisions it taints all of your decisions because we do not know whether you are the Speaker, a Greens spokesperson or a Greens-Speaker spokesperson or whatever the combination is for the event. That is the dilemma in what we are faced with here.

Both Ms Gallagher and Mr Corbell have used words like “hypocrisy” and have said it is regrettable and have said it is unwise but they will not go through to the logical conclusion that the Speaker should either vacate the chair or he should be removed. That is the importance of the position of Speaker. We do not want to, in this place, set a new low standard for Speakers, because everything we do sets a precedent and somebody else will use it, somebody else will point to it, somebody else will also then abuse it. The role of the Speaker is quite clear-cut.

What did *House of Representatives Practice* say? It said “dedicated,” “must have a deep-seated reverence for the institution of parliament”. It does call for you to put aside many of the things that you believe in and have done in your path to this place. It does not say you have to stop believing in them. No-one would ask or require that of you but what it does require, as Speaker, is that you put the chamber first. As members have pointed out, it is little wonder there is still such a lack of respect for this place when members of this place do not treat it with the seriousness that it deserves. We make the laws but we do not believe that we should have to ask people to uphold the laws. That contradiction cannot stand. If you do not have the deep-seated reverence for the position of Speaker then you should vacate it.

We are going to have a bit of debate later on about me stepping aside as the deputy chair of PAC. I do not believe I can continue in that role because of things that occurred. If you cannot uphold and have the deep-seated reverence for the seat in the parliament, the Speaker, then you should leave. You should leave voluntarily and do what you want to do. I do not agree with some of the things you say but I confirm your right to do those things. But you cannot use the office of the Speaker, the resources of the Speaker, the prestige that comes to a Speaker, for your own political ends. It is unacceptable.

That is why Mr Seselja’s motion should get up. It is quite clear it will not. Those opposite have said, “We have got problems but the punishment is too severe.” There is only black and white in this as far as I am concerned. I think if you cannot uphold the dignity of the place then you must go. If you have not got the deep-seated reverence, you should voluntarily resign. But if you will not, we should have this motion.

The motion will not get up. That is why I have moved the amendment that says that we delete the words “expresses its ongoing confidence in the capacity of the Speaker to perform his duties fairly and impartially”, because both the Chief Minister and Minister Corbell have said that you have behaved unwisely; therefore they cannot have confidence. But if it is not no-confidence, perhaps it should be censure. That is the next step down. This place should censure the Speaker as it would censure anyone else who does not take it seriously. And that is what we should do today.

You can talk about the new paradigm until you are blue in the face but Westminster survives largely on its unwritten traditions. One of those traditions is the impartiality of the Speaker and that when the Speaker speaks he speaks on behalf of the house. You do not speak on my behalf or on any resolution of this place to support the illegal activity at the CSIRO headquarters. You have a conflict. You must disavow what you have said or you should have the courage of your convictions and resign.

But what you must have as Speaker is, first and foremost, the dignity of this place in mind in all that you do. What you have not done is have due regard to that dignity. That dignity is important. It does protect us. It does make the Westminster system work. It does allow us to do our job. But if we all do not protect that dignity, led by you, Mr Speaker, then no-one should feel obliged to have any respect for this place. If we do not respect the members’ code of conduct, if we do not respect the position of

Speaker, if you do not protect your position as Speaker, then you should go. (*Time expired.*)

**MS LE COUTEUR** (Molonglo) (11.26): I rise to speak, not unexpectedly, against Mr Smyth's amendment. I was absolutely astounded at his first statement. He said that everyone in Canberra would regard anything that Mr Rattenbury said as being said on behalf of the Assembly. Mr Rattenbury is a member of the Greens, as I am, so from some points of view I think it would be great if all the people of Canberra thought that everything Mr Rattenbury said was said on behalf of the Assembly as a whole. Unfortunately, that is not the case. I think it is abundantly clear to everyone in Canberra—apart from, possibly, members of the Liberal Party—when Mr Speaker is speaking as Mr Speaker and when Mr Speaker is speaking as Mr Rattenbury.

I also found it very interesting that in Mr Smyth's speech he did not once refer—according to my memory and my notes of it—to any of our standing orders. He did not refer to any standing order that Mr Rattenbury is alleged to have broken, because he has not done so. There is nothing in here that Mr Rattenbury has in any way even slightly offended.

Mr Smyth talked about other documents which mention the role of the Speaker. I will quote two of them because I managed to write them down. Mr Smyth stated that a Speaker should have a deep-seated reverence for the role of the parliament. I put it to you that Mr Rattenbury, in fact, has this. I also ask you: what actions on his behalf would make you think any other way? I actually thought that we were all here because we all believe very deeply in the role of parliament. Why else are we dedicating at least four years of our life to being members of the Legislative Assembly if we do not believe in the role of parliament? Why would we be doing it?

Mr Smyth also said that the Speaker should be impartial in their execution of the office. I also ask members of the Assembly to name an instance when this Speaker has not been impartial in his execution of the office. He has been. I personally believe that Mr Rattenbury has been a very good Speaker of the Legislative Assembly. Mr Smyth talked about needing to uphold the dignity of the parliament, the Legislative Assembly. I totally agree with that. I think the things that are putting it down are not in any way the actions of the Speaker.

I would draw members' attention to an article in the *Canberra Times* a few months ago which listed the number of interjections during question time over a three-day period. I think there were about 700 of them. Members, I would put it to all of you that it is things like that that are reducing the dignity of the Legislative Assembly. We do not seem to be capable often of having a civilized debate. I will say that today it has been better. We are having fewer interjections, but even today the Speaker is being forced to intervene and say to fellow members that they should be obeying the standing orders. The standing orders say that members should be heard in silence.

I think that we should all be reflecting today on the dignity of parliament. From the point of view of the dignity of parliament, we should start by obeying the rules of the parliament—the standing orders. I do not believe that there is any way that the Speaker has broken any of these. I think that the censure motion against him is totally without foundation.

**MR COE** (Ginninderra) (11.30): I spoke earlier about some of the hypocrisy that the Greens and, indeed, the Greenpeace movement—indeed, the global Greens movement—demonstrate on a regular basis. I want to draw the Assembly's attention to one particular incident which occurred about seven, eight or nine months ago. It is with regard to a tweet that I made about the Speaker and, indeed, about his attitude on that particular day. I actually made that about a year ago, in August last year. Then about five months later Mr Rattenbury logged onto the web, trawled down my Twitter account and read tweets of mine from months ago. It is a bit of an honour, I guess, that the good leader of this chamber should be trawling through my tweets of five months ago but, nonetheless, he thought it appropriate to write me a letter. That is what he did. On 21 December, months after I had written a tweet, he wrote me a letter, which included this sentence:

I remind you that the Chair's ability to uphold order is not confined to incidents occurring during parliamentary debate.

I repeat:

I remind you that the Chair's ability to uphold order is not confined to incidents occurring during parliamentary debate.

It is a very interesting case, this one. I wonder whether he was upholding order when he spoke on ABC radio a few weeks ago about the criminal activity which occurred in Ginninderra on 14 July. Look at the hypocrisy here. This is Mr Speaker telling me that I am not upholding order, or at least making an allegation that I may not be upholding order, by submitting a tweet. Here we have a Speaker that is, in effect, condoning criminal activity and somehow that is okay. It is not okay for me to say that the Speaker is surly, which was the very word that I used. That is not okay. That is not upholding order. But it is okay for the Speaker to go on ABC radio to an audience of tens of thousands of people, perhaps even 100,000 people, and in effect condone criminal activity.

This shows the hypocrisy of Mr Speaker and it shows that Mr Speaker is no longer fit to serve in that role. We as a legislature, as individual legislators, should not be here condoning his behaviour, just as he, in effect, condoned the criminal activity which occurred in Ginninderra on 14 July. I urge all members of this place to support the amended motion.

**MR DOSZPOT** (Brindabella) (11.33): The role of Speaker is redolent with tradition and status. The position was first recorded in 1377 to describe the role of Thomas de Hungerford in the parliament of England. The Speaker's official role is to moderate debate, make rulings on procedure, announce the result of votes and the like. The Speaker decides who may speak and has the powers to discipline members who break the procedures of the house. The Speaker often also represents the body in person, as the voice of the body in ceremonial and some other situations. It is, in all interpretations of the position, an important one. The noted authority on parliamentary procedure, Erskine May, notes that the chief characteristics attaching to the office of Speaker in the House of Commons are authority and impartiality.

So, with that tradition and status, we have disappointingly discovered in the past couple of months that our Speaker is neither authoritative nor impartial. He has the power in this place to discipline members who break the procedures of the chamber, but outside this place he supports law breakers. I repeat: he supports law breakers. And, even worse, he represents scientific Luddites. He seems to have forgotten that the role of Speaker brings with it a great deal of responsibility and leadership.

Ms Hunter, the leader of the Greens, also seems to have forgotten, or chooses to ignore, the role and responsibility of her fellow Greens in the Legislative Assembly and, indeed, the additional responsibility of the role of the Speaker. All of us in this place have a duty to be role models for and to the community. We are legislators. We are relied upon to bring intelligent and considered thought to the deliberations and pronouncements we make. So when we have a Speaker that supports law breakers, what does that say to our community? We have as our representative someone who thinks it is perfectly acceptable to trespass, to damage property and, worse, to brag about it and promote their actions as noble deeds. What sort of signal does that send to our young people? What would the students at Mr Rattenbury's former school think of his civil disobedience support?

Mr Rattenbury, what were you thinking? You supported people that have trespassed, that have damaged property, that have threatened scientific endeavour, and all based on some stupid and ignorant notion that wheat being grown was a threat to future civilisations when it was designed to help feed future civilisations. Have you not supported the warnings about global food shortages without significant advances in production and protein? Mr Rattenbury, you no longer work for Greenpeace. You have forsaken that former career to become a legislator, and that brings with it responsibility—responsibility to obey the law.

The final ignorance of responsibility to obey the law comes from the Attorney-General, Simon Corbell, and his government amendment that states:

- “(1) expresses its ongoing confidence in the capacity of the Speaker to perform his duties fairly and impartially;
- (2) reaffirms the importance of all Members upholding and supporting the principle of the rule of law; and
- (3) urges all Members to refrain from comments which may be perceived as supporting unlawful protest.”.

Points 2 and 3 of the government's amendment to Mr Seselja's motion actually underline the essence of Mr Seselja's motion, but the lack of leadership shown by both the Attorney-General of this territory and, even worse, the Chief Minister—the new Chief Minister—of the territory is incredible—to state that they express ongoing confidence in the capacity of the Speaker to perform his duties fairly and impartially. The bottom line here is that Mr Rattenbury no longer works for Greenpeace. Mr Rattenbury has forsaken his former career to become a legislator, and that brings with it responsibility—responsibility to obey the law.

**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) (11.38): The government will not be supporting Mr Smyth's amendment. Mr Speaker, the issue is one of a proportionate and reasonable response to comments that, whilst unwise, were certainly not comments which could be in any way construed to suggest that you, Mr Speaker, are unable to continue to conduct your role fairly and impartially. That is really the fundamental issue here. First and foremost, the Speaker must be able to conduct himself or herself fairly and impartially in the performance of their duties in this place. The government have consistently said that we believe you are able to do so and that we have full confidence in your capacity to continue in that role. The Liberals seem to be construing that issue with another issue which, whilst regrettable, is not one which can be said to go to the heart of your functions in this place in the day-to-day workings of this place. For that reason, Mr Speaker, the government believe that the amendment proposed by Mr Smyth is unreasonable.

Mr Speaker, I think it is worth reiterating—and my words have been misconstrued by those opposite, but that is no surprise—that the government do not, and I do not, in any way condone the actions that we have seen reported in relation to the CSIRO plant research facility. I would remind those opposite that no finding of guilt has been made in relation to that matter yet. It is before the courts and it is for the courts to determine whether or not an illegal act has been committed. Certainly, on the face of what we have seen, we can draw conclusions about what has occurred and certainly from the videos that have been made available it appears to be wanton destruction of private property, but that is ultimately a matter for the courts to determine. We have heard comments from those opposite who have said that comments made by the Speaker have condoned illegal activity. It is allegedly illegal activity. It is yet to be proven and it needs to be proven in the courts.

But that aside, Mr Speaker, the fact is that this side of the Assembly maintains its confidence in you. With respect to this issue, we believe your comments were unwise, but we do not believe that that goes to the heart of the ability for you to fairly and impartially undertake your function. That is why the government does not support this amendment by Mr Smyth.

**MR SESELJA** (Molonglo—Leader of the Opposition) (11.42): Here we have now a new position from the government put by Mr Corbell. On the one hand they have accepted many of the arguments that we put forward today that what the Speaker did in his public statements was wrong. It was not in the best interests of this parliament and it was inappropriate for a person in that position to make statements of that kind. They have acknowledged that. But they now put the position to us that they will not support any actions in relation to those statements. They will not support a censure and they will not support a no confidence. But Mr Corbell has further clarified it now and has said: "Well, that's because these people haven't even been found guilty yet. Perhaps if the Greenpeace protesters are found guilty, that will somehow be different."

I suppose he is inviting the Assembly to reconsider this matter some time down the track should there actually be a finding of guilt in the case that will come before the

courts. It is an extraordinary position. Greenpeace have acknowledged what they have done. The only question will be how a court deals with that acknowledgement of what they have done. We all know what they did. In fact, now the government's position is: maybe they are not guilty; maybe when they filmed that they were not really destroying property and the property was not destroyed and it was not by Greenpeace—it was by someone else claiming to be Greenpeace. But Mr Corbell now invites us to reconsider this matter. He invites us to reconsider this matter and we will consider that position.

In terms of what we have before us today and this amendment put forward by Mr Smyth, we say to the government: how low are your standards? That is the question we are posing to the government. We have said that we believe that a person in this position should not be making these statements, therefore the position is untenable, and therefore there should be no confidence. The government says: "No. We agree that he did the wrong thing, but we still have confidence in him." We have now said: "Well, censure him. You should censure him for these statements, for bringing the Assembly into disrepute, for undermining confidence in the rule of law," and the government is saying to us, "No, we don't believe he requires censure either." How low are your standards? How much are you prepared to trash this place and the reputation of this place for your cosy coalition? That is the question before the government, before the Labor Party, on this question before the Assembly. How much will you trash the reputation of the Assembly so that you can keep your green mates happy? That is where we get to.

Not only do they not want to express no confidence but also they will not even take any action against the Speaker for bringing the Assembly into disrepute. I think that shows just how little regard the Labor Party has for this Assembly and how little regard it has for its responsibilities in this place, to this place and to the people whom we represent in this place. It shows just how much they will trash these standards, how much they are in the thrall of the Greens that they will take no action, that they will not give one of their own the opportunity to step up, that they will not even condemn, through parliamentary language, the actions of the Speaker, because the Greens control this government—this cosy coalition—and they cannot rock the boat.

The Labor Party cannot rock the boat, even to the extent of expressing concern through parliamentary language and censuring the Speaker. They cannot even bring themselves to do it. It just shows how low their standards now are. There is no action. In doing that, they endorse the actions. You can say all the weasel words you like in debate, but you are going to have a chance now to vote. The Labor members and the Greens members are going to say: "This is okay. It is okay for the Speaker of this Assembly to condone criminal activity." That is what the Labor Party and the Greens are saying today. That is the message, loud and clear, that they are giving to the community—that it is okay to condone this behaviour, that if your cause is just and believed in passionately enough then it is okay to go and trash property, it is okay to go and attack scientists, it is okay to go and destroy property to further your cause.

Mr Speaker, this is the day the Labor Party and the Greens say there are no standards. There are no standards under them in this place. They do not care about the reputation of this place. All they care about is keeping this coalition going and keeping this coalition happy, Mr Speaker. But they do it at the expense of the Assembly. They do

it at the expense of the community who expect better from their elected representatives. I commend Mr Smyth's amendment to the Assembly.

**MR HARGREAVES** (Brindabella) (11.48): I have served for a very long time in this place and I have seen some exercises in speeches being put forward merely for the sound of one's own voice, and I think I have just heard another few of those. What we are seeing here is a double standard par excellence. It is almost like a double standard with pike, with a degree of difficulty of zero.

Those folk opposite talk about the rule of law and they talk about the condoning of those breaches of the rule of law. Ms Hunter indicated to us earlier that there was very little action taken against Mr Pratt when he actually rubbed out a legal graffiti site. All that happened in fact was that the community pilloried him for a fair while, and in fact they still do, which is more the pity because that was a breach of the law made in good faith. In other words, it was an act of silliness. But he is still paying for it, because I noticed recently that it was in the public arena.

I also recall that a privileges committee of this place found that a staff member of the then Leader of the Opposition, Gary Humphries, hacked into a minister's email. That was proven, absolutely without doubt. Without doubt, that was proven. That individual did the honourable thing and resigned and left the precinct. I respect that, and I paid respect to that. But the silence of now Senator Humphries on that issue was phenomenal. He did nothing about it. Did he stand the officer down? No, he did not. Did he condone it? He just said nothing. When we challenged him to use executive authority and take executive responsibility for the actions of somebody coming out of his office, there were two rules: one for his office and one for somebody else. It seems as though the same thing applies here today.

Mr Speaker, the government has expressed its confidence in you in your role as the Speaker. We need also to be aware that the conversation in this chamber has been about your role as the Speaker and your role as a spokesman on other matters for your particular party. This is the very first time that anybody has carried that dual role. Those opposite, in their pontifications, would expect us all to get it right first time, every time. But they do not apply the same standards to themselves at all. They do not understand that first-term members here are on a very steep learning curve. They do not understand that the office that you have is a very sacred one, and I know how you regard that office and I support you in that view. I will support you and I will not vote for a no confidence motion against you in the remaining time I have here.

But let me tell you something, Mr Speaker. The heights of hypocrisy have now gone into the clouds. Those people over there fail to remember their own condoning of the breaches of law. They do not have any place to stand there hurling rocks at glass houses. Honourable members in this chamber will not support the original motion and will not support Mr Smyth's amendment. Honourable members in this place will support the government's amendment.

**MRS DUNNE** (Ginninderra) (11.52): I am happy to support Mr Smyth's amendment because it is a real test of the character of members of this place. The leader of the house, the Attorney-General, said that the proposal from the opposition to move want



of confidence in the Speaker was a punishment that did not fit the crime—a very law-makerly sort of approach.

So we took him at his word and said, “Okay, if the government don’t think that the Speaker should lose his job over the words that he used and his failure to retract them over the course of the interceding month, what is their test? If they don’t think he should lose his job because really what we need to do is shore up the government’s support in this place, are they prepared to censure him?” Members of this place have been censured before for injudicious actions. And now the test has been put out there and again the government have failed.

They used all of these words in their speeches. The leader of the house, the Attorney-General, and the Chief Minister said that what was said by the Speaker was wrong and that the Speaker should not have condoned the actions. Then, of course, the Attorney-General came back on that and said, “Well, it hasn’t actually been proved.” It has not been proved in a court of law, that is true, but Greenpeace posted video of itself, and the spokesmen on behalf of the activists who were there went on television across this nation and went into print across this nation extolling the virtue of the actions of Greenpeace. Everybody has fessed up to it. No-one has come out from Greenpeace and said: “That YouTube video was a forgery. It wasn’t us.” Everybody admits that this is what happened. The people who spoke on behalf of the activists essentially said that they were prepared to go to court and plead guilty on this. Everyone admits that that will happen.

This Speaker here, the person charged more than anybody else in this place with upholding the law—with the possible exception of the Attorney-General, charged more than anyone in this place with upholding the law—has said, “I can’t either condemn or condone because these people have strongly held opinions.”

Let us go back to the code of conduct. I refer members to page 402 and following in the *Companion to the standing orders*. This is the code of conduct by which we, as members of this place, are supposed to live. The second paragraph says:

... Members agree to respect and uphold the law, not to discredit the institution of Parliament, and maintain their commitment to the public good through personal honesty and integrity in all their dealings.

This Speaker, this person who was charged by this place with upholding, more than anybody else, the standards of this place, has failed. On 666 ABC he said that he could not condemn the actions of Greenpeace. He could not condemn the actions of Greenpeace because he probably wanted to be out there himself, and that is all right for an activist. He said a whole lot of other things—that these people will possibly face the court and the full force of the law should come down against them. But he could not bring himself to condone his former colleagues. He forgot that he is no longer a member of Greenpeace. As Michael Moore said, he is no longer out there in a Zodiac, putting himself between a harpoon and a whale. That makes you a hero. But in this place the thing that makes you a hero is the hard slog of being a law-maker.

This Speaker failed that test on 14 July. We are now at 16 August—one month has gone by—and, as late as yesterday, the Speaker was still upholding his right to say

these things and to try and wriggle his way out of it. He sent to Mr Seselja a copy of a letter that he sent to the *CityNews*. Most of the content of that letter to the *CityNews* was regurgitated this morning by Ms Hunter. The reference to Martin Luther King, the reference to civil disobedience—all of those things were in Mr Rattenbury's letter that he wrote yesterday. So as late as yesterday he had not retracted what could have been passed off as something said in the heat of the moment that was not really thought through. He has had that opportunity for over one month and he has not retracted. He seems to still hold the view that he is not in a position to either condemn or condone.

He is in a position to condemn because these people, by their own admission, broke the law, by their own admission and by the YouTube video that they have posted, which show that they broke into a secure facility and that, by the use of whipper snippers, they destroyed hundreds of thousands of dollars of property and put back vital scientific research by at least a year—scientific research that may have led to scientists around the world being able to better feed the hungry.

What we have done here, what Mr Smyth has done by his amendment, is to throw out a challenge to the government, to throw out a challenge to the Attorney-General, the first law officer of this place, to see whether he can bring himself to say anything about the inappropriateness of the behaviour of the Speaker, and the government have failed. The government have demonstrated that they have no standards.

The government, like the Greens, are casting around trying to find other comparable examples, but there are none. You can search your way all through *Erskine May*, through *House of Representatives Practice*, through *Odgers*. There is no precedent for the bad behaviour of this Speaker when he went on 2CN and said the things that he said and in his persistent failure to retract those words. Not only has he failed to retract those words but he has reinforced them in print on a number of occasions.

This Speaker said it was all right, if you believe in something strongly enough, to break the law. Not in some civil disobedience way; let us not be fooled. Breaking and entering and destruction of property are not your average civil disobedience. Refusing to sit at the back of the bus may be civil disobedience but breaking and entering does not come into the same category. Sitting down on the road may be civil disobedience but breaking and entering and destroying property with a whipper snipper, destroying scientists' work, does not come into the same category.

There is no precedent in all of the learned works you would refer to—the House of Commons, the House of Representatives and the Senate have no precedent for such bad behaviour. There are precedents in the House of Commons, of course, where Speakers have been found—there was one in the previous term of the House of Commons—to have done the wrong thing. In that case it was misuse of electorate funds and the Speaker resigned. Here we have a Speaker who condoned destruction of property and he has stuck by it. If he stuck by it, that is fine; he should have the guts and the honour to voluntarily leave his position because they are incompatible. Sitting in that seat is incompatible with the views that he expressed and has not retracted.

This government have said that they will go to any lengths possible to maintain him in this position because it is more important to maintain the cosy Greens alliance than to

uphold the standards of the Speaker, not just in this parliament but in any parliament in the commonwealth.

**MR HANSON** (Molonglo) (12.02): I wish to respond to some of the comments that Mr Corbell made. Mrs Dunne has certainly covered them in part. Mr Corbell essentially now has got this defence, as Mr Seselja pointed out, that it is an alleged offence. Therefore, it is not as important as if it was something for which there had been a conviction. You certainly made comments, Mr Corbell, that there can be—

*Mr Corbell interjecting—*

**MR SPEAKER:** Order, Mr Corbell! Mr Hanson has the floor. Members, Mr Hanson has the floor.

*Mr Corbell interjecting—*

**MR SPEAKER:** Order, Mr Corbell, please!

**MR HANSON:** This is the same Mr Corbell who was found, I think it was with grave concern by this Assembly—

**Mr Smyth:** Persistent and wilful misleading.

**MR HANSON:** It was for persistent and wilful misleading. But there was also the case of the prisoners that protested on the roof of the Belconnen Remand Centre. Mr Corbell declared them guilty. The motion was one of grave concern, I think was the term. It was downgraded from a censure.

But the question is: will the government support Mr Seselja's motion if those members of Greenpeace are found guilty? So if the measure is that it is only an alleged offence and, therefore, what the Speaker said was not so bad, does that mean that if those members are found guilty and Mr Seselja was to bring this motion back before the house, the government would agree to it?

**Mr Seselja:** It makes sense.

**MR HANSON:** It would. By Mr Corbell's logic, he is using that as a defence as to why the government, although they agree and would declare that the Speaker is unwise, are not agreeing with it because it has not gone through the courts and no-one has been found guilty. That is the logical conclusion.

The other thing that has come to my mind—I do not know if Mr Rattenbury is going to be speaking on this motion—is that I just do not understand why he is the Speaker. Why, when we hear what he is saying, when we hear the comments from his Greens colleagues and we have heard about what the role of the Speaker is and what the requirements of the Speaker are, would Mr Rattenbury want to be the Speaker?

I do not understand because we have heard all the way from Mr Rattenbury's maiden speech where he declared himself a radical. We have seen his career before with Greenpeace. We have seen his actions in this Assembly where he has taken on green

portfolios. We have seen him, through his latest action, essentially refuse to condemn law breakers. These things that basically are the embodiment of who and what Mr Rattenbury is are completely contrary to his role of being the Speaker. I do not understand why he is doing it.

Why would you want to be a Speaker? Is it because you wanted to put the role of the Assembly first or because you had been working in the Assembly? Maybe it was the experience of working in the Assembly—it is certainly not that case. But it is confusing. Is it the prestige of the position? Is it the power of the position? What are the motives? I certainly do not understand and I think that Mr Rattenbury, in some regard, owes an explanation to this place as to why it is that he has taken on the role of Speaker.

It is quite clear that he still wants to be the activist. It is quite clear that he still wants to be the radical. It is quite clear that he still wants to support Greenpeace both in their actions and in their ideology. But what is not clear, and he has never been clear, is why he wants to be the Speaker. It just dumbfounds me. Is it the prestige? Is it the power? Is it the resources that go with it? What is his motivation?

I do not understand because I think that this side of the Assembly are questioning it. I think probably those on the other side are. Is it about keeping the Greens-Labor agreement together? Is it about defusing a power struggle within the Greens and the convenor-leader of the Greens? What is the motivation? I certainly would love to hear from the Speaker, be it in this forum or another, why on earth he sits in that chair degrading the position of Speaker. What is in it for him because there is certainly nothing in it for the Assembly?

Question put:

That **Mr Smyth's** amendment to **Mr Corbell's** proposed amendment 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.

Question put:

That **Mr Corbell's** amendment 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.

**MR SPEAKER:** The question now is that Mr Seselja's motion, as amended, be agreed to.

**MR SESELJA** (Molonglo—Leader of the Opposition) (12.11): Mr Speaker, it is worth coming back to what we are talking about here. We have particularly heard a lot from the Greens comparing the actions of Greenpeace activists to Martin Luther King and to others. Let us just look at what we are talking about here. We are talking about vandalism and thuggery to stop feeding hungry people. That is what we are talking about. That is what was condoned. There was an article in the *Australian* and it refers to Mr Rudd. It says:

Mr Rudd, who this week visited Somalia to inspect Australian-funded famine relief efforts, said he had no reason to dispute scientific advice in favour of the use of GM foods. The Greens believe GM foods pose threats to the environment and agricultural eco-systems. Earlier this month, activists broke into a CSIRO facility in Canberra and destroyed crops of GM wheat.

Mr Rudd said any government should monitor scientific developments, but GM food had a place in dealing with global food security.

To quote Mr Rudd:

"To keep kids alive in Somalia now, the WFP—

United Nations world food program—

... needs to move packets of food supplement from the port of Mombasa into central Somalia which contains GM," he said.

That is what we are talking about here, Mr Speaker. That is what has been condoned by the Greens, by the Speaker and today by the Labor Party. It is this destruction of scientific experiment that is designed to help feed hungry people. Some of the science that they are building on is being used right now to help feed hungry people in Somalia. So let us not try and compare the actions of Greenpeace in this case with Nelson Mandela or Dr Martin Luther King.

This was mindless thuggery against science because they do not agree with it and against a science that holds the hope of better feeding hungry people around the world. That is what this is about. Then to condone that mindless thuggery and \$300,000

worth of damage—and that is being condoned by the Labor Party and the Greens—is a serious matter.

People make errors. If this had been a one-off comment, where it could have been misconstrued one way or another, by Mr Rattenbury and then he sought to clarify it and he actually said, “Well, no, I don’t condone these actions; I condemn them, in fact,” I think we would have let it go. We might have had a crack at him in the media, but I think we would have let it go. It would not have come to this place. But what has happened here is a series of statements—not one, not two but several statements, several attempts on radio. We have seen it in an opinion piece and in a letter. This is an ongoing position. This is not some error of judgement. This is not sort of a one-off, “I didn’t quite get my words right.” We all occasionally make mistakes. This is not a mistake. This is a deeply held position which he is sticking to.

He is entitled to his deeply held position, but it is a position that undermines his other position, which is that of the Speaker of this place. That is at the fundamentals of this. We have this extraordinary situation now—we heard it today—where the Labor Party says he has been unwise, that he has lacked wisdom. Yet they support him as Speaker. They support a Speaker who they believe is unwise. Surely that goes to the heart of what a Speaker’s job is about.

It is about judgement and wisdom. It is about someone making judgements between competing positions often. The Labor Party says one thing, the Liberal Party says another thing. The Speaker rules. The Speaker makes a judgement. Yet you have got one side of politics saying they do not have confidence in his ability to be Speaker. You have got the other side of politics saying they think he is unwise, but they will continue to support him. They will not even condemn him. That undermines the authority of the chair right there.

We now have two parties in this place—13 members—who have expressed serious reservations about the actions of the Speaker. One party believes that he should no longer be Speaker. The other party is prepared to excuse his lack of wisdom and his errors of judgement because they need him and they need the Greens. That is where we are left. But that is not a satisfactory situation, Mr Speaker, because, effectively, even though they have not had the courage to vote that way, the members of the Labor Party have expressed a lack of confidence. If you think the Speaker is unwise then the person is not fit to hold that role.

This is an unsatisfactory outcome where the Assembly has spoken on the one hand saying that the Speaker is not up to it but on the other hand a majority of members have refused to back that judgement up with their vote. We will be left in limbo where the Speaker’s position is undermined, where the authority of the Speaker is undermined, where the government believes he is unwise, the opposition believes that he should not be in the job, yet he will still be in the job.

This is a lowering of the standards of the Assembly by the Labor Party and the Greens today. This is them saying that there are no standards here. They will write off whatever behaviour if they believe that it is in their political interests to do so. I commend the original motion. I commend the motion that would express the lack of confidence in this Speaker.

Question put:

That **Mr Seselja's** motion, 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.

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

**Sitting suspended from 12.20 to 2 pm.**

## **Questions without notice**

### **Planning—alleged interference**

**MR SESELJA:** My question is to the Deputy Chief Minister. On 17 May 2010, the chief planning executive wrote a brief to you which conveyed his concerns about widespread interference in the planning process. In the brief, the chief planner stated, amongst other things, that the process was so compromised that the prospect of it being taken over by the government itself needs to be raised. Minister, what did you do in response to these serious concerns raised with you by your chief planner on 17 May 2010?

**MR BARR:** I thank the Leader of the Opposition for the question. There were three responses from me. Firstly, some legal advice was sought from the GSO in relation to particular issues that were raised by the chief planning executive. I understand that that advice and subsequent information were available to the Leader of the Opposition from the freedom of information request that he sought. In relation to the specific matters that were referred to in Mr Savery's correspondence, I also sought the involvement of the head of the ACT public service in relation to the officer-level issues that were apparent between the Planning and Land Authority and the then Department of Land and Property Services. Finally, of course, I had some conversations with the Chief Minister in order to facilitate a meeting of all of the parties to resolve the matter.

**MR SPEAKER:** A supplementary, Mr Seselja.

**MR SESELJA:** Thank you, Mr Speaker. The chief planner also raised concerns about the government's stated intent to keep the politics out of planning being delivered as a result of the interference. What did you do in response to that claim in the brief?

**MR BARR:** I have just outlined my response to all of the issues contained within that brief.

**MR SMYTH:** A supplementary, Mr Speaker?

**MR SPEAKER:** Yes, Mr Smyth.

**MR SMYTH:** Minister, what did you do to investigate claims in the brief from Neil Savery that “I find this level of interference, which in the case of the Department of Land and Property Services is occurring on an ever more frequent basis, although not always as obviously as in this case, has the potential to make the role of ACTPLA as a statutory authority for a range of tasks increasingly difficult and puts the government at risk”?

**MR BARR:** As I indicated in my initial response, I undertook a number of courses of action. Of course, in the context of the review of the ACT public service by Dr Allan Hawke, I raised my concerns about the capacity for the previous administrative arrangements to lead to a degree of concern in terms of the statutory independence of the Planning and Land Authority, and I was pleased that those issues were addressed by Dr Hawke and that the new structures will ensure that those issues do not arise in the future.

**MR SMYTH:** A supplementary, Mr Speaker.

**MR SPEAKER:** Yes, Mr Smyth.

**MR SMYTH:** Thank you, Mr Speaker. Minister, when did you or your office inform the then Chief Minister or his office about the concerns expressed by Mr Savery?

**MR BARR:** Obviously there were a number of discussions and in the context of the material that was provided by the chief planning executive in the discharge of his duties there was the opportunity to discuss these matters. I outlined in my initial response to Mr Seselja the responses that I put in place in relation to the receipt of that brief.

### **Bimberi Youth Justice Centre—review**

**MS HUNTER:** My question is to the Minister for Children and Young People. Minister, the Bimberi review outlined several breaches of the Children and Young People Act 2008 in regards to the use of restraints and segregation. In your answer to me on 16 February 2011 you stated that you received monthly briefings on these matters and would follow up on the earlier Human Rights Commission report. Prior to the publication of the Bimberi review, were you aware of the extent of these practices within Bimberi and if not, why not?

**MS BURCH:** I thank Ms Hunter for her question. I will just say at the outset that the government will be responding in full to the report end September, early October as we are required to do. I am looking forward to delivering that full report.



On the matter of the use of restraints, yes I do get monthly reports and I get ad hoc reports as issues arise. Through that report there were a number of items that raised my concern which I have had discussions with the department about. But following the delivery of this report I have spoken to the department and we have already started to review our use of force and restraints internally.

There are a number of recommendations there that look at new contemporary evidence, which is fair and reasonable for us to consider. So without pre-empting our full response to the whole report, this is one matter that I have asked the department to review its current practice on with a view to making improvements. It is my view that restraints and use of force should be used absolutely as a last resort and that other methods should be implemented and certainly put to the fore. If that includes amendments to practices and training for staff, then I will not hesitate.

**MR SPEAKER:** Ms Hunter, a supplementary.

**MS HUNTER:** Thank you, Mr Speaker. Minister, what urgent action have you taken to respond to the commissioner's recommendations for better recording of use of force and segregation?

**MS BURCH:** Through the report, there are a number of commentaries about data collection and record keeping. This is something that, in any department and facility, is an ongoing matter that needs to be paid attention to, so that we make sure that that recording and reporting are done appropriately. Again, that is one of those immediate discussions that does not need to wait for the government's full response to the report. I have asked the department to review it and ensure that the practices are indeed appropriate and that recording is maintained.

**MS BRESNAN:** A supplementary, Mr Speaker.

**MR SPEAKER:** Yes, Ms Bresnan.

**MS BRESNAN:** Thank you, Mr Speaker. Minister, following the publication of the Bimberi report, have you directed your department to stop using the terms "special management direction" as a reason for or record of restraint?

**MS BURCH:** The conversations with the department have not gone down to that level of detail. Suffice to say that I have asked the department to review its use of force and restraints and to ensure that our practice is contemporary and in line with other best practice across Australia but also internationally as well.

**MRS DUNNE:** A supplementary question, Mr Speaker.

**MR SPEAKER:** Yes, Mrs Dunne.

**MRS DUNNE:** Minister, why won't you answer Ms Hunter's original question about what you knew about the inappropriate use of restraint and force before this inquiry, and when you knew it?

**MS BURCH:** I believe I have. I have answered a question, and I referred to a letter that was an exchange between the human rights commissioner and the director-general, Martin Hehir, around use of force. As a result of that exchange, practices were changed and were improved, and they will continue to be improved, as I say, as good practice demands.

### **Planning—alleged interference**

**MR SMYTH:** My question is for the Deputy Chief Minister. Minister, as part of a freedom of information request, the Canberra Liberals have received a letter in your name to Mr Stanhope in relation to interference in the planning process. The letter states, among other things:

I believe that the ability of ACTPLA to make an independent decision on the DA has been compromised.

Minister, did you ever sign that letter? If not, why not?

**MR BARR:** No, I did not. I needed to be confident in the context of the briefing and the content of the letter, and I sought advice on a number of issues, as I indicated in my previous answer to the Leader of the Opposition's question, from the Government Solicitor, from the head of the ACT public service and from Mr Stanhope himself.

**MR SMYTH:** A supplementary, Mr Speaker.

**MR SPEAKER:** Yes, Mr Smyth.

**MR SMYTH:** Thank you, Mr Speaker. Minister, the letter also states:

I am concerned that officers in the Department of Land and Property Services, in particular, appear to repeatedly over-step the mark when it comes to their interference ...

**Mr Hargreaves:** On a point of order, Mr Speaker. Mr Smyth did ask the minister did he sign the letter. The minister said no, so anything further to do with that particular letter is in draft and therefore hypothetical.

*Mr Seselja interjecting—*

**Mr Hargreaves:** It is therefore hypothetical, for the deaf people in the room.

*Members interjecting—*

**MR SPEAKER:** Order!

*Mr Hargreaves interjecting—*

**MR SPEAKER:** Thank you, Mr Hargreaves. Order!

*Members interjecting—*

**MR SPEAKER:** Order, members! Mr Hargreaves, do not make me warn you.

*Members interjecting—*

**MR SPEAKER:** Order! Enough! One moment, thank you. There is no point of order, Mr Smyth. You have the floor.

**MR SMYTH:** Thank you, Mr Speaker. I will recommence. Minister, the letter also states—

**MR SPEAKER:** Mr Smyth, preamble.

**MR SMYTH:** It leads to the question, Mr Speaker:

I am concerned that officers in the Department of Land and Property Services, in particular, appear to repeatedly over-step the mark when it comes to their interference, perceived or otherwise, in statutory processes which have served the Government well.

Minister, what did you do to investigate this repeated interference?

**MR BARR:** As I have indicated in response to the same question from the Leader of the Opposition in relation to responding to all of the issues that were raised within that brief, I sought, in conjunction with the Chief Minister, advice from the Government Solicitor. I sought the input and engagement of the head of the ACT public service in relation to the matter that referred to the dealings between officials between the two agencies and I sought, through my office and through contact with the Chief Minister at the time, to resolve the matter.

**MR SESELJA:** As minister of LAPS, what investigation have you undertaken into the widespread interference in the planning process by your officials which your draft letter as planning minister highlighted?

**MR BARR:** I am not the minister of LAPS. No such agency exists any more.

**MR SPEAKER:** A supplementary, Ms Le Couteur?

**Ms Le Couteur:** No.

**MR SPEAKER:** Mr Seselja?

**MR SESELJA:** Thank you. Minister, did you provide a draft copy of the unsigned letter to the Chief Minister? If so, why, and is it standard practice to provide draft copies of letters that are to be sent from one minister to another?

**MR BARR:** Mr Speaker, we operate as one government.

**Community concessions**

**MS PORTER:** My question is to the Chief Minister. Could the Chief Minister please advise the Legislative Assembly of the steps she is taking to monitor and consult on the adequacy of concessions for the ACT community?

**MS GALLAGHER:** I thank Ms Porter for this very important question. The ACT government concessions program promotes equity in our standard of living and access to essential services for our local community. As a community we accept that concessions foster access and affordability of those essential services and are targeted to individuals and households meeting certain eligibility criteria.

The ACT government's concessions IDC has been operating for some time now and has resulted in a couple of significant increases in concessions regimes across the ACT. But their work continues and they are focusing on a whole-of-government approach to concessions. As part of this, they monitor and consult on the adequacy of the concessions regime.

The government, through the work of the concessions IDC, has consistently worked to ensure the adequacy of concessions, keeping pace, and also whether there is any need for new initiatives. The energy concession was increased by \$20 in the budget before last and we also introduced the home haemodialysis rebate, which was a great community initiative that was lobbied for for those who are dialysing at home. That was introduced in November 2010. We believe that these are examples of targeting concessions to those with greatest needs, including those who have requirements, in relation to the haemodialysis rebate, to use more water than most households in order to live comfortably at home.

The ACT concessions website has been developed, ensuring that accessible concessions information is available to low income individuals and households. The portal includes a concessions finder, and this was in response to feedback that we were getting that the concessions regime, because it was managed across directorates, was hard to navigate. Now inquirers can enter the name of their concession card and then find out what concessions they may be eligible for.

We have increased the energy concession. There have also been increases to the taxi subsidy scheme and the introduction of the utility concession in this budget. The previous two budgets have both increased the energy concession to meet the increasing cost-of-living pressures associated with utilities. For example, in 2009 the energy concession was \$194.87. This was increased in the budget before last and is now \$214.87. The energy concession was further raised by \$51 from \$214.87 to \$266.20. The 2011-12 budget also introduced a new utility concession which provides an additional \$80 rebate to eligible concession holders. The rebate is paid through existing energy concession mechanisms and it recognises, amongst other factors, that increase in water bills and seeks to offset the rise in basic utility costs. So since 2009 the energy utility rebate has increased by 77 per cent to \$346.20. We believe that this is going a long way to meeting some of those cost-of-living pressures for those households.

I have also announced that on 1 November 2011 I will hold a community roundtable to hear from non-government agencies funded by the ACT government about further need that they are seeing in the community. I am particularly interested to hear about those families who sit just above the concessions regime who might just earn that little bit more that reduces their entitlement to concession card status but also in seeing what we can do to meet some of the pressures that they are experiencing in a targeted and measured way.

**MR SPEAKER:** Ms Porter, a supplementary question?

**MS PORTER:** Thank you, Mr Speaker. Can the Chief Minister please advise the Assembly what other concessions currently exist for members of the ACT community?

**MS GALLAGHER:** I thank Ms Porter for the supplementary. There are 30 different ACT government concessions administered by six directorates across six concession zones. Eligibility for concession is usually based on the possession of a commonwealth concession card. This is a verifiable and well-established way of managing eligibility for concessions and is used across jurisdictions in Australia. Concessions are primarily provided to ACT residents who hold a pensioner concession card or healthcare card or who are holders of a veterans gold card issued by the Department of Veterans' Affairs.

Recipients of the pensioner concession card or healthcare card have to receive other commonwealth cards for which the eligibility criteria usually relate to income, health or age. Eligibility for a number of health concessions is through referral by a medical practitioner.

Concessions are provided across six zones of education, essential services, government service, health, housing and transport. I do not think I have time to go through all 30 but they are available through the concessions portal or if members are interested I can provide them with a summary sheet.

There are concessions obviously for the secondary bursary scheme, which assists low income families with the cost of high school education, and special needs transport, which transports eligible students with a disability to their nearest special needs setting.

Essential services concessions include energy, water, sewerage and funeral assistance. The combined energy and utility concession now totals \$346, approximately a quarter of the annual average electricity bill.

Government service concessions include discount rates for government venues and swimming pool admission, dog registration and library fines. There are over 10 different health concessions, including the \$1,200 home haemodialysis rebate, which was introduced in the last financial year, and the spectacle and senior spectacle schemes, which improve the affordability of glasses for the financially disadvantaged and senior citizens.

**MR SPEAKER:** Dr Bourke, a supplementary.

**DR BOURKE:** A supplementary, Mr Speaker. Chief Minister, what non-government organisations does the ACT government collaborate with on ensuring that these concessions get to the ACT community?

**MS GALLAGHER:** I thank Dr Bourke for the question. I have already mentioned that I am holding a community roundtable, where the government will continue our discussion and listen to the views of our non-government partners around a range of assistance measures to members of the community, including concessions. Obviously, we cooperate very closely with non-government organisations as they are often at the coalface of interactions with members of the community who are experiencing financial disadvantage.

Obviously, we do have a range of programs which will also use intelligence that is collected across the public service, including access through our energy wise home energy audit scheme, the schemes that are in place through disability, through health and through education, to identify any new areas where the government could work with the directorates and the community to make sure that our assistance, and our targeted assistance, to Canberrans who are experiencing financial disadvantage reaches those most in need.

I have been hearing anecdotally—and this is where we do differ from the Liberal Party, who have a blanket approach to this, that every household in Canberra is in need. We do have a view, and we will keep our ears open, that any government assistance should be provided to and should be targeted at those who are experiencing genuine financial disadvantage. Just because your bills go up does not mean that you need government assistance. But accepting that—and I think that we have met the needs of those through the concessions regime, to the largest part we can—we now need to look at those that just sit above that concessions framework, to make sure that they are also getting the full support of their government, and any government assistance that we can provide, and to make sure that they have access to the same opportunities that all of us in this place do.

**MR SPEAKER:** Mr Coe, a supplementary question.

**MR COE:** Chief Minister, given that your government is proposing a commitment to concession cardholders and a supposed commitment to recognising concession cardholders from across the border, why is that New South Wales concession cardholders still struggle to get a concession when they board ACTION buses?

**MS GALLAGHER:** I thank Mr Coe for the question. I think it is fair to say that New South Wales travellers can use and access concessions on ACTION buses. I think there is an issue around MyWay that ACTION buses are working on, to resolve with New South Wales patrons. But, as with all things in this area, it remains a work in progress.

### **Planning—chief planning executive**

**MS LE COUTEUR:** My question is to the Minister for Planning and it concerns the role of the chief planning executive. Given that Mr Savery has a contract to be the chief planning executive until 14 September 2013 but that Mr Papps has also been given a contract to be acting chief planning executive when Mr Savery is absent from the workplace, what is the role of the chief planning executive—that is, Mr Savery—at present and how does he fit into the new ACTPLA and ESD organisational structure?

**MR CORBELL:** Mr Speaker, I can advise the Assembly that Mr Savery is in negotiations with the territory in relation to his future role. Mr Savery has provided a sterling and a very high level of professionalism in his role as chief planning executive and is a man that I have—

*Members interjecting—*

**MR SPEAKER:** Order! Members, let us hear the answer from the minister, thank you.

**MR CORBELL:** He is a man that I have considerable regard to and for. Mr Savery is currently in discussions with the head of the ACT public service in relation to his ongoing role. I will take further advice on the exact status of those discussions and advise the Assembly.

**MR SPEAKER:** Ms Le Couteur, a supplementary question.

**MS LE COUTEUR:** Given that Mr Papps's contract as acting chief planning executive ends on 1 January 2012, why is this and what is intended to happen after this date?

**MR CORBELL:** It is normal for there to be arrangements put in place for an acting chief planning executive for periods when the chief planning executive is absent for personal or other reasons. Previously, the acting chief planning executive was one of the senior executive officers of the ACT Planning and Land Authority. With the establishment of the new Environment and Sustainable Development Directorate, the government deemed it appropriate, in periods when the chief planning executive was not available, for that function to be performed by the Director-General of the Environment and Sustainable Development Directorate.

**MS HUNTER:** A supplementary.

**MR SPEAKER:** Yes, Ms Hunter.

**MS HUNTER:** Thank you, Mr Speaker. Minister, has the government addressed issues around the perceived politicisation of development assessment being undertaken by an impartial, apolitical planning agency when the chief planning executive is also the director-general?

**MR CORBELL:** It has always been recognised, both in terms of the operations of ACTPLA as it was first established and in terms of the operations of ESD as it is now, that there is a dual role for the role of the chief planning executive. The chief planning executive has responsibilities to provide policy advice to the government on matters of planning policy and is also responsible for the administration of development assessment at arm's length from the government. Those arrangements remain unchanged.

**MR SPEAKER:** Mr Seselja, a supplementary?

**MR SESELJA:** Thank you, Mr Speaker. Minister, has Mr Savery been pushed aside because he dared blow the whistle on the persistent political interference from both ministers and agencies in the independent statutory planning process?

**MR CORBELL:** No, he has not. I would simply reiterate to members that Mr Savery is a highly respected and well regarded senior executive of the ACT government service. Indeed, with the establishment of the Environment and Sustainable Development Directorate, I discussed a range of issues with Mr Savery and certainly indicated to him my desire for him to continue on in an important role in the ACT government service because of his breadth of experience and knowledge that he brings to the field of planning and urban development more generally.

### **Planning—alleged interference**

**MR COE:** My question is to the Deputy Chief Minister. I refer to email correspondence between a representative of a developer and Neil Savery in relation to the Giralang shops development uncovered as part of an FOI on the issue. The email is dated 27 March 2008. In the email, a representative wrote to Mr Savery and said:

I understand the ... DA status, in fact that is partly why I'm concerned that one Minister urged my client to lodge the current DA (with its present residential: retail ratio) and that post lodgement of the DA, another Minister has written to my client saying he would not approve the proportion of commercial/retail space proposed while the DA is still live.

Minister, were you one of the ministers referred to in the email, and what were you or your office urging the proponent to do?

**MR BARR:** As I am sure Mr Coe would be aware, as he purports to represent this part of Canberra, there were a number of development applications that were lodged in relation to this particular redevelopment proposal, and a number were rejected. Initially, the first one was on the basis that it did not provide sufficient commercial space and was effectively a change from the local shops into a residential project. A subsequent development application was proposed that had, from memory, a very large supermarket to be operated by Woolworths. That was outside the generally accepted guidelines in relation to the size of supermarkets within local centres.

As I understand it, that email would perhaps have referred to some discussions that were had between my office, myself, the Giralang residents association and the proponent, seeking to find a compromise that would meet the needs of—



**Mr Seselja:** While there is a live DA.

**MR BARR:** No, not whilst there is a live DA. Whilst seeking to address the needs of the Giralang residents association, I have met with those residents on a number of occasions, as they were seeking an outcome that saw the restoration of their local shopping centre, and also to meet with the proponent to ensure that an outcome could be achieved that would meet the requirements of the territory plan and also would receive community support. That is not an unusual thing. I understand in fact that the Giralang residents association met with a number of members of the Assembly to express that particular view. I am not in a position to comment on what other ministers may or may not have said to individuals. But throughout the process, I sought to work with Giralang residents to achieve an outcome for the people of Giralang.

**MR SPEAKER:** A supplementary, Mr Coe.

**MR COE:** Deputy Chief Minister, given that Mr Savery said in his response to the email “am I able to use this in confidence to illustrate to Andrew Cappie-Wood my concern at the extent to which the CMD is involving itself in the DA process and as a result putting the political process at risk”, did such a discussion occur between Mr Savery and Mr Cappie-Wood?

**MR BARR:** Did such a discussion occur? I am not in a position to comment on that. I am not privy to every conversation that may take place between senior public servants but I certainly can observe, and have observed in my response to previous questions from the Leader of the Opposition and the Deputy Leader of the Opposition, that undoubtedly there were concerns raised in relation to the interaction between officials, not necessarily of a senior level but of a more middle management level, across the former LAPS agency and the Planning and Land Authority. Those matters, I think, were legitimately raised and there were concerns. They were brought to the attention of more senior officers within the ACT public service and to the reviewer, Dr Allan Hawke, who sought to work through those issues and create a new structure.

**MS LE COUTEUR:** A supplementary, Mr Speaker.

**MR SPEAKER:** Yes, Ms Le Couteur.

**MS LE COUTEUR:** I understand the DA in question is a DA for a supermarket, so my question is: what is the current status of the Martin supermarket policy review? Where is the department at with that?

**MR BARR:** There are obviously a number of processes that are underway across my Directorate of Economic Development and my colleague Mr Corbell’s Directorate of Environment and Sustainable Development. ESDD are looking at local centre policy. I understand they have put out a discussion paper in relation to that. I am currently reviewing the supermarket competition policy and will, of course, make announcements in due course.

**MR SPEAKER:** A supplementary question, Mr Seselja?

**MR SESELJA:** Minister, when did the meetings with the Giralang residents and the proponents referred to in your first answer to Mr Coe's question occur?

**MR BARR:** I can recall at least three or four meetings over the course of my time as Minister for Planning. I am happy—I am not sure that I will have all of those dates available as I am not sure how far back in the records my electronic diary goes. But I can certainly advise members of the Assembly that I met on a number of occasions with a variety of representatives from the Giralang community—the Giralang Residents Association and a number of other individuals—in relation to their desire to see their local shops restored.

### **Bimberi Youth Justice Centre—staff**

**MRS DUNNE:** My question is to the Minister for children and young people. I refer to the *ACT Youth Justice System 2011: A Report to the Legislative Assembly by the ACT Human Rights Commission*. The report mentions that in 2009 the Community Services Directorate commissioned Oakton consultants to conduct an audit of Bimberi operations and financial performance. The Human Rights Commission report quoted from the Oakton report saying:

‘DHCS does not have sufficient funds allocated for the ongoing operations of Bimberi, particularly if there is a significant increase in resident numbers. Currently Bimberi does not have sufficient permanent and casual staff to deal with a sudden surge in resident numbers that would require Bimberi to operate at full capacity.’

Further, a submission to the Human Rights Commission inquiry and quoted in the report says:

‘There is absolutely no money to do anything. There is a high turnover of case managers. We don't know from month to month what the case load will be like, can't predict what the court will do, or whose cases you have to take on.

Minister, after \$1.7 million was allocated from July 2010, why was there a continual staffing crisis at Bimberi?

**MS BURCH:** I thank Mrs Dunne for her question. She is right on one point: Bimberi is not the controller of numbers that come through. Those matters are matters for the Magistrates Court. There is no way that we can predict any movement of numbers. Historically, when Bimberi was opened there was, I think, an average of a dozen young people in residence. That has moved up to an average now of 20. There was a period last year when there were record numbers of around 30.

On the comments that the Oakton report recommended there were not enough funds, funds were transferred—I think \$5.8 million from Quamby. That was the funding that moved over. I think there was a \$700,000 cash component to support the transfer. In the first budget there was an additional \$1.7 million. In this budget there was \$1.8 million. We have, in budgets since Bimberi has been operational, increased the operational budget and increased the number of youth workers and, indeed, workers

across the board. We now have 66 staff at Bimberi youth detention centre. That includes management, team leaders and youth detention workers. There have been some struggles with staff, but that was mixed with recruitment; it has been difficult to recruit staff. This government has invested in Bimberi from the budgets that have been in place since Bimberi has become operational.

**MRS DUNNE:** A supplementary, Mr Speaker.

**MR SPEAKER:** Yes, Mrs Dunne.

**MRS DUNNE:** Minister, why did you ignore the recommendations of Oakton consultants when they said that staff numbers were low and when they predicted an increase in the number of residents who would go to Bimberi, and why did you fail to take action in December 2009 on their critical recommendations?

**MS BURCH:** It is not possible for Oakton or anyone to predict, as I have said, increases in numbers—

**Mrs Dunne:** They did.

**MS BURCH:** Well, I do not know on what methodology they based that. As far as what action came from that, in regard to what action the department and I took in regard to that report, there is an investment of \$1.7 million in the budget.

**MS HUNTER:** A supplementary, Mr Speaker?

**MR SPEAKER:** Yes, Ms Hunter.

**MS HUNTER:** Minister, in relation to the recruitment and retention of staff, have regular supervision and debriefing, particularly on critical incidents, been introduced for staff; if so, how many staff have taken up that offer or been offered such a service during the last few months?

**MS BURCH:** Certainly staff support and supervision have been something that I was very mindful of towards the latter part of last year. We recruited Danny O'Neil to provide some supervision, some work in on-the-ground support to the workers. He was there, I think, until July this year. He has been going in regularly, at least once a week, and working with the youth workers.

There is no doubt that we can improve our staff supervision and training. I am pleased to say that our induction now covers 50 per cent of cert IV in youth work and at the moment our most recent advice is saying that 75 per cent of staff are up-skilling, are undertaking training to improve their existing qualifications.

Ongoing supervision is something that management needs to keep its eye on week in and week out. It is something that was identified in the Human Rights Commission review, but it is something that we identified in the latter part of last year, which was why we implemented that significant change management.

**Ms Hunter:** Mr Speaker, I had asked about the numbers of staff who have actually been able to access supervision and critical briefing in that time. I would like the minister to get to that part of the question.

**MR SPEAKER:** Minister, on the point of order, would you like to add anything else?

**MS BURCH:** I was halfway through my time there; I am quite happy to take that on notice and come back with the absolute details.

**MR SPEAKER:** Supplementary, Mr Coe?

**MR COE:** Minister, given that you seem hazy on the contents of the Oakton report, have you actually read it and will you table it in the Assembly by close of business today?

**MS BURCH:** I will not be intending to table it. It has informed the budget considerations for the 2010-11 budget.

### **Transport—freight**

**MS BRESNAN:** My question is to the Minister for the Environment and Sustainable Development and concerns freight transport in the ACT. Minister, one of the important ways to reduce overall transport emissions is to make freight transport more sustainable. What are you doing to improve opportunities for rail freight in the ACT, particularly at existing rail sites, so that we do not rely so heavily on road freight?

**MR CORBELL:** I thank Ms Bresnan for the question. It is, in the government's view, desirable that there be more freight movements occur by rail. Rail is a more sustainable transport mode and is able to take large loads off roads and reduce the hazards associated with interstate, long-haul road freight movements. That said, there is very little that the ACT government can do to assist with that change. It is very much a business decision that will be made by individual freight companies and the people who require freight to be moved.

**MR SPEAKER:** Supplementary, Ms Bresnan?

**MS BRESNAN:** Thank you, Mr Speaker. Minister, will the government be pursuing an intermodal freight terminal in the ACT which would facilitate the transfer of freight from rail to road and therefore promote more sustainable freight?

**MR CORBELL:** I do not think that developing an intermodal freight terminal will do much to assist freight movements by rail if there is less than one freight movement a day from the Canberra railway station, Mr Speaker. As I said, these are matters that are overwhelmingly driven by commercial decisions by those people responsible for moving freight around the country.

Indeed, the levers available to the ACT government are very limited in this regard. Obviously, developments at a national transport policy level involving the

development of national strategies to encourage more freight to be moved by rail rather than by road are measures that the ACT government will continue to support through the relevant national fora, such as the meetings of transport ministers from the commonwealth, states and territories.

**MR COE:** A supplementary, Mr Speaker.

**MR SPEAKER:** Yes, Mr Coe.

**MR COE:** Minister, is it true that the last company to bring freight into the ACT by rail was a global oil company, and have you received representations from the Greens supporting the movement of oil into the ACT?

**MR CORBELL:** Yes, it is true, and, no, I have not.

**MR SPEAKER:** Ms Le Couteur, a supplementary.

**MS LE COUTEUR:** Has the proportion of rail freight declined in the ACT in the last five years, and does the government have a target proportion for road and rail freight?

**MR CORBELL:** Yes, it is true. And no, we do not, for the same reasons that I outlined in my previous answer. The ACT government is not able to control decisions made by individual freight forwarders or freight generators about which transport mode they use for that freight. It is desirable, from an environmental perspective and, indeed, from a safety perspective, that more heavy freight is moved by rail than by road. But those are not matters that the ACT government has direct control over, for the reasons that I have previously outlined.

### **Housing—affordability**

**DR BOURKE:** My question is to the Minister for Economic Development. Would the minister advise what the ACT government is doing to help to get more people into housing in the ACT?

**MR BARR:** I thank Dr Bourke for his question and for his interest in the residential housing market in the territory. Undoubtedly, housing affordability is a challenge faced by all Australian governments. Here in the ACT, we have put in place a detailed strategy to help more Canberrans into affordable housing. The affordable housing action plan was announced in 2007 and contained 63 initiatives to increase the supply of affordable homes for sale and rent within the city. Phase 2 of the action plan was announced in 2009 and included 21 initiatives focusing on the issues of homelessness and affordable accommodation options for older Canberrans.

There are indeed many factors that are in play in relation to house prices. Demand for housing is high in this city, and that, naturally, is driving prices. Land, too, is a factor, and that is primarily where the ACT government can make a difference. When we released our affordable housing strategy, we recognised that there were no quick fixes, that the issues were complex and that it would take a concerted effort to ensure that more Canberrans could access affordable housing.

Over the past four years a great deal has been achieved. The initiatives of particular note include accelerating land supply, which saw the ACT government release 5,048 dwelling sites in the 2010-11 financial year. This compares with 4,279 dwelling sites in the 2009-10 financial year, 4,339 dwelling sites in the 2008-09 financial year and 3,470 in the 2007-08 financial year.

In passing, it is certainly worth paying tribute to the LDA for the particular achievement of these very significant milestones over the last four years. I note that the challenge still remains, and that we are working to achieve 5,500 dwelling sites to be released in the 2011-12 financial year.

The government has also established a number of affordable housing requirements. These initially delivered 15 per cent affordable housing in all new greenfield estates. The government has increased this to ensure that 20 per cent of all new housing in greenfield estates is affordable. Additionally, the value of what is considered affordable is indexed annually to reflect market trends. Currently, affordable homes must be delivered for \$337,000 or less.

We have also been working in the area of community housing. We are working with Community Housing Canberra to supply 220 affordable homes for sale and 250 homes for affordable rent by 2013. These targets grow to 500 affordable homes for sale and 500 for rent by 2018. To enable this to occur, the government has provided a \$50 million revolving finance facility to CHC Affordable Housing. This has recently been extended by a further \$20 million. CHC is working hard to meet these targets, with more than 150 affordable rental properties delivered to date, and 135 homes offered for sale.

OwnPlace is an ACT government initiative that commenced in June 2008. It provides affordable housing and land packages in the suburbs of Bonner and Franklin at the current threshold of \$337,000. So it targets households with an income of \$120,000 or under. As at 1 August this year, 454 blocks have been taken up by the OwnPlace builders panel. Of these, 216 homes have been completed, 31 are under construction and a further 157 are due to commence construction over the next six months. ACT Labor's unique land rent program has also been applauded. (*Time expired.*)

**MR SPEAKER:** Dr Bourke, a supplementary question?

**DR BOURKE:** A supplementary, Mr Speaker. Would the minister advise how government policy has performed?

**MR BARR:** There are a number of indicators obviously that measure housing affordability. One of these is housing finance for owner occupation, in a report released by the Australian Bureau of Statistics on a quarterly basis. The report for the June quarter was released last week and it shows that the trend number of housing finance commitments for owner occupiers increased by 0.9 per cent for the ACT.

Nationally, the trend number of housing finance commitments increased by one per cent in that month. This report reminds us that challenges still remain. Year-

on-year growth in both the ACT and Australia remains negative. The rate of decline has slowed noticeably in the last six months. Year-on-year to June 2011, housing finance commitments contracted by 2.8 per cent in the ACT. But I do note that this was the lowest decrease of all states and territories. Nationally, the figure decreased by 10.5 per cent.

The number of first home buyer commitments in the territory increased in June 2011 but does remain lower than the peak levels achieved in mid-2009. Higher interest rates, as well as the impact of reduced grants to first homebuyers, are continuing to impact on the number of housing finance commitments across the country. However, here in the ACT the level remains healthy.

The number of non-first homebuyer commitments remains above its five-year average level and above the level a year ago. In June of this year, the trend number of housing finance commitments in the ACT increased for the second consecutive month. The current level remains above the five-year monthly average as well as above the levels of a year ago.

Another measure of housing affordability is the Real Estate Institute of Australia's housing affordability index. Their March quarter report finds that the ACT is the most affordable jurisdiction in which to own or rent a property.

**MR HARGREAVES:** Supplementary, Mr Speaker.

**MR SPEAKER:** Yes, Mr Hargreaves.

**MR HARGREAVES:** Thanks very much, Mr Speaker. Mr Speaker, I am interested in what community views the minister is aware of in relation to government programs outlined in his earlier answer.

**MR BARR:** I am aware of a range of community views in relation to the government's efforts to make housing more affordable. Those in the building industry support the government's aim in this area. They support our land release strategy. They support this year's budget, in which we are providing \$111 million over four years to increase the supply of housing in the territory. They understand the importance of the thousands of jobs associated with our accelerated land release program. The apprentices who are getting their qualifications on building sites released under our strategy are also supportive. Thousands of Canberrans who are now in affordable housing support the government's efforts.

But there are others who purport to represent the community who are not so supportive—those who talk a lot about the cost of living, who do a lot of talking, but it is hot air. They do not have a policy for affordable housing. That certainly contrasts with the efforts of this government across a range of areas, particularly our approach to a supply-side solution. Rather than using further measures to fuel demand, we have focused on supply-side solutions. The impact of that is being seen throughout the housing market in the ACT.

**MS LE COUTEUR:** A supplementary, Mr Speaker.

**MR SPEAKER:** Yes, Ms Le Couteur.

**MS LE COUTEUR:** Minister, you talked about the affordable housing in greenfield estates, but considerable development is happening in non-greenfield estates. How is the government trying to get affordable housing in infill sites?

**MR BARR:** The combination of policy objectives will work to achieve that goal, noting of course that in some areas the value of land makes housing affordability difficult to achieve—that is well understood—but there are a range of policy settings, most particularly around encouraging supply in areas that are targeted for urban intensification. Those have been highlighted and discussed at some length in this place, but they primarily relate to the CBD in the Northbourne Avenue corridor up to the Dickson group centre, town centres along major transport routes and within group centres and, to a certain extent—although I believe that this should not be the major driver of infill development—within RZ2 zones across the city.

The government's focus is to align our planning and taxation policies through a number of different settings to focus urban development and urban renewal in those areas where the additional population can be sustained and, in fact, where that additional population will enhance the use of existing infrastructure and provide a compelling economic case to invest further in things like new public transport infrastructure, for example, and to support the ongoing vibrancy of the city and small business, particularly in areas of retail and hospitality.

#### **Bimberi Youth Justice Centre—staff**

**MR DOSZPOT:** My question is to the Minister for Children and Young People. Minister, I refer to a report into Bimberi by the Human Rights Commission which says:

In the Commission's staff survey, out of 18 current and former staff, 16 reported that communication between staff and management was either 'bad' or 'very bad'. Fifteen out of 18 reported that they did not feel valued or respected by management.

Further, recommendation 4.13 recommends that CSD consult with Bimberi staff to address culture concerns and to consider the appointment of a consultant to work with staff and management to develop a positive culture. Minister, given this was a critical issue in the crisis at Bimberi, has this recommendation been addressed? If not, why not?

**MS BURCH:** I thank Mr Doszpot for his question. Change management and a feeling of being supported were identified towards the latter part of last year, as I said in answer to an earlier question. That is why we recruited and put into place the services of Danny O'Neill. He has been working with the youth workers out there since the latter part of last year. Also in the report, as recognised and noted by all staff, are the positive changes that have been in place over the last number of months. I think we need to build on that. Certainly the climate change of staff support and staff retention has improved over the last number of months.



As to the question of whether I have addressed that recommendation, we have established a task force to look through the 200-plus recommendations. A number of recommendations were broadly progressed, such as case management and work through transition, through community-based or custodial-based care. There are a number of recommendations that are already underway.

We will reply to the report in due time, but suffice it to say that we have implemented a significant number of changes already and have recognised that we are operating off a very high standard. Bimberi is not operating off a low standard of care. It is operating off a high standard of care, and we will continually—

*Opposition members interjecting—*

**MS BURCH:** The report found no significant failings. We are operating off a high level of care and process and we will continue to improve on that.

**MR SPEAKER:** Mr Doszpot, a supplementary?

**MR DOSZPOT:** Minister, it has been mentioned that most of the management have now left and have been replaced. How many of the staff from November 2010 are still working at Bimberi today and what positions are they?

**MS BURCH:** I would have to take it on notice on individual workers that are still there and what position they are in. I think the average turnover is around a 15 per cent exit. I am not quite sure of those figures so I am happy to bring it back. I go to the point again. The Bimberi review was an exhaustive review. It went into every aspect of the operations and programs of policy—

**Mr Smyth:** And have you read the review?

**MS BURCH:** I absolutely have. I would be very interested, when talking about reading, in reading Mrs Dunne's study report where she chooses to have no time. She comes into this place and says that she is so concerned and wants to get to the bottom of the issues, but I do not believe—and I am happy to be corrected—that while she was overseas on her study, instead of meeting with groups that refer to women and that are pro-choice, to be linked to Nazi regimes is appalling.

**Mr Seselja:** I raise a point of order as to relevance, Mr Speaker. The desperation of this minister knows no bounds. This is completely irrelevant.

**MR SPEAKER:** Yes, thank you. Let us return to the question, Minister Burch. The point of order is upheld.

**MS BURCH:** I have answered the question, Mr Speaker.

**Mr Hanson:** You are grubby.

**MR SPEAKER:** Mrs Dunne, a supplementary.

**Mr Hargreaves:** On a point of order, Mr Speaker, Mr Hanson just described the minister as “grubby”, and I would ask you to ask him to withdraw.

**MR SPEAKER:** Mr Hanson?

**Mr Hanson:** I withdraw, Mr Speaker.

**MR SPEAKER:** Mrs Dunne, you have the floor for a supplementary.

**MRS DUNNE:** Thank you, Mr Speaker. Minister, have you read the report and have you learnt from the report that it is no longer appropriate to turn your back on staff and say “la, la, la, la, la” when they have concerns about communication with their superiors?

**MS BURCH:** Absolutely, I have read the report, and I continue to visit Bimberi, as opposed to those over there. In shamed desperation, the week before this was supposed to be tabled, in July this year, Mrs Dunne and the Leader of the Opposition actually went to Bimberi—in desperation, the first time they have been there. Mrs Dunne has not ever sought a briefing on the operations at Bimberi. Rather—

**Mrs Dunne:** On a point of order, Mr Speaker, the question was about communication between the staff and senior management, and the minister needs to be very careful that she does not mislead the Assembly about when members of this place have been to Bimberi.

**MR SPEAKER:** Focus on the question, thank you, minister.

**MS BURCH:** Thank you. I am not intentionally misleading, but certainly it is my understanding that under my watch, the first time Mrs Dunne went to Bimberi was the week before the report was to be tabled.

**MR SPEAKER:** Relevance, minister.

**MS BURCH:** I am just replying to that comment from Mrs Dunne, if I may, Mr Speaker. Have I read the report? Absolutely. And if Mrs Dunne wants to share with the Assembly her travel report, I would be interested in reading that as well.

**Mr Hanson:** Mr Speaker, I take a point of order on relevance. Also, referring to Ms Burch’s comments before when she was speaking, Mrs Dunne’s travel reports are not relevant to this debate. Also, she made the allegation that Mrs Dunne was meeting with associates of Nazi regimes. I think that is an extraordinary allegation that she made and that she should withdraw. To clarify, as to the previous question, that was why I called her grubby, after she made the comment.

**MR SPEAKER:** Minister Burch, would you like to withdraw those comments?

**MS BURCH:** I will come back to it. I was making reference to an article in the *Canberra Times*.

**MR SPEAKER:** On the point of order, I actually can't recall the exact words. I would have to review the *Hansard* to make a clear ruling myself, so I will do that.

**MS BURCH:** Sorry, Mr Speaker?

**MR SPEAKER:** I will have to review the *Hansard* because I do not recall the exact phrase. Perhaps during that time, Ms Burch, you might consider what steps you wish to take.

**MS BURCH:** I am happy to withdraw, but I was making reference to an article in the *Canberra Times*.

**MR SPEAKER:** Thank you. That deals with the matter.

**MR HARGREAVES:** Supplementary, Mr Speaker.

**MR SPEAKER:** Mr Hargreaves, a supplementary.

**MR HARGREAVES:** Thank you very much. To the minister: when was the last time you had a discussion with Mrs Dunne over the Bimberi issues; have you had any positive feedback from Mrs Dunne on the way forward in relation to Bimberi; and in fact has she put anything in writing to you about those issues and would you table it if she has?

**MS BURCH:** I thank Mr Hargreaves for his question. No, I have not had a conversation with Mrs Dunne on Bimberi. All the rhetoric and dialogue on Bimberi from Mrs Dunne has come through this place in a series of questions and in one or two motions put forward. I have always declared that I am more than interested in talking to any member in this Assembly—that is Mrs Dunne, Mr Seselja or Mr Hanson or anyone—who wants to contribute positively. In fact, this morning I wrote to the chair of the standing committee on youth affairs seeking their comments on a number of recommendations that are in the report that reflect on possible contributions and processes through the standing committee. I am happy, and always will be, to take interested and positive dialogue, something constructive that we can move youth justice forward with in the ACT—move the care of our young people forward.

### **Bimberi Youth Justice Centre—inquiry**

**MR HANSON:** My question is to the Minister for Children and Young People. Minister, I refer to a recent report on Bimberi by the Human Rights Commission. On page 357 the report points out:

One of the key functions of Bimberi management is to identify and respond to incidents when they occur, and assess the underlying causes of the incident to identify preventative measures that may avoid similar occurrences in the future.

Page 374 of the report refers to records of complaints:

... we cannot be confident that all complaints were responded to adequately. Indeed, it is most concerning that several people claimed that some records of complaints 'were destroyed', 'were not investigated' or 'went missing'.

On page 369 it is stated:

During 2010 there were several serious incidents at Bimberi that affected the well being of young people, but which were not documented in the segregation register, use of force register, or search register. These include:

- Some young people were routinely placed in hand cuffs and ankle cuffs to move between buildings inside the grounds at Bimberi;
- Two young people accessed medication that was not prescribed to them; and
- One young person attempted suicide.

Minister, why is it that you allowed such failures in process as highlighted in the report to occur?

**MS BURCH:** Mr Speaker, without going into the detail of the pages that have just been read out, I will say first and foremost that, as I have said in response to a number of questions, the government will respond in full to this comprehensive report. We have about 60-odd days to respond. We have implemented a taskforce.

But can we also say that if I were to refer to page 2 a number of serious allegations were reported—

**Mr Coe:** She has got as far as page 2.

**MS BURCH:** I will go to this page—before and during the course of the review. In the most part, the commission was satisfied—

**Mr Hanson:** Mr Speaker—

**MR SPEAKER:** One moment, please, Ms Burch.

**Mr Hanson:** Mr Speaker, I have a point of order on relevance. I did refer to a number of specific pages—357, 374 and 369—and not to page 2. I would ask the minister to respond to the specific relevance of the question that I asked.

**MR SPEAKER:** Order! There is no point of order at this stage. Simply from my perspective I do not know whether page 2 addresses your questions or not; so I will allow the minister to continue.

**MS BURCH:** Thank you, Mr Speaker. It says that the commission was satisfied with the level of scrutiny provided by other external agencies to these incidents. However, they do highlight some issues of concern that warrant changes to policy and practice. This is discussed in the report.

Now, to me what that says is that the Human Rights Commission overall was satisfied with the scrutiny of a number of allegations. I will assume those are yours. It also made recommendations around improvements to policies and procedures. I accept that. I accept that we can continually improve our policies and procedures.

**MR SPEAKER:** Mr Hanson, a supplementary.

**MR HANSON:** Minister, for how long have you been aware of the extent of these critical failures of process at Bimberi?

**MS BURCH:** As I have said repeatedly here, any organisation, Bimberi included, is an ongoing quality and improvement process. There are a number of comments in here that we will take on board and we will improve our practice. There are also a number of comments here that have already been addressed. They are the processes and systems that we have already implemented. I look forward to working with this review and providing a response in detail to each of the 200—I think there are 220—recommendations.

This is a deep and comprehensive report. Any commentary from those over there that this is not good enough—there was some commentary by Mr Seselja that perhaps it has not been exhaustive enough and that there is some level of cover-up by the government in not providing documentation. This is a comprehensive report over—

*Members interjecting—*

**MR SPEAKER:** Order! You are right to continue, minister.

**MS BURCH:** Over 147 people have been interviewed. These include young people, staff at AMC, current and former staff, executive and senior management. Sixty-two recommendations—roundtables, inspection of records. This is the most comprehensive review that has been undertaken under youth justice. It is something that I welcome because the positive aspect of this is that we can continue to improve our processes and do good by our young people.

**MR SPEAKER:** Mrs Dunne, a supplementary.

**MRS DUNNE:** Minister, how can the Canberra community have faith in your management of Bimberi after such a damning report and the obvious evidence before us today that you got as far as page 3?

**MS BURCH:** This is a comprehensive report. We will respond. I believe that the changes that I have been implementing since the end of last year—the change management process, the diversional framework that I am implementing, the single case management and the after-hours bail service that are already being planned and in place, the single case management is operational from this week—show that this government, this department, is on the case and is on a continual improvement. We can put the best systems in place now or come back in two years time and need to improve them. Any system does that.

But in relation to the concerted effort and interest in Bimberi, while it is welcome, can I also point out that I believe that if we concentrate all of our effort on the custodial setting, on the detention setting, many times we are almost too late. We should be looking at the diversion work and the early intervention work. That is where our focus should be with our vulnerable young people.

**MR SPEAKER:** A supplementary, Mr Hargreaves?

**MR HARGREAVES:** Thanks very much, Mr Speaker. Minister, how many times have you been asked to arrange a visit to Bimberi? How many times have those visits actually occurred from those members of the opposition since Bimberi was opened? How many suggestions that have been proven from any or all of those members of the opposition have come across your desk?

**Mrs Dunne:** On a point of order as to relevance, Mr Speaker. Mr Speaker, members of the Legislative Assembly do not have to go through the minister—

**Mr Corbell:** It's not a point of order.

**Mrs Dunne:** Let me finish my sentence. The Children and Young People Act gives members of this place power of entry into Bimberi Youth Justice Centre and it is not a matter for the minister to arrange.

**Mr Hargreaves:** On the point of order, Mr Speaker, the second part of my question is: how many times have members of this opposition actually visited? It is a pure request for the facts of the number of times something has occurred.

**MR SPEAKER:** The question is in order. Whilst your facts may be correct, Mrs Dunne, I do not think it prevents the question being asked today. Minister Burch, the answer to the question.

**MS BURCH:** Thank you, Mr Speaker, and I thank Mr Hargreaves for his interest in the young people of Canberra. To my knowledge, to my understanding, I have not been notified of any visit by any of those opposite other than the one undertaken by Mrs Dunne and Mr Seselja in the last week or two, the last half of July this year. That was in sheer desperation to be able to come here and say that they have actually been out there before this report. As I said, that is my understanding. I will ask the department to clarify and provide me with any advice that does not sit with my opinion and my understanding.

I am more than happy to come to this place and list the date of every visit undertaken by any member of the opposition since Bimberi was commissioned. I am happy to come back with every date and every name. I am also trying to reflect on every bit of correspondence that has come to my desk from those opposite. I recall one joint signed letter between Mr Coe and Mrs Dunne and it was in regard to staff numbers. That is the only letter that I can recall but, again, Mr Speaker, I am quite happy to go back, go through my records and seek advice from the department on the number of letters that have been sent to my office from any member of the opposition with regard to youth justice and, in particular, Bimberi.

**National student concession card**

**MR HARGREAVES:** My question is to the Minister for Community Services. The Assembly discussed a motion of mine recently on student concessions, and that is the subject. Could the minister update the Assembly on the Labor government's proposal—I might say the ACT Labor government's proposal, so that there is some relevance; unlike the MPI, this is about the ACT Labor government's proposal—to seek agreement on the development of a national student concession card?

**MS BURCH:** I thank Mr Hargreaves for his interest in the young people of Canberra and his ongoing interest particularly in those who study here in Canberra. This is a follow-up to a motion that Mr Hargreaves brought to the Assembly some time ago. Cross-state and territory recognition of student concessions is a national issue that affects all young people that study.

In Youth Week this year, Mr Hargreaves moved a motion in the Assembly supporting me bringing forward as an agenda item a national concession card for students at the next meeting of the Community and Disability Services Ministers Conference. I note that the motion was passed unanimously by all those here. I am actually quite grateful; it was one of those rare occasions when a motion had universal support. It is a rare occasion. That fact, combined with the National Union of Students' campaign called "fair fares for students", has given this proposal a great chance of reaching the development stage when I take it to the ministerial council.

The next meeting of the Community and Disability Services Ministers Conference will be held in October, and this will give students—because it has been pushed back a little bit; I think it was planned to be held in August—a chance to grow their petition in support of a card, so that I and the students themselves can demonstrate to other ministers why this is such an important matter.

At the present time, an online petition at [gopetition.com](http://gopetition.com) has 3,000 signatures and it rates as the 39th most popular online petition in Australia of the time. This does not include hard copy signatures which students have been out collecting on campuses right across Australia. In fact, in one day at the Australian National University, a student, Ryan Turner, collected around 500 signatures in support of the card from students during O-Week here in the ACT. So I want to congratulate him on his initiative in collecting 500 signatures.

The fact is that for Canberra students to support this initiative is a bit of a no-brainer. A concession card system also has a precedent. In 2008, COAG signed the national agreement on certain concessions for pensions and seniors card holders. Part B to that agreement was the provision by state and territory governments of designated public transport concessions for all Australian seniors card holders on public transport services, irrespective of the seniors card holder's state of residence.

I will be arguing for those same benefits to apply for students who have limited economic capacity. This meeting, as I said, will be in October. I will be seeking agreement from community services ministers to support the development of a card

through the creation of an interjurisdictional working group on certain concessions for student card holders. I hope that the working group will develop a paper exploring the feasibility of the card.

Some of the practical considerations include: which students will be eligible for a card, what concessions will be provided and what are the costs to government? What is the range of benefits, what form and systems are currently in place for issuing student cards and what is the cost of the hardware in creating a national system?

Again, I want to thank Mr Hargreaves for bringing this motion on back in Youth Week. I look forward to raising this with ministers in the October meeting of ministers for community and disability services.

**MR SPEAKER:** Mr Hargreaves, a supplementary.

**MR HARGREAVES:** Thank you very much, Mr Speaker. Minister, what has the reaction been from the ACT and other jurisdictions in relation to the proposal for this concession card?

**MS BURCH:** For Mr Hargreaves's information, on 30 April I wrote to all community services ministers foreshadowing my intention to bring forward an agenda item on the proposal to develop a national student concession card at the next disability meeting. I have received responses from several states, and they have been supportive. The commonwealth has supported the examination by all jurisdictions of the feasibility of the proposal. New South Wales has recognised that there is no formal reciprocal arrangement for student travel and looks forward to the discussion. The Northern Territory has noted its full support of the initiative to mandate increased access to service provision to young people. Other jurisdictions have noted my intention to bring this on for discussion, and I am looking forward to that on the agenda.

I am optimistic about the chances that we can reach agreement on the proposal to explore the development of a national student card as we move forward. While the reaction from other jurisdictions is supportive, it is important that we continue to encourage the students and young people to show their support.

I again urge all students to support the petition which is available online and the National Union of Students "fair fares for students" campaign and also look to students being proactive on campus across the country to get hard copy petitions as well. I am more than happy to update the Assembly on the outcomes of the meeting that will be held in late October this year.

**MR COE:** A supplementary, Mr Speaker?

**MR SPEAKER:** Yes, Mr Coe.

**MR COE:** Minister, given your stated interest in recognising interstate concession cards, have you written to ACTION or to the minister for transport asking why the MyWay ticketing system is not open to New South Wales veterans?



**MS BURCH:** No, I personally have not written directly to the minister on that but I know it is under active consideration.

**MR SPEAKER:** Dr Bourke, a supplementary.

**DR BOURKE:** What consideration is being given for the inclusion of international students as part of this concession scheme?

**MS BURCH:** I thank Dr Bourke for his interest in the student card as well. The reciprocal recognition of student concessions is a problem facing all students. The inclusion of international students is an issue that needs to be explored by the interjurisdictional work that I am proposing and hoping to get up following the October meeting. Victoria and New South Wales currently do not have concession transport fares to international students but the ACT does. States need to balance the economic benefit that international students bring and their ability to access services.

I understand that, while international students attending educational institutions in the ACT are able to access concessional transport fares, they value the opportunity to explore the rest of Australia during their visit. Travelling to cities like Sydney and Melbourne, interstate, is part of the attraction of studying here in Canberra and at other campuses across Australia. This will be an issue that I will be raising as part of the development of a card so that jurisdictions can assess the feasibility of a national inclusion of international students.

I note that including international students in the scheme could have significant budget implications for some states. This has been described as somewhere in excess of \$50 million for Victoria and New South Wales. So it is a significant issue and it is worthy, certainly, of scrutiny and assessment. The assessment of this cost against the benefits for the attraction and welfare of international students needs to be undertaken, and I look forward to the discussion once the working group gets underway.

**Ms Gallagher:** I ask that all further questions be placed on the notice paper.

### **Supplementary answer to question without notice Planning—alleged interference**

**MR BARR:** During question time the Leader of the Opposition asked me a question in relation to the dates for meetings I had with the Giralang Residents Action Group and I said I would seek to check whether the records went back in terms of my electronic diary. I am pleased to advise that they do. I can find four meetings with the Giralang Residents Action Group, on 7 August 2007, 24 January 2008, 7 March 2008 and 8 July 2010.

**Mr Seselja:** And the proponents?

**MR BARR:** Sorry?

**Mr Seselja:** I asked a question about the proponents as well.

**MR BARR:** I have got information on the Giralang Residents Action Group.

**Mr Seselja:** Are you going to provide it?

**MR BARR:** I will see what I can find.

## **Papers**

**Mr Speaker** presented the following papers:

Standing order 191—Amendments to:

Electricity Feed-In (Renewable Energy Premium) Amendment Bill 2010,  
dated 6 July 2011.

Planning and Development (Lease Variation Charges) Amendment Bill 2011,  
dated 28 June 2011.

Estimates 2011-2012—Select Committee—Pursuant to standing order 253A—

Schedule of outstanding questions on notice and questions taken on notice as  
at 21 July 2011, including an updated schedule of answers as at 15 August  
2011.

Answers to questions on notice and questions taken on notice from 20 June to  
15 August 2011.

**Ms Gallagher** presented the following papers:

Remuneration Tribunal Act, pursuant to subsection 12(2)—Determinations,  
together with statements for:

Board of the ACT Teacher Quality Institute—Chair—Determination 9 of  
2011, dated 28 June 2011.

Special Magistrates—Determination 8 of 2011, dated 24 June 2011.

## **Legislation program—spring 2011**

### **Paper and statement by minister**

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

Legislation Program—Spring 2011—

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

Leave granted.

**MS GALLAGHER:** I am pleased to present the government's legislation program  
for the spring 2011 sittings. Since becoming Chief Minister, my focus and that of the  
government have been on ensuring that Canberra is a liveable and sustainable city  
with a strong and caring, inclusive community. Included in this is a closer partnership

between the government and the citizens of Canberra for increased participation in governance and collaboration in the everyday business of government.

A number of initiatives are proposed in spring 2011 to further build on the government's record for making Canberra a better city and for delivering on our priorities. We will effect this with increased openness and transparency and with additional opportunities for the government to listen to the community. Matters to be addressed by new measures include maintaining our emphasis on improving government transparency and taking further positive action regarding sustainability, legal and building reforms, community wellbeing and public safety.

In June this year I made a statement in the Assembly regarding the government's approach in relation to accountability and open government. While flagging that there will always be some restrictions, I advised that our default position would be that government information becomes available to the community.

As another step in enhancing government openness, amendments are to be made to the Freedom of Information Act 1989 to improve transparency and access to information. It will draw on the commonwealth's freedom of information amendment act 2010, introduced in November 2010. A range of improvements will be proposed that include a new public interest test for determining FOI applications. The act will encourage open government practices by expanding the public right of access to information.

Better transparency is also to be given to the costing of election commitments. The Election Commitments Costing Bill 2011 and associated guidelines will allow the territory to formalise the Treasury Directorate's existing costing process. It will strengthen the legislative requirements regarding the provision of financial information to the community during an election and build upon the current process so that election commitments costings occur in a non-partisan and objective manner.

Implementation of national agreements will require legislation to be progressed regarding work safety and business names. Earlier this year the government introduced the Work Health and Safety Bill 2011. It set out national model work health and safety provisions agreed by all jurisdictions with the assistance of Safe Work Australia, a priority, seamless national economy reform. Passage of the bill will in turn require consequential changes to other ACT laws. A proposed Work Safety Legislation Amendment Bill 2011 will repeal earlier work health and safety laws that have been replaced by the new national laws and make consequential changes to other laws that touch on public and worker safety.

Legislation will also be introduced that will make substantial amendments to the Dangerous Substances Act. The purpose of these amendments is to align operational provisions for WorkSafe ACT with the new nationally agreed Work Health and Safety Bill 2011 and to ensure that the regulatory effect of the two acts is complementary and does not overlap. The reformed act will still continue to provide for the regulation of substances such as explosives, security sensitive ammonium nitrate and asbestos.

In follow-up of the government's commitment to the seamless national economy strategy agreed by COAG, the territory's business name legislation is to be repealed by the Business Names Registration Bill 2011. This will put into place transitional arrangements to make way for the new commonwealth business names registration act, which will establish a national business name registration scheme. Under the national scheme, businesses that trade in more than one jurisdiction will only need to register once. Registration will be available online 24 hours a day and will also be available jointly with ABN registration.

A range of other amendments are to be proposed involving the Justice and Community Safety portfolio.

The fight against serious and organised crimes will be boosted by the Crimes (Protection of Witness Identity) Bill 2011, which is the final in a series of model national laws. It will provide specific legislation for witness identity protection for undercover operatives giving evidence in court and enable mutual recognition of protection of interstate operatives. Provisions in the bill will protect undercover operatives giving evidence in proceedings and others connected to them, such as family members, and preserve the efficacy of undercover operations.

The Crimes (Child Sex Offenders) Amendment Bill 2011 will make important changes to the ACT's child sex offender management scheme. These will ensure that our legislation is consistent with the schemes across Australia so that, where possible, Australia adopts a consistent national approach to the management of convicted child sex offenders. It will include increasing the maximum penalties for failing to comply with reporting obligations to 500 penalty units, imprisonment for five years, or both.

The bill will also introduce a child protection order scheme which will allow the courts to make an order preventing an offender from engaging in specific behaviour if the registered offender poses a threat to the life or safety of a child.

To ensure that the Crimes Act remains connected with community expectations and maximum penalties in other jurisdictions and the model criminal code, the Crimes (Certain Penalty Increases) Amendment Bill 2011 will increase maximum penalties for a suite of serious harm offences, including culpable driving offences. The legislation will also ensure that penalties for serious harm offences retain a balance with maximum penalties for other ACT offences against the person. Proposed increases in maximum penalties take a considered and measured approach and aim to reflect community attitudes about the seriousness of these offences.

Two bills will continue the reform of evidence law in the territory. The Evidence Amendment Bill 2011 will implement aspects of the model uniform evidence law which have not been adopted by the commonwealth and therefore are not currently part of ACT law. This will include adopting the professional confidential relationship privilege.

Any changes arising out of a review of the entire ACT statute book will be implemented by way of the Evidence (Consequential Amendments) Bill 2011. The

bill will update, consolidate, reorganise and discard redundant provisions existing across the statute book as a consequence of the ACT's new Evidence Act 2011.

Finally, the Corrections Management Amendment Bill will address a number of offender management provisions in the Crimes (Sentencing) Act 2005, the Crimes (Sentence Administration) Act 2005 and the Corrections Management Act 2007 to resolve specific operational issues identified by ACT Corrective Services, including the Sentence Administration Board.

The government is committed to protecting the health of children and assisting vulnerable young people. To guard children from the harmful effects of tobacco smoke, legislation will be introduced to make it an offence to smoke in a car when children under the age of 16 are present. The government is concerned about children's exposure to environmental tobacco smoke in certain environments, a concern which is shared by other Australian jurisdictions. Environmental tobacco smoke generally affects children more during their development and is a recognised risk factor for the development or worsening of asthma. It also increases the risks of other illnesses such as pneumonia, bronchitis, middle ear infection and even cancer in later life. The Smoking in Cars with Children (Prohibition) Bill 2011 will protect those who cannot protect themselves by regulating for a safer environment when children are in the car with a smoker.

Amendments are also to be made to the Children and Young People Act 2008 so that vulnerable young people leaving out-of-home care can receive ongoing assistance and support to the age of 25. This involves young people who have been in foster care, kinship care or residential care. These changes will assist young people to access appropriate services for their changing needs as they move into adulthood.

In regard to sustainability, the Energy Efficiency (Retail Obligation Scheme) Bill 2011 will amend the Utilities Act 2000 by creating additional conditions for existing retailers licensed under the act. The legislation will impose an obligation on ACT electricity retailers to undertake prescribed energy efficiency and related measures. A second proposed bill will implement an expanded feed-in tariff to encompass large-scale renewable energy generation under the act.

Other separate changes are to be made to the Utilities Act to give a sound legislative base for technical and safety regulation of utility services. These will clarify the purpose, legislative interpretation and application to technical regulation to ensure the long-term serviceability of utility networks and the deployment of technical skills and systems for delivery and maintenance. Additionally, the role of technical regulator is to be established. It will define the role of the minister under the act in administering technical regulations and provide the minister with the power to determine fees and approve forms.

The regulation of the construction industry is to be enhanced by the government. The Construction Amendment Bill 2011 will harmonise and integrate the territory's system for construction work and improve operability in regulating the industry. The bill has four main aspects and amends numerous pieces of legislation. The amendments include clarifying provisions relating to offences under the Building Act

2004 and clarifying the demerit point system under the Construction Occupations (Licensing) Act 2004; amending the Water and Sewerage Act 2000 by reviewing the scope of work for the appointment of a plumbing plan certifier and provisions that outline approval requirements; amending the Electricity Safety Act 1971 through a proposal to introduce a process for preconstruction approval for on-site electrical generation units, formalising the current process; and giving full effect to the new national access to premises standards that will be administered through legislation in each state and territory.

Finally, some changes will be proposed to the industrial relations legislation. The Long Service Leave (Contract Security Industry) Bill 2011 will be introduced to recognise a claim by members of the ACT security industry for equal access to portable long service leave as for those industries already covered under the current arrangements.

Following on from the success of the new portable long service leave scheme for the community sector, the government will once again set the standard nationally by providing for a portable long service leave scheme for the territory's security industry sector. The current Long Service Leave (Portable Schemes) Act 2009 is also to be amended. As well as making technical and housekeeping changes, the legislation will bring the ACT into line with most other jurisdictions with a change to the long service leave entitlements of workers permanently leaving the building and construction industry prior to accruing 10 years of service. The period of eligibility of these workers for a pro rata benefit payment on leaving the industry is to be increased from five to seven years. In addition, access to an entitlement payment in lieu of leave will be removed while a worker still continues to work.

To address the conflict of previous years with the Holidays Act 1958, an amendment will provide that 25 December, 26 December and 1 January will always be public holidays of general application, in addition to there being a public holiday for the following Monday or Tuesday, as appropriate, when any of these days fall on a weekend.

I commend the spring 2011 legislation program to the Assembly.

## **Public Accounts—Standing Committee Government response—report 15**

**MS GALLAGHER** (Molonglo—Chief Minister, Minister for Health and Minister for Industrial Relations) (3.35): For the information of members, I present the following paper:

Public Accounts—Standing Committee—Report 15—*Inquiry into the ACT Auditor-General Act 1996*—Government response, dated June 2011.

The paper was circulated to members when the Assembly was not sitting.

I move:

That the Assembly takes note of the paper.

The Standing Committee on Public Accounts tabled report 15, *Inquiry into the Auditor-General Act 1996*, on 17 February 2011. The government welcomes the committee's reports as it highlights the important role of the Auditor-General in promoting accountability in the public administration of the territory. The government is firmly committed not only to accountable government but also to ensuring that the community is receiving accurate and complete information on the efficient and effective use of territory resources.

The government response does point to some areas of difference between the committee and the government's view about how these outcomes are best achieved. These differences emphasise the range of options and approaches that are available to the Legislative Assembly, and I look forward to discussions on these issues in the future.

I also note that the Standing Committee on Administration and Procedure is conducting an inquiry into the role of an independent officer of the parliament, and the government will continue this discussion in the context of that inquiry.

Following circulation to members out of session, I table the government's response to the Standing Committee on Public Accounts report 15, *Inquiry into the Auditor-General Act*, and I would like to thank the committee for their report.

**MS LE COUTEUR** (Molonglo) (3.36): I thank the government for its response, and I am very pleased that many of PAC's recommendations were also agreed to by the government. The theme of PAC's report was basically strengthening the institution of the Auditor-General and strengthening the relationship between the Auditor-General and the Legislative Assembly and the public accounts committee as the Legislative Assembly's delegate, as it were.

I will briefly talk about some of the recommendations, and I will focus on the ones to which the government has not agreed. In the interests of brevity, I am not going to try to summarise the whole lot.

The first areas I would like to talk about are recommendations 7, 8 and 9, and they all deal with the issue of appointing the Auditor-General. As the Assembly will be aware, we have just done an in-depth study of this because we have just appointed a new Auditor-General. On a personal level, I have a lot more clarity in my views on that.

On recommendation 7, the committee said:

The Committee recommends that the Auditor-General Act 1996 be amended to provide capacity for the Standing Committee on Public Accounts to recommend to the Executive an appointment to the Office of Auditor-General.

I think that is an excellent recommendation and I think that would add considerably in terms of making it a consistent and understandable process. The government unfortunately did not agree with that. We probably have some disagreements in terms of the doctrine of the separation of powers. I personally think the doctrine of the

separation of powers would indicate that PAC's recommendation is the appropriate recommendation. I understand the government sees it otherwise.

PAC made other recommendations in case the government did not accept all the recommendations, and here we were trying to deal with the possibility of what happened if there was a veto. Unfortunately, the government has not agreed with PAC's recommendations. I guess it is fortunate that we have not had to try and practise what happens with a veto, but I think that, whatever you think about the separation of powers, there is a considerable area of greyness as to what happens after any veto might occur.

I have to disagree with the government's views on recommendation 9 where it simply says that in other jurisdictions such a thing would be done by the Governor-General or Governor in Council. We do not have one. The government seems to believe that, therefore, the executive would take this role. I think that is a very arguable position, and I will be arguing otherwise. I think in many cases the Speaker takes the role which otherwise would be taken by the Governor-General or the Governor in Council, for instance, in signing legislation into effect.

Moving right along here, because I realise we are quite behind in our program for the day, recommendation 16 is about periodic independent performance audit. PAC made some recommendations based on our experience of doing it last year. Unfortunately, the government has not agreed to those. I think it is unfortunate that the government is not seeing the role of the Assembly, and PAC as its delegate, in managing the Auditor-General herself or himself and the offices.

Also moving right along here, I note recommendation 24, which deals with the Auditor-General's budget. I note that Mr Smyth has a bill on the notice paper, and I regret that the government has not seen fit to agree with PAC's recommendations. While they are possibly not totally what Mr Smyth would agree with, they are a step forward in terms of achieving greater clarity as to what will happen with PAC's role. Clearly, PAC currently has a role, but that role is, in practice, ill described and leads to contradictory outcomes. In other words, sometimes PAC says what it thinks the budget should be and sometimes it does not. The proposed amendment makes it clear what the situation is, and I think that would be a worthwhile amendment.

One of the other most interesting recommendations of PAC is recommendation 30, which can be summarised as the follow-the-money provision. At present, as members may be aware, the Auditor-General has no statutory right to look into how the government's money is spent if it is spent by a third party rather than by the government. The government has agreed in principle but has thought that in many cases contractual agreements in most grant and other funding arrangements allow for this. Certainly the government is correct in that, but I am not confident that it is correct in all cases. I think it would make it more straightforward to have this in as a matter of course. I think it is an important principle, particularly as more government work gets outsourced, that the government still has a responsibility for what happens to taxpayers' money, regardless of whether it is spent directly by public servants or spent by some third party on the government's behalf.



Just to end, I note recommendation 41, where PAC recommends the Auditor-General Act be amended to allow the Auditor-General to conduct joint investigations of performance audits with other statutory office-holders. The government's response was not to agree with this, but particularly in light of the fact that our new Auditor-General was previously another statutory office-holder, I think it would be very interesting to consider this as an ongoing issue. In the interests of looking for a triple bottom line approach for the whole of the issues of the ACT, it is something that we should look at.

I thank the government for its response, and I look forward to ongoing improvement of the Auditor-General Act.

**MR SMYTH** (Brindabella) (3.43): It is nice to have the government at last respond to the public accounts committee inquiry into the Auditor-General Act 1996. Ms Le Couteur was spot on the money when she said that perhaps I would not be impressed with the responses, particularly to numbers 24 and 25. These go to the funding of the Auditor-General's Office and the extent to which the public accounts committee should have input in helping set that budget. The public accounts committee on behalf of the Assembly is the conduit to the audit office. As all in this place would know, I have been, certainly over the last ten years, probably the largest proponent of extra resources and legislative power to the Auditor-General bar none in this place. It is a shame that the government does not see the wisdom of this. As Ms Le Couteur said, yes, I do have a bill before the Assembly that would allow PAC and this place to have a much greater role in setting the budget for the Auditor-General's Office.

What we are seeing is the auditor being squeezed by this government. In response to a number of damning reports, you can only guess why the government would be squeezing the budget of the Auditor-General. It is a commonly accepted fact, not just around this country but around the world, that for every dollar you spend on reports by the Auditor-General's Office, there is a ten-fold return to the community through either savings or greater efficiencies. We are about to have a speech later today from the new Treasurer on the global financial crisis and its potential effects on our budget. Well, if you really want to make the budget effective, one of the real efficiencies you can put in place very quickly is to increase the resources of the Auditor-General's Office.

It is important, particularly in unicameral parliaments as ours is, that the auditor performs in some ways the role of a house of review—independent, independently funded, controlled by an act and responsible to the parliament and not to the executive are the sorts of safeguards that any reasonable parliament would have in place.

I could speak to many of the other recommendations at this time, but I will not. I am assuming that, when PAC receives this, we might have a discussion about that. I am sure you, Mr Assistant Speaker, would be mightily interested in that. Given that I have already got some legislation to bolster the role of the auditor, I think in response to this that people can expect some more.

Question resolved in the affirmative.

## **Gene Technology Act 2003**

### **Paper and statement by minister**

**MS GALLAGHER** (Molonglo—Chief Minister, Minister for Health and Minister for Industrial Relations) (3.47): For the information of members, I present the following paper:

Gene Technology Act, pursuant to subsection 136A(3)—Operations of the Gene Technology Regulator—Quarterly reports—

1 October to 31 December 2010, dated 23 February 2011.

1 January to 31 March 2011, dated 31 May 2011.

*Mr Smyth interjecting—*

**MR ASSISTANT SPEAKER** (Mr Hargreaves): Order, Mr Smyth! I asked them to be quiet while you were speaking. I will not tolerate it.

**MS GALLAGHER**: I move:

That the Assembly takes note of the papers.

**MR SMYTH** (Brindabella) (3.47): Thank you, Mr Assistant Speaker, and it is good for the—

**MR ASSISTANT SPEAKER**: Now before you start, Mr Smyth, I did ask the members of the government not to interrupt you while you were speaking. I have now asked you not to interrupt while the government is speaking, and now I am going to ask both of you not to retaliate. We have had a wonderful time today together, having fellowship. Let's keep it up. Mr Smyth, you will address your remarks through the chair, please.

**MR SMYTH**: I am. I am saying, Mr Assistant Speaker, I promise you—

**MR ASSISTANT SPEAKER**: Well, Mr Smyth, how about we have eye contact? That would be a good start.

**MR SMYTH**: Well, I was trying to look at the front cover of the book, but if you want me to have a look at you—

**MR ASSISTANT SPEAKER**: I would prefer it that way.

**MR SMYTH**: —I will speak like this. Mr Assistant Speaker, I promise you I will not interrupt myself while I am speaking to you. Is that okay?

**MR ASSISTANT SPEAKER**: I do not believe you, Mr Smyth. But you can continue anyway.

**MR SMYTH**: Well, there you go. That is casting an aspersion on a member.

**Mrs Dunne:** Mr Assistant Speaker, can I draw your attention to what I consider to be your inappropriate comments?

**MR ASSISTANT SPEAKER:** Yes, you can.

**Mrs Dunne:** You said that you did not believe Mr Smyth and therefore accused him of being a liar. You should not do it and you should withdraw.

**MR ASSISTANT SPEAKER:** Mrs Dunne, I thank you for your contribution, as always. Mr Smyth, you have the floor.

**Mrs Dunne:** I am sorry, Mr Speaker—

**MR ASSISTANT SPEAKER:** What else would you like, Mrs Dunne?

**Mrs Dunne:** I think that you are in the same position as any other member of this place. If you use unparliamentary words, you should withdraw.

**MR ASSISTANT SPEAKER:** Mrs Dunne, I will ask the Speaker to review the *Hansard*. I do not believe that I have used any unparliamentary phrase at all. If you have got so upset, you can approach the Speaker yourself. I will do so anyway. Mr Smyth.

*Mr Doszpot interjecting—*

**MR ASSISTANT SPEAKER:** Mr Doszpot, do not force me into a place I do not want to go. Mr Smyth, you have the floor.

**MR SMYTH:** Mr Assistant Speaker, I was just going to make the comment that it is timely that we do get the quarterly reports. In fact, we get two quarterly reports from the operation of the Gene Technology Regulator. As Mr Barr so eloquently pointed out, it is a legislated for and licensed and governed operation in the ACT. To the great shame of those that would destroy crops, perhaps they should read the report about the safeguards that are in place.

Question resolved in the affirmative.

## **Building a strong foundation and managing the risk of suicide—evaluation reports 2009-2010**

### **Papers and statement by minister**

**MS GALLAGHER** (Molonglo—Chief Minister, Minister for Health and Minister for Industrial Relations) (3.49): For the information of members, I present the following papers:

Building a Strong Foundation—Evaluation Report 2009-2010—Implementation and Evaluation Report to the Legislative Assembly—June 2011.

Managing the Risk of Suicide—Evaluation Report 2009-2010—Implementation and Evaluation Report to the ACT Legislative Assembly—June 2011.

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

Leave granted.

**MS GALLAGHER:** I am pleased to present to you the first-year evaluation reports for the ACT's mental health promotion, prevention and early intervention framework "Building a Strong Foundation: A Framework for Promoting Mental Health and Wellbeing in the ACT 2009-2014" and the suicide prevention strategy "Managing the Risk of Suicide: A Suicide Prevention Strategy for the ACT 2009-2014". The government's implementation and evaluation chapters of both the framework and the strategy indicate that the outcomes of programs and activities undertaken by agencies in the area of mental health promotion, prevention and early intervention and suicide prevention will be collected on a six-monthly basis and reported to the Assembly annually.

Key achievements for the 2009-10 implementation period include:

- participation in workplace mental health literacy training by over 3,000 individuals from government and community agencies;
- expansion of MindMatters and KidsMatter across ACT schools, with 14 primary schools participating in KidsMatter and 18 secondary schools and colleges participating in MindMatters;
- provision of a mental health risk assessment to all new detainees at both the Bimberi Youth Justice Centre and the Alexander Maconochie Centre on admission;
- successful implementation of the housing and accommodation support initiative, known as the HASI program, which ensures tenancy support for 10 people with serious mental illness through individual care packages;
- provision of support to 333 Canberrans bereaved by suicide via SupportLink and Carers ACT;
- allocation of 67 properties through Housing ACT's housing for young people project; and
- the development of an MOU between Corrective Services, the AFP and ACT courts administration outlining the responsibilities of staff within each organisation in relation to the care of people with a mental illness.

Findings from both evaluations suggest that there is a need to build capacity in the areas of data collection and evaluation processes and procedures to facilitate improved measurements of progress relating to the implementation and effectiveness of mental health promotion prevention, early intervention and suicide prevention activities.

The Labor government are committed to the mental health and wellbeing of the ACT community and we have demonstrated this repeatedly since 2001 by increasing the

funding directly to public and community sector mental health services from \$27.4 million to \$90.3 million in the last budget. The government's recent mental health initiatives include building the replacement adult mental health inpatient unit, the establishment of the mental health assessment unit at Canberra Hospital ED, funding the recently launched mental health and police intervention team and a suite of community sector residential and outreach step-up, step-down subacute mental health services.

We have always recognised that investing resources in areas outside the Health portfolio will have a significant impact on the mental health and wellbeing of the ACT community. Investments in areas such as child and family centres, sporting facilities and services such as the regional community services broadly support wellbeing through assisting people to connect with and remain connected to their community. More particularly, we have supported mental health and wellbeing through initiatives such as WorkSafe ACT implementing a new campaign in 2010 informing workers in the ACT about the effects of workplace bullying and grievance procedures available for those who have fallen victim to bullying at work.

In the education directorate, 50 students with mental health problems were supported, through additional funding, to access and participate in their education. And a variety of courses including self-esteem, assertiveness and anger management are provided through the Office for Women.

These measures illustrate a small part of the government's broader agenda of addressing social determinants of health and our commitment to mental health promotion, prevention and early intervention. I will be pleased to provide to the Legislative Assembly yearly reports on the implementation of the strategy and framework based on each financial year and I look forward to working with other members on the implementation of these important initiatives.

I move:

That the Assembly takes note of the papers.

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

## **Papers**

**MR BARR** (Molonglo—Deputy Chief Minister, Treasurer, Minister for Economic Development, Minister for Education and Training and Minister for Tourism, Sport and Recreation): I present the following papers:

Financial Management Act—Instruments, including statements of reasons:

Pursuant to section 14—Directing a transfer of funds within the Education and Training Directorate, including a statement of reasons, dated 30 June 2011.

Pursuant to section 15—Directing a transfer of funds between output classes within:

Chief Minister and Cabinet Directorate, dated 30 June 2011.

Justice and Community Safety Directorate, dated 30 June 2011.

Pursuant to section 16—Directing a transfer of appropriations from:

Chief Minister and Cabinet Directorate to the Environment and Sustainable Development Directorate, dated 30 June 2011.

Territory and Municipal Services Directorate to the Economic Development Directorate, dated 29 June 2011.

Pursuant to section 16B—Authorising the rollover of undisbursed appropriation of:

Chief Minister and Cabinet Directorate (formerly Chief Minister's Department), dated 30 June 2011.

Territory and Municipal Services Directorate, dated 29 June 2011.

Pursuant to section 17—Varying appropriations relating to Commonwealth funding to the Territory and Municipal Services Directorate, dated 30 June 2011.

Pursuant to section 19B—Varying appropriations related to:

Heavy Vehicle Safety and Productivity Program (Round Two)—Territory and Municipal Services Directorate, dated 30 June 2011.

Smarter Schools—Literacy and Numeracy National Partnership and the Pre-Apprenticeship Training National Partnership—Education and Training Directorate, dated 30 June 2011.

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

Leave granted.

**MR BARR:** As required by the Financial Management Act 1996, I table a number of instruments issued under sections 14, 15, 16, 16B, 17 and 19B of the act. Advice on each instrument's direction and a statement of reasons must be tabled in the Assembly within three sitting days after it is given.

Section 14 of the act allows for the transfer of funds between appropriations, as endorsed by the Treasurer and another minister. This instrument transfers \$222,000 of the Education and Training Directorate's net cost of outputs appropriation to a controlled capital injection appropriation.

Section 15(1) of the act states that the executive may, in writing, direct funds within the same appropriation that are allocated for the provision of different classes of outputs to be reallocated in relation to those classes of outputs. This package includes two instruments authorised under section 15 of the act. The first instrument relates to the transfer of net cost of outputs appropriation between output classes, following the administrative arrangements of 16 May 2011, by the Chief Minister and Cabinet Directorate. The second instrument relates to the transfer of \$1 million between output classes to offset cost pressures within Corrective Services within the Justice and Community Safety Directorate.

Section 16 subsections (1) and (2) of the act allow the Treasurer to authorise the transfer of appropriation for a service or a function to another entity, following a change in responsibility for that service or function. This package includes two instruments authorised under section 16 of the act. The first instrument facilitates the transfer of \$500,000 in capital injection for the Harrison Well Station Drive extension to the Horse Park Drive project from the Territory and Municipal Services Directorate to the Economic Development Directorate. This transfer is budget neutral.

The second instrument provides transfers of residual amounts associated with the administrative arrangements of 16 May 2011 relating to the functions of heritage from the Chief Minister and Cabinet Directorate to the Environment and Sustainable Development Directorate, the functions of artsACT from the Chief Minister and Cabinet Directorate to the Community Services Directorate and the functions of business and industry development from the Chief Minister and Cabinet Directorate to the Economic Development Directorate. Again, all of these transfers are budget neutral.

Section 16B of the Financial Management Act 1996 provides for the rollover of undisbursed appropriation. This allows for appropriations to be preserved from one financial year to the next. This package includes two instruments authorised under section 16B of the act. The first instrument authorises a rollover of \$40,000 by the Chief Minister and Cabinet Directorate for the community support program. The appropriation being rolled over was not spent during 2009-10 and is still required to meet the planned and committed programs. The second instrument authorises a total of \$2.255 million in capital injection appropriation rollover for the Territory and Municipal Services Directorate. The appropriation relates to project funds where commitments have been entered into but the related cash was not required or expended during the year of appropriation.

Section 17 of the act enables variations to appropriations for any increase in existing commonwealth payments by direction of the Treasurer. The instrument relates to the territory receiving \$71,000 in additional funding from the commonwealth for the interstate road transport national partnership.

Section 19B of the act allows for an appropriation to be authorised for any new commonwealth payments where no appropriation has been made in respect of those funds. This package includes two instruments authorised under section 19B of the act. The first instrument provides \$467,000 in additional commonwealth funding for round 2 of the heavy vehicle safety and productivity program, and the second instrument provides additional commonwealth funding of \$2.078 million for the following national partnership agreements: \$1.921 million for the smarter schools literacy and numeracy agreement and \$157,000 for pre-apprenticeship training.

Additional details regarding all instruments are provided in the statement of reasons accompanying each instrument. I commend these instruments to the Assembly.

## **Financial Management Act—authorisation of expenditure Paper and statement by minister**

**MR BARR** (Molonglo—Deputy Chief Minister, Treasurer, Minister for Economic Development, Minister for Education and Training and Minister for Tourism, Sport and Recreation) (3.54): For the information of members, I present the following paper:

Financial Management Act, pursuant to section 18A—Statement of authorisation of expenditure from the Treasurer's Advance in 2010-2011.

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

Leave granted.

**MR BARR:** Section 18A subsection (3) of the Financial Management Act 1996 requires that where the Treasurer has authorised Treasurer's advance expenditure under section 18, within three sitting days after the end of the financial year the Treasurer must present to the Legislative Assembly a summary of the total expenditure authorised for that financial year.

The Appropriation Act 2010-2011 provided \$29 million for the Treasurer's advance. The final expenditure against the Treasurer's advance for 2010-11 was \$21.987 million, leaving a balance of \$7.013 million to return to the 2010-11 budget. A budget, of course, cannot anticipate all future events. I think it is well accepted that there will always be unknown, unavoidable or uncontrollable events that the government needs flexibility to manage, and this is why the Treasurer's advance exists.

The Treasurer's advance covered:

- additional costs for agencies that were not foreseen at the time of the original budget, such as higher workers compensation premiums;
- the 2010 enterprise agreement sign-on bonus for Health, the largest employer—many other agencies managed this cost within their budget;
- additional contract mowing services, in recognition of the significant rainfall and mild temperatures that caused rapid growth in grass around the city over the period;
- higher levels of activity experienced at both Calvary and the Canberra Hospital; and
- outcomes of a pre-ACTIA insurance claim.

It is worth noting that in 2010-11 the Treasurer's advance was reduced by \$9.7 million, in line with the government's plan to return the budget to surplus. Indeed



the actual expenditure from the advance was less in 2010-11 than it was in the last few years.

All requests for access to the Treasurer's advance are subject to an agency's final cash requirements at the end of the financial year and all reasonable actions are expected to be taken during the financial year. It stands to reason that almost all of the authorisation from the advance will therefore be made towards the end of the financial year.

Details of each payment are outlined in the summary that I tabled. I commend the paper to the Assembly. I move:

That the Assembly takes note of the paper.

**MR SMYTH** (Brindabella) (4.04): Having just received the report, I will go through it in detail and read it much closer when the Assembly ceases sitting this afternoon, but it is good to see that the government is in fact not spending to the limit of the credit card. Perhaps we should give the outgoing Treasurer the credit for reducing it by \$9.7 million and wait to see how tough the incoming Treasurer can be in regard to the spending of his colleagues. It is worth noting that some of this I think you can characterise as unexpected, but certainly a fair percentage of the expenditure over the course of the year is just simply cost pressures inside the departments, and you have to question the government's commitment to living within its budgets.

That said, we look forward to a Treasurer who can reduce, draw down on the Treasurer's advance even further and we will have the same debate this time next year, no doubt.

Question resolved the affirmative.

### **Financial Management Act—consolidated financial report Paper and statement by minister**

**MR BARR** (Molonglo—Deputy Chief Minister, Treasurer, Minister for Economic Development, Minister for Education and Training and Minister for Tourism, Sport and Recreation): For the information of members, I present the following paper:

Financial Management Act, pursuant to section 26—Consolidated Financial Report—Financial quarter ending 30 June 2011—

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

Leave granted.

**MR BARR:** I present to the Assembly the June quarter 2011 consolidated financial report for the territory. This report is required under section 26 of the Financial Management Act. The results presented in this report are interim results and are unaudited. It is almost certain that changes will occur following the preparation and auditing of the annual consolidated financial report. I am advised that changes during

this stage can be substantial, reflecting technical accounting adjustments and reconciliations of internal trading and transfers between agencies.

The June quarter interim headline net operating balance for the general government sector was a surplus of \$10.5 million, which is marginally less than the estimated outcome published in the 2011-12 budget of \$19.7 million. The marginal decline in the net operating balance in the interim result compared to the estimated outcome is largely due to reduced dividend returns from the public trading enterprise sector resulting mainly from the timing of payments for land settlements. Overall taxation revenue has also performed marginally less than expectations. The \$7 million saving recorded against the 2010-11 Treasurer's advance contributes to this outcome and represents good management of unforeseen and unanticipated cost pressures by agencies. As I mentioned previously, this is a particularly notable achievement, given the \$9.7 million reduction in the Treasurer's advance in the 2010-11 financial year as part of the government's budget plan.

The ACT economy has continued to perform well following the release of the budget. State final demand for the territory increased by 4.9 per cent year on year in original terms in the March quarter of 2011. Public investment was the main driver of this SFD growth. The ACT recorded the strongest employment growth in 2010-11 in five years—in fact, going back to 2006-07 was the last time we had employment growth this strong—with an increase of 2.2 per cent mainly driven by full-time employment and private sector employment. The employment growth outcome in 2010-11 was, however, slightly lower than the 2011-12 budget forecast of 2.5 per cent.

Moving forward, local prospects remain positive. However, the risk has shifted more to the downside, given growing global economic uncertainty due to sovereign debt concerns in Europe and the recent downgrading of the US credit rating. There is potential for further decline in consumer confidence and consequently household consumption. The government will be closely monitoring these issues moving forward.

However, the territory continues to maintain a strong balance sheet, as reflected in a number of key indicators, such as net worth, net financial liabilities and net debt. So it is with great pleasure that I commend the June quarterly report to the Assembly.

## **Paper**

**Mr Barr** presented the following paper:

Public Accounts—Standing Committee—Inquiry—Auditor-General's Report  
No 10/2010—2009-10 Financial Audits—Government submission.

## **Territory-owned Corporations Act—statements of corporate intent Papers and statement by minister**

**MR BARR** (Molonglo—Deputy Chief Minister, Treasurer, Minister for Economic Development, Minister for Education and Training and Minister for Tourism, Sport and Recreation): For the information of members, I present the following papers:

Territory-owned Corporations Act, pursuant to subsection 19(3)—Statements of Corporate Intent—

ACTEW Corporation Ltd—2011-12 to 2014-15.

ACTTAB—1 July 2011 to 30 June 2012—

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

Leave granted.

**MR BARR:** In accordance with section 19(3) of the Territory-owned Corporations Act 1990, I am pleased to present the 2011-12 statements of corporate intent for Actew and ACTTAB. The statements of corporate intent outline the key commercial objectives, main undertakings, business and corporate strategies as well as the financial outlook extending from 2011-12 and throughout the forward estimates period. I do not intend at this point to elaborate further on the Actew and ACTTAB statements of corporate intent, which have been prepared in keeping with the requirements of section 20 of the Territory-owned Corporations Act 1990. I commend both documents to the Assembly.

### **Committee report—government response Paper and statement by minister**

**MR BARR** (Molonglo—Deputy Chief Minister, Treasurer, Minister for Economic Development, Minister for Education and Training and Minister for Tourism, Sport and Recreation): For the information of members, I present the following paper:

Public Accounts—Standing Committee—Report 14—Review of Auditor-General's Report No 6 of 2009: Government Office Accommodation—Interim report—February 2011—Government response, including CD and a copy of consultant's report and background papers (16).

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

Leave granted.

**MR BARR:** I table the government's response to the interim report from the Standing Committee on Public Accounts on the Auditor-General's report No 6 2009: *Government office accommodation*. The committee's interim report was released in anticipation of the government's budget deliberations. The three recommendations essentially sought to politicise this process. As such, the government has not agreed with the recommendations of this interim report. I will outline more of the detail of this now.

The first recommendation suggested that the government should not make a final decision about the project until the committee has been provided the relevant background information and analysis. As members would be aware, a significant amount of preparatory work and analysis has been undertaken by a team of industry experts that covered a broad range of economic, environmental, design, planning,

procurement, risk management and financial issues. This work represents an ongoing development and review process that has been undertaken over a number of years.

This information, where it is not commercial in-confidence, is publicly available on the Economic Development Directorate's website. It has also been provided to Assembly members during this year's estimates hearings. The information clearly demonstrates the depth of analysis that informs the government's 2011-12 budget announcements. Given the level of scrutiny and analysis already applied to this project, the government does not support its re-prosecution through the public accounts committee.

The committee's second recommendation asks for an assessment of the opportunity cost of the project against other significant infrastructure projects. This suggests that accommodating ACT public servants in higher standard accommodation will come at the cost of other projects or initiatives. This is not the case. The government is committed to pursuing a good outcome for its employees and we are determined to get the best value for taxpayers. I have indicated that we will market test the delivery of new office accommodation in Gungahlin and Civic.

It is important to state that the government's immediate priority is the delivery of the Gungahlin project. We will shortly invite organisations to register their interest in designing and building the office block proposed for Gungahlin, as well as the one proposed for the city, to the specifications already established by our consulting team. After exploring a range of financing and ownership options for new accommodation, our consultants have advised government the most cost-effective way to do this is for the government to own and build the office block.

However, I want this advice tested in the marketplace. The ACT Property Council have stated that this is a sensible and pragmatic approach. The Property Council believe that their members can meet the government's accommodation needs in Gungahlin and Civic in a cost-effective manner by building and owning properties which the ACT government would rent for a period of 25 years. Given the importance I place on getting the best value for money, I want to give the property industry the opportunity to deliver.

Madam Assistant Speaker, the government will make its final decision based on the best overall value to the ACT taxpayer, including build cost, environmental performance, occupational health and safety issues for staff, running costs, efficiencies to be gained by having key public servants in the same location, as well as Labor's commitment that a minimum of 10 per cent of workers on the project will be apprentices, trainees and Indigenous people.

Recommendation 3 suggested that a government office accommodation strategy should be finalised before a decision is made on the government office building. The future office accommodation strategy is obviously influenced by the government's decision to locate new facilities in Gungahlin and Civic. This will see significant consolidation of current office accommodation and changes our previous requirements for refits, refurbishments and relocations.

Madam Assistant Speaker, whilst we have not agreed with any of this report's recommendations, I can assure the Assembly that the government intends to accommodate our public servants in buildings which will maximise productivity and provide safe and professional workplaces for the staff who serve our community, meet our responsibility to the environment and our greenhouse gas reduction targets and, most importantly, deliver the most financially responsible option for the budget and for ACT taxpayers.

**MS LE COUTEUR** (Molonglo), by leave: I will speak briefly on this subject. Mr Barr's premise was basically that the decision has already been made in the 2011-12 budget to proceed with the government office building. However, I do not think that actually is, formally at any rate, the case, although it may be the case in the government's mind. The budget actually only included \$500,000 for further studies on the government office building and the more significant spending is in the outyears. I do not think, certainly from a public point of view, that the decision has really been made.

**Mr Barr:** Did you not listen to my speech? You didn't obviously listen to what I just said.

**MS LE COUTEUR:** I think I did listen to what you did say. One of the other comments I would make is that there has been a remarkable paucity of public engagement on this. There is more public engagement on the playgrounds of the ACT than on the government office building. The government office building is going to be close to a half a billion dollar project.

I think that there have to be a lot more conversations before we can agree that the final decision has been made. I do note the government's recent decision to go out to the market to test on this. I think that that is an excellent idea. However, I think there actually needs to be more conversation around what we are trying to achieve with this.

In respect of recommendation 2, it is disappointing to see that the government has refused to look at the best opportunity cost options. They have done no analysis, as the PAC asked for analysis, between the various things that the government could spend their money on. It is half a billion dollars, close enough. We could have a lot of other things with that. We could probably have a third hospital with it. We could have an awful lot of light rail. We could have a lot of social housing. We could have a lot of buses. Whatever way you want to look at it there are a lot of alternatives that the government could spend the money on. We simply have not seen the work to demonstrate that this is the way to go.

We have not seen the work to demonstrate that the criteria that the government is using is all the most correct. With recommendation 3, I guess my personal hobbyhorse is that it is frustrating to see how little commitment the government has around exploring the options to refurbish and retrofit existing buildings. I understand that building a new building is nice if you are an architect. If you are in the construction industry, it is a great thing to do.

But I know that there are a lot of other buildings that are empty in this town. There are a lot of other buildings empty in this town and a lot of them could actually be used to accommodate ACT public servants. Doing something like that has big environmental benefits, because you have already got the structure of the building there. It potentially has big financial benefits both for the government and the owners of the buildings at present. I think that that is something that really needs to be looked at.

The other thing, of course, that Mr Barr did not really go to in his commentary was that the government has kind of fairly seriously put the cart before the horse. What PAC was talking about was the concept that we develop a strategy and then think that things fall out of it. What we seem to have done is decide what we want to do—build a large new government office building in Civic—and then, some day, we might develop a strategy. That is just the wrong way around to do it. I am sure that Mr Smyth will talk more on that.

In conclusion, I am confident this is not the last conversation we will have on this subject. I look forward to improvement in the government's proposal. In that vein, I welcome the government's decision now to do some market testing on the possibilities of alternative supply for a government office building.

**MR SMYTH** (Brindabella), by leave: As Mr Barr said, this was circulated out of session. It was a very short report by the public accounts committee but on a very particular interest. It is disappointing to hear Mr Barr say that it was an attempt of the committee to politicise the issue. Whether he likes it or not, PAC is actually allowed an opinion. Whether he likes it or not, PAC is there to keep the government accountable on expenditure.

**Mr Barr:** I have got no problems with that, but you are also politicians.

**MR SMYTH:** An expenditure of \$432 billion—yes, we are also politicians. A very astute observation, Mr Barr. It is interesting that when Mr Barr does something it is for the good of the community. Whenever anybody else does something, we are politicians. Go figure! I think, Mr Barr, that the community is across that level of hypocrisy.

Look, there were only three recommendations. It was a very simple report. It was an interim report because, at that stage, the government was apparently doing a whole-of-government office accommodation strategy. Recommendation 3 states:

The committee recommends that the ACT Government whole-of-government office accommodation strategy should be finalised and considered by the ACT Legislative Assembly, prior to any final decision, or awarding of any contract, with regard to the whole-of-government office building project.

Government response:

Not agreed.

Here is the reason why it is not agreed, Madam Assistant Speaker:

The future office accommodation strategy is now being influenced by the Government's decision to proceed with the new ACT Government Office Building. The new government office will see significant consolidation of the current office accommodation and changes to planned office refits/refurbishments. The office accommodation strategy will now be revised in line with this decision.

Instead of having a strategy driving how you accommodate public servants, we have now got a single building driving a strategy. That is not a strategy and that is why this government gets into so much trouble over the delivery of infrastructure. We expected to see a strategy that made the case. Instead, we have got a building which now, in effect, is the de facto strategy, because there is not a great deal more to do.

Of course, there is the promise to go to Gungahlin, but this is why the government does not deliver projects on time, on budget and on scale. It is because they do not have the wherewithal to do the planning properly and they do not have the wherewithal to stick to their strategies.

There are two other recommendations. Recommendation 1 was:

... the ACT Government make no final decision with regard to the whole-of-government office building until the Standing Committee on Public Accounts has received a copy of the business case, and the economic and environmental analysis, together with any other relevant considerations, and have time to consider this information and report to the ACT Legislative Assembly.

Madam Assistant Speaker, I foreshadow that I will be taking up this issue in the public accounts committee. It is discourteous just to simply say, "Not agreed." Sidelining the public accounts committee in this way and just saying, in effect, "You're irrelevant because we're the government and we're going to do whatever we want anyway," I think is the way that governments do get themselves into trouble.

The second recommendation was that the ACT government provide the standing committee with an assessment of the opportunity costs of going ahead with this project. Again, that has not been delivered. You have to question how they have come up with this as their number one priority when there are things like the Majura parkway—thankfully, the feds have bailed them out on that—discussions about light rail, perhaps a new convention centre or, indeed, a third major hospital. There are questions to be asked. Certainly, I am sure that the public accounts committee will be asking those questions and I know that the opposition will be asking those questions as well.

## **Papers**

**Mr Corbell** presented the following papers:

Work Safety Act, pursuant to subsection 169(3)—Failure to comply with safety duty in public sector workplace—Work Safety Commissioner's reports—

ACT Legislative Assembly Fore Court, London Circuit, Civic, ACT,  
17 September 2010.

The Canberra Hospital, 28 July 2010.

Planning and Development Act, pursuant to subsection 242(2)—Schedule—  
Leases granted for the period 1 April to 30 June 2011.

**Mr Barr** presented the following papers:

Public Accounts—Standing Committee—Inquiry—Auditor-General's Report No  
5/2010—Delivery of ACTION Bus Services—Government submission.

**Mr Corbell** presented the following papers:

**Subordinate legislation (including explanatory statements unless otherwise stated)**

Legislation Act, pursuant to section 64—

Adoption Act—Adoption (Fees) Determination 2011 (No 1)—  
Disallowable Instrument DI2011-153 (LR, 27 June 2011).

Architects Act—Architects (Fees) Determination 2011 (No 1)—  
Disallowable Instrument DI2011-171 (LR, 30 June 2011).

Building Act—Building (Fees) Determination 2011 (No 1)—Disallowable  
Instrument DI2011-172 (LR, 30 June 2011).

Building Act and Planning and Development Act—Construction  
Occupations Legislation (Exemption Assessment) Amendment Regulation  
2011 (No 1), including a regulatory impact statement—Subordinate Law  
SL2011-21 (LR, 7 July 2011).

Casino Control Act—Casino Control (Fees) Determination 2011 (No 1)—  
Disallowable Instrument DI2011-142 (LR, 27 June 2011).

Cemeteries and Crematoria Act—Cemeteries and Crematoria (Public  
Cemetery Fees) Determination 2011 (No 1)—Disallowable Instrument  
DI2011-134 (LR, 23 June 2011).

Children and Young People Act—Children and Young People  
(Employment) Standards 2011 (No 1)—Disallowable Instrument DI2011-  
138 (LR, 23 June 2011).

Clinical Waste Act—Clinical Waste (Fees) Determination 2011 (No 1)—  
Disallowable Instrument DI2011-147 (LR, 27 June 2011).

Community Title Act—Community Title (Fees) Determination 2011 (No  
1)—Disallowable Instrument DI2011-173 (LR, 30 June 2011).

Construction Occupations (Licensing) Act—Construction Occupations  
Licensing (Fees) Determination 2011 (No 1)—Disallowable Instrument  
DI2011-174 (LR, 30 June 2011).

Court Procedures Act—Court Procedures Amendment Rules 2011 (No  
2)—Subordinate Law SL2011-17 (LR, 30 June 2011).

Electoral Act—Electoral (Fees) Determination 2011—Disallowable  
Instrument DI2011-181 (LR, 30 June 2011).

Electricity Safety Act—Electricity Safety (Fees) Determination 2011  
(No 1)—Disallowable Instrument DI2011-175 (LR, 30 June 2011).



Environment Protection Act—Environment Protection (Fees) Determination 2011 (No 1)—Disallowable Instrument DI2011-148 (LR, 27 June 2011).

Financial Management Act—

Financial Management (Budget Financial Statements) Guidelines 2011—Disallowable Instrument DI2011-168 (LR, 30 June 2011).

Financial Management (Directorates) Guidelines 2011—Disallowable Instrument DI2011-164 (LR, 30 June 2011).

Financial Management (Investment and Borrowing) Guidelines 2011—Disallowable Instrument DI2011-165 (LR, 30 June 2011).

Financial Management (Public Liability Insurance) Guidelines 2011—Disallowable Instrument DI2011-166 (LR, 30 June 2011).

Financial Management (Statement of Performance Scrutiny) Guidelines 2011—Disallowable Instrument DI2011-167 (LR, 30 June 2011).

Financial Management (Territory Authorities) Guidelines 2011—Disallowable Instrument DI2011-170 (LR, 30 June 2011).

Fisheries Act—Fisheries (Fees) Determination 2011 (No 1)—Disallowable Instrument DI2011-149 (LR, 27 June 2011).

Gaming Machine Act—Gaming Machine (Fees) Determination 2011 (No 1)—Disallowable Instrument DI2011-144 (LR, 27 June 2011).

Gas Safety Act—Gas Safety (Fees) Determination 2011 (No 1)—Disallowable Instrument DI2011-176 (LR, 30 June 2011).

Government Procurement Act—Government Procurement Appointment 2011 (No 3)—Disallowable Instrument DI2011-135 (LR, 23 June 2011).

Heritage Act—Heritage (Register Fees) Determination 2011 (No 1)—Disallowable Instrument DI2011-152 (LR, 27 June 2011).

Legislative Assembly (Members' Staff) Act—

Legislative Assembly (Members' Staff) Members' Salary Cap Determination 2011 (No 2)—Disallowable Instrument DI2011-140 (LR, 27 June 2011).

Legislative Assembly (Members' Staff) Speaker's Salary Cap Determination 2011 (No 2)—Disallowable Instrument DI2011-141 (LR, 27 June 2011).

Lotteries Act—

Lotteries (Exempt Lotteries) Determination 2011 (No 1)—Disallowable Instrument DI2011-146 (LR, 27 June 2011).

Lotteries (Fees) Determination 2011 (No 1)—Disallowable Instrument DI2011-145 (LR, 27 June 2011).

Magistrates Court Act—Magistrates Court (Plastic Shopping Bags Ban Infringement Notices) Regulation 2011—Subordinate Law SL2011-19 (LR, 23 June 2011).

Nature Conservation Act—Nature Conservation (Fees) Determination 2011 (No 1)—Disallowable Instrument DI2011-150 (LR, 27 June 2011).

Planning and Development Act—Planning and Development (Fees) Determination 2011 (No 1)—Disallowable Instrument DI2011-177 (LR, 30 June 2011).

Planning and Development Act and Unit Titles Act—Planning and Development (Lease Variation Charges) Amendment Regulation 2011 (No 1)—Subordinate Law SL2011-22 (LR, 15 July 2011).

Plastic Shopping Bags Ban Act—Plastic Shopping Bags Ban Regulation 2011—Subordinate Law SL2011-18 (LR, 23 June 2011).

Public Sector Management Act—Public Sector Management Amendment Standards 2011 (No 4)—Disallowable Instrument DI2011-160 (LR, 30 June 2011).

Race and Sports Bookmaking Act—Race and Sports Bookmaking (Fees) Determination 2011 (No 1)—Disallowable Instrument DI2011-143 (LR, 27 June 2011).

Road Transport (Public Passenger Services) Act—

Road Transport (Public Passenger Services) Maximum Fares for Taxi Services Determination 2011 (No 2)—Disallowable Instrument DI2011-139 (LR, 27 June 2011).

Road Transport (Public Passenger Services) Maximum Fares for Taxi Services Determination 2011 (No 3)—Disallowable Instrument DI2011-185 (LR, 30 June 2011).

Surveyors Act—Surveyors (Fees) Determination 2011 (No 1)—Disallowable Instrument DI2011-178 (LR, 30 June 2011).

Taxation Administration Act—

Taxation Administration (Amounts and Rates-Payroll Tax) Determination 2011 (No 1)—Disallowable Instrument DI2011-133 (LR, 27 June 2011).

Taxation Administration (Amounts Payable—Eligibility—Home Buyer Concession Scheme) Determination 2011 (No 1)—Disallowable Instrument DI2011-162 (LR, 30 June 2011).

Taxation Administration (Amounts Payable—Eligibility—Pensioner Duty Concession Scheme) Determination 2011 (No 1)—Disallowable Instrument DI2011-136 (LR, 23 June 2011).

Taxation Administration (Amounts Payable—Land Rent) Determination 2011 (No 1)—Disallowable Instrument DI2011-163 (LR, 30 June 2011).

Taxation Administration (Amounts Payable—Thresholds—Home Buyer Concession Scheme) Determination 2011 (No 1)—Disallowable Instrument DI2011-161 (LR, 30 June 2011).

Taxation Administration (Amounts Payable—Thresholds—Pensioner Duty Concession Scheme) Determination 2011 (No 1)—Disallowable Instrument DI2011-137 (LR, 23 June 2011).

Taxation Administration (Payroll Tax) Special Arrangements Revocation 2011—Disallowable Instrument DI2011-132 (LR, 27 June 2011).

Territory Superannuation Provision Protection Act—Superannuation Management Guidelines 2011—Disallowable Instrument DI2011-169 (LR, 30 June 2011).

Transplantation and Anatomy Act—Transplantation and Anatomy Amendment Regulation 2011 (No 1)—Subordinate Law SL2011-20 (LR, 11 July 2011).

Unit Titles Act—Unit Title (Fees) Determination 2011 (No 1)—Disallowable Instrument DI2011-179 (LR, 30 June 2011).

Victims of Crime Act—

Victims of Crime (Victims Advisory Board) Appointment 2011 (No 7)—Disallowable Instrument DI2011-154 (LR, 30 June 2011).

Victims of Crime (Victims Advisory Board) Appointment 2011 (No 8)—Disallowable Instrument DI2011-156 (LR, 30 June 2011).

Victims of Crime (Victims Advisory Board) Appointment 2011 (No 9)—Disallowable Instrument DI2011-157 (LR, 30 June 2011).

Victims of Crime (Victims Advisory Board) Appointment 2011 (No 10)—Disallowable Instrument DI2011-158 (LR, 30 June 2011).

Victims of Crime (Victims Advisory Board) Appointment 2011 (No 11)—Disallowable Instrument DI2011-159 (LR, 30 June 2011).

Water and Sewerage Act—Water and Sewerage (Fees) Determination 2011 (No 1)—Disallowable Instrument DI2011-180 (LR, 30 June 2011).

Water Resources Act—Water Resources (Fees) Determination 2011 (No 1)—Disallowable Instrument DI2011-151 (LR, 27 June 2011).

**Petition—Out of order**

Petition which does not conform with the standing orders—Giralang shopping centre site—Proposed supermarket development—Mr Rattenbury (1903 signatures).

**Bimberi Youth Justice Centre—operations  
Papers and statement by minister**

**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) (4.27): For the information of members, I present the following papers:

Bimberi Youth Justice Centre—The ACT Youth Justice System 2011—

A Report to the ACT Legislative Assembly by the ACT Human Rights Commission, dated 28 July 2011—Pursuant to resolution of the Assembly of 8 December 2010, as amended 23 June 2011, concerning a human rights audit into conditions.

A Report to Young People by the ACT Human Rights Commission.

The reports were circulated to members when the Assembly was not sitting. I move:

That the Assembly takes note of the papers.

**MRS DUNNE** (Ginninderra) (4.28): I thank the attorney for an opportunity to speak on this important report. We are here today discussing this because of the work of the Canberra Liberals. It has now become legend that the minister stopped her ears and said, “La, la, la; I don’t want to hear.” If she had had her way, there would have been no inquiry into the Bimberi youth justice system.

Very soon after Bimberi came into operation, we started receiving complaints from the staff about issues. We raised those issues at every opportunity—in estimates, in annual report hearings, in this place, through question time and the like. The minister can try and divert attention in all the ways that she likes, but it is the vigilance of the Canberra Liberals that has brought about this report here today.

The Canberra Liberals are of the view that while this report, with its 224 recommendations, is a damning indictment of the administration of Bimberi, it is not the report that this community needs. I will go to some of the examples about what is wrong and what is lacking from this report. Some of my colleagues and I received a briefing from the Children and Young People Commissioner and the human rights commissioner in relation to this report. Basically they said: “We didn’t have enough resources to do a full inquiry. We did not look back. We essentially only looked forward.” They did not look, for instance, at the way Bimberi was populated in the first place—the procedures in place.

There were a range of issues which, by their own admission, the inquirers did not look at. Despite assurances by the minister in this place that the case of the woodwork teacher who was ceremoniously frogmarched out of Bimberi and told not to come back would be looked at in the inquiry, it was not. My colleagues and I do not have a satisfactory explanation from the inquirers as to what was done about that issue.

The inquirers did not look in any great depth at the issue of tampering with witnesses. We had a range of evidence brought before us in the form of minutes out of DHCS, as it was then known, where senior managers were saying, “If you are approached by the inquiry, come to us, essentially, so that we can prep you so you can give the right answers.” There were instances where teachers, in particular, were told by their managers that they did not need to worry themselves with the inquiry and did not need to participate. There were complaints to us about Bimberi staff who were essentially not given the opportunity during work time to interact with the inquirers when the inquirers were at Bimberi. These were issues of tampering with witnesses that we raised. Interestingly enough, there was a tacit admission by the inquirers that these things happened. They did not really inquire into it, by their own admission. They told us in a briefing: “We did not really inquire into it. These allegations were certainly made, but the people who were involved in this have moved on, so we did not inquire into it.”

What we are seeing is that we had an inquiry that, although the report is quite big and fat and has a lot to say and a lot which is damning of this government, did not really get to the culture of the place. It did not really delve into the culture of the place, and in many ways it skirted over the top.

My principal concern with the conduct of this inquiry is this. Madam Assistant Speaker Le Couteur, you are a chair of a committee. I am a chair of a committee. If we conduct an inquiry in this place, we receive submissions and, unless there is very good reason because of confidentiality, revealing personal information or something that might be slanderous, we publish those submissions so that everyone can see what we are thinking about and what has been brought before us. There is not one submission published. Not even the government's submission has been published. There is not even a list of submissions in this very lengthy report. There are quotes from documents that the inquirer has had access to, but there is no copy of those documents.

I point directly to a matter that arose in question time today: the Oakton consultants report, which was presented to the government, to this minister, in December 2009. One month after this minister became the minister responsible, there was a consultants' inquiry into the financial management and operations of Bimberi Youth Justice Centre.

We saw the minister evading answering the question: "Minister, have you read the Oakton report?" She evaded it so skilfully that, given her previous form, I submit to this Assembly that the minister has not read the Oakton report. I would give my eye-teeth to read the Oakton report, because the Oakton report highlights that in December 2009 they were warned that they were facing a train wreck. They were warned that the process of transferring the financials from Quamby to Bimberi was inadequate—that the amount of money set aside for the administration of Quamby was inadequate for the administration of Bimberi because of its size, the fact that it was spread out, the different configurations of the accommodations and the different configurations of the security system. There were a number of warnings. Oakton said, or this is what was quoted in this report:

Although Bimberi is a much larger facility—approximately four times the size of the Quamby site, with additional amenities such as an indoor sports centre, indoor heated swimming pool and full sized oval—and has a greater number of independent residential wings, the operational and staffing budget for Bimberi was transferred across from Quamby without enhancement.

The inquiry said that the government submission noted that there was an additional budgetary allocation—this was approximately \$5.8 million—transferred from Quamby on its opening and that there was a one-off \$710,000 transfer of funds at the same time.

In August 2009 the Community Services Directorate, DHCS as it was at the time, commissioned an audit. Oakton reported that insufficient funds had been allocated "for the ongoing operations of Bimberi, particularly if there is a significant increase in residential numbers". They said:

Currently Bimberi does not have sufficient permanent and casual staff to deal with a sudden surge in resident numbers that would require Bimberi to operate at full capacity.'

Oakton went on to say:

The use of casuals should be restricted to unexpected absences or sudden increases in resident numbers. This would be more cost effective and provide a better capacity to respond to demand.'

In December 2009, Oakton, the consultants, warned the government that they were facing trouble, that this place was not appropriately funded. In addition, Oakton pointed out, at page 359:

It appears that the ongoing costs of maintaining the security systems had not been included in the operating budget for Bimberi, and that budgetary constraints ... have limited the ability of management to effectively resolve these issues.

That is issues in relation to the security system, which we know has failed on a number of occasions.

This Oakton report is not available. I have asked the inquirer for a copy; I have not had a response. My staff have asked the minister's office for a copy; we were told by the minister's staff that we could not have one because it was cabinet-in-confidence. In this place today, again, the Canberra Liberals have asked for a copy of the Oakton inquiry.

**Mr Hanson:** Open and accountable government.

**MRS DUNNE:** This open and accountable government, and this minister, who was a member of this government, again refused to do so. She says that the Oakton consultants report was used in formulating the budget. That was the budget in 2009-10. We are now in financial year 2011-12. It is three years old. It no longer warrants being considered cabinet-in-confidence—unless, of course, there is much more in that report that this minister is afraid will see the light of day.

The great problem with this inquiry is that very little has seen the light of day. As I have said before, not one submission has been published. I was assured in this place by the minister and Ms Hunter that the Human Rights Commission had all the powers that this Assembly had to compel witnesses and to publish. It is quite clear that that is not the case. If that was the case, the information that underpins this report would be published—just as you or I, as a chairman of an inquiry, would publish information that comes to us from the general public in relation to that inquiry so that, when the general public looks at what we have seen, there is a transparent path as to how we came to these conclusions. This is not a transparent path as to how we came to these conclusions.

That said, this is a damning report. We dwelt upon it in question time today. There has been the failure, the absolute failure, of the record-keeping system so that we cannot tell whether or not important, critical issues were dealt with. We do not know the extent to which the unfortunate incident where a young person attempted to hang themselves—we do not know how that was dealt with. We do not know how they dealt with the misuse of medication and a range of other issues.

We do know, because the inquiry has told us so, that there are substantial failures in the record-keeping system. This goes to the very heart of the system and it goes to

show what this government are all about. The government say: “We have a human rights compliant system. We have a brand spanking new, shiny building.” It is all about bricks and mortar; it is never about people. They look and say, “Look how much money we spent on this building.” They spent \$42 million. I may stand corrected; it may have been 40, but I think it was in excess of \$40 million. It was originally a \$20 million building; it became a \$40 million building. And all that they can do is say, “Look at our wonderful building.”

It is a building that has failed. Before the building was opened, I attended a briefing out there and I was told how there were no hanging points. We know that that is not true because we know that a young person attempted to hang himself. As a result of that, part of the million-dollar security upgrade that we saw in the budget this year deals with the fact that there are hanging points all over the place in all of those cabins. That is what we were told when we went and visited Bimberi before it was opened.

We have seen it over and over again. We have all of these great facilities; it is a large and spread-out place. But for the most part these facilities are not used for the benefit of the young people there. We only have to turn to the issues in relation to education. We have seen continual failing in relation to education because of the turnover of staff, the lack of continuity of staff and the fact that the person who was responsible for the administration of the education centre is not on site. There was a constant turnover of staff and there was very little assistance for young people who, by the minister’s own admission in estimates and her staff’s own admission in estimates, or I think it was in the annual reports hearings—they talked about the usually low levels of intelligence of people who are in the youth justice environment, who have more than two standard deviations below the norm for IQ and who, because of their background and their experiences, are not good at decision making and who make bad decisions.

If these young people were in any other educational setting, they would have an independent learning plan and they would have teachers aides to assist them. They would be considered disadvantaged in the learning context. Almost every one of the young people at Bimberi fits that category, but none of those resources and facilities were available to them.

My time is about to expire, but this will not be the last time that I speak on the subject of the Bimberi youth detention centre. This report is welcome insofar as it highlights the litany of failures of this government, but that is not enough. We cannot have another report that says that you are doing badly. This government has to act, and we in this place have to ensure that it acts, for the benefit of the young people it is supposed to be protecting.

**MS HUNTER** (Ginninderra—Parliamentary Leader, ACT Greens) (4.43): I am pleased that the inquiry into the youth justice system in the ACT has produced such a thorough and comprehensive report. It is clear from the report that there is a lot of work to be done. A range of stakeholders were engaged to allow the commissioners to bring forward 224 recommendations to improve the outcomes for children, young people and staff within the youth justice system here in the ACT.

A human rights audit was conducted jointly with the Children and Young People Commissioner, and the findings of this audit revealed that being human rights

compliant is not something that you attain once and then forget. Human rights compliance is about constant reflection and understanding of your practices. It is asking questions about how to do things better to improve the system and to make sure that rehabilitation and the wellbeing of young people are our primary focus.

The report is underpinned with a solid and well-researched evidence base and provides a level of understanding about youth justice here in the territory. I believe it is a level of understanding that we have never seen before. This report will become a seminal document that provides us with the evidence that allows informed decision making and effective planning about the future of youth justice.

Something that stood out for me in this report was that we have very different ideas, or perhaps no clearly defined idea, of what rehabilitation is. I would argue that the culture that has been created within the closed community of Bimberi is one of a lock-and-key culture where young people are not able to access proven and evidence-based rehabilitation programs that have the ability to change criminogenic behaviours.

I believe the report shows how some staff have had their hands tied, and this has caused much distress and anguish for them. This report provides us with the evidence of the frustration some staff have felt while working in this environment. I also believe the report provides us with a clear mandate and action plan to make changes that will reform how we support and move forward with youth justice.

In relation to staff, I have read that there is clearly a need for frequent training ranging on topics from the vision of the ACT youth justice system, mandatory reporting and through to relationship-based behaviour management techniques. I believe that supporting staff by providing more training will lead to better outcomes for young people and staff by reducing the need, for instance, for restraining young people. It also provides an opportunity to energise and seek information and support from trainers and others who are working with this challenging group of young people.

Staff also require regular and accessible supervision. The report outlines that the Community Services Directorate, in collaboration with professional experts and directorate staff, develop and implement a critical incident debriefing or support model. The report clearly articulates that all staff should be offered counselling and assistance to manage any ongoing emotional and mental health concerns. This report also recommends that a centre-wide performance appraisal scheme be implemented that clearly articulates when supervision will be conducted, by who and how this process will be evaluated.

I am very disturbed that these recommendations were even necessary, and yet this part of the report clearly demonstrates that the stressful environment within Bimberi goes beyond a lack of staffing. Indeed, a lack of staff has had an impact on the environment; however, I believe a lack of vision, leadership and skilled management has exacerbated the stress that staff have felt.

Throughout the recommendations there is a requirement to develop, implement and review a range of policies in order to improve the work and living environment of the staff and young people in Bimberi. My question is: what work has been going on in Bimberi since it opened its door in 2008? These environments are not stagnant or a



set-and-forget environment. This is an ever-changing environment that requires a constant reflective and evaluative approach which is supported by staying in touch with changes in youth justice, new programs, evaluations of such programs and research into criminogenic trends and how we assist young people to make positive behavioural change.

Something that I found extremely alarming and actually quite shocking was the poor level of record-keeping that the report highlighted, and I quote from the report:

... the Commission notes that the 'register' containing segregation directions is a file folder created on 3 May 2010, and contains printed segregation directions dating back only as far as 9 June 2009 ...

Even more alarming is that it is not clear to the commission as to whether any formal segregation directions were issued between Bimberi becoming operational in December 2008 and that date. The government submission only reports on figures from August 2009. The dates and inconsistencies in this as one example through the segregation register is just not good enough. It is not good enough because it leaves young people vulnerable, it leaves staff vulnerable and it leaves management vulnerable.

I do find myself asking: where has the minister been on this issue? We had numerous members of the staff coming forward, we had evidence of increasing violence within the centre and a range of other symptoms of poor morale, staff conflict, poor communication practices and a culture of declining care. I have severe concerns about the level of openness with which the Community Services Directorate and the minister are approaching the process, and my concerns lie with the question: how has this youth justice centre gone off the track in less than two years? I am encouraged that the government say they want to work towards making change and reform, but I really believe that, until there is an honest and clear appreciation that there are real problems, this will be an uphill journey.

An example of how blindsided are those in the positions who can make change is included on page 326 of the report, and I quote from the government submission that appears there:

In managing young people who are subject to a segregation direction, staff ensure that minimum living conditions are not affected, in particular food, telephone, mail, visitation, clothing, health and hygiene, education and programming and access to cultural and spiritual observance. In addition, every attempt is made to ensure the child or young person continues to have access to as many opportunities within the centre as possible.

The commission's response to this says:

To the extent that the Government Submission suggests that young people subject to a segregation order do attend education or programs, or receive appropriate education while in segregation, this is quite simply untrue.

In fact, the commission found that some teachers reported they had never met these young people. The research into segregation suggests that segregation creates a prison

within a prison, has extreme negative effects on the young person and in general causes more problems within the custodial setting.

I also refer to the use of strip searches within Bimberi. When we talk about this group of young people we are working with, in many cases these young people are coming from situations where they have already been abused. We need to understand that they have been victims of trauma and abuse often from a very young age and that this has a range of impacts including developmental delays, intellectual incapacity, use of drugs and alcohol, violent behaviours, poor health and education outcomes and, of course, increased criminal behaviours.

I am concerned that, after signs of reducing strip searches from the Quamby days, we are seeing a return to strip searches as a state of routine. They are extremely traumatising and re-traumatising for the young people and deemed by the commission as an unreasonable limitation on rights to humane treatment and privacy. The commission reports that the presence of the opposite sex during strip searches was contrary to the Children and Young People Act 2008 and, again, unreasonably limited the right to humane treatment and privacy. The commission also noted a failure to seek the young person's consent to a support person being there, if the staff had considered the need for a support person at all.

In the limited time left I would also like to highlight the impact that a lack of staffing has had on the functioning and cultural development of Bimberi. It starts with putting in place a strategy to help in the short term—for example, using the Coree unit as a behaviour management place. Coree is the admissions unit and is designed to protect the right of remandees to not mix with sentenced young people. However, for operational reasons this was ignored and remandees and sentenced young people were held together in an environment described by the commission as unnecessarily stark and devoid of stimulus, which is likely to reinforce anxiety. Before long, an initially short-term strategy became a long-term practice and the true policy and procedure a long forgotten detail. We cannot continue to use staff shortages as an excuse. We must make amends to ensure that we never see such low numbers of staff again, because I think we have demonstrated the negative impact this has on the development of system cultures.

One of the shameful parts of the report was about the accommodation of Aboriginal and Torres Strait Islander young people. The Bimberi facility was purpose built with conjoining rooms, as recommended by the Royal Commission into Aboriginal Deaths in Custody. However, to date, these rooms have not been appropriately used. The commission reported that, despite the high numbers of Aboriginal and Torres Strait Islander residents—we must remember that, quite often, more than 50 per cent of residents on any day are Aboriginal and Torres Strait Islander young people—the doors were routinely locked and were not being utilised for such purposes. This is inconsistent with the royal commission's findings and the Children and Young People Act 2008 and this must be addressed immediately.

The report has highlighted a system in crisis that needs strong and hands-on leadership and assistance to ensure positive outcomes for the future. At no point in this process have I heard the minister come forward and admit that the processes,

procedures, policies and programs were not always followed, implemented, practised and run, although I do acknowledge that in questions today some of that was said by the minister. But we need to be very clear that this is a system that has major problems that need to be fixed.

The report clearly highlights that many human rights have also been unreasonably limited. Recently when I met with youth justice officials from the Scottish government and staff at Kibble Education and Care Centre in Scotland, it was obvious to me that there are opportunities to do things differently here. The secure unit at Kibble is just one of the many programs they offer. It is one of the most modern and secure facilities and offers a balanced approach to rehabilitation and community safety, ensuring that child welfare principles are maintained without compromising the safety of others.

Part of Kibble's success has demonstrated that evidence-based national and international practice with constant and ongoing reference to current research is a critical aspect of getting it right, and the Scottish government provided me with papers addressing issues such as alternatives to secure care and custody, reintegration and transitions and diversion from prosecution.

What interested me most was a framework called "Getting it right for every child and young person", and this is the foundation work with all children and young people, including adult services, where parents are involved. It impressed me because it promotes a shared approach between government, non-government, families, children and young people and the broader community to make sure solutions are built with and around children and their families.

Getting it right enables children to get the help they need when they need it and supports a positive shift in culture, systems and practice and involves working together to make things better. I believe the reforms and recommendations put forward in the report into the youth justice system clearly articulate that a similar approach is required. There is a lot in the report about the importance of connection to community and family, and that is an area that certainly needs a huge amount of work to improve it.

The ACT Greens are committed to being part of the solution in enhancing the youth justice system, through the implementation of all the recommendations within the ACT youth justice system report. I look forward to further engagement and discussions on how improvements can be made to Bimberi and youth justice services right across the board.

One of the things that was raised was the importance of having some sort of bipartisan approach in the Assembly. I think it is incredibly important. We cannot use this as a political football; we need to use this as a report that points out the issues and provides some solutions. Let us try and get it right.

**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) (4.58): In responding I note

that the government will provide a comprehensive report on this and on each of the 220-plus recommendations. As the minister, I welcome the report. It is a comprehensive report that provides quite detailed analysis after talking with over 140 individuals who included community members, current staff and former staff. The inquiry received over 60 submissions. So any notion from those in the opposition that this is somehow an inadequate review and inquiry is really quite incomprehensible to understand given the length and extent of inquiry and participation and conversation across this.

Mrs Dunne made comment on the government submission as if there was a conspiracy of cover-up. The government submission is actually online. In fact, it is on the front page of [dhcs.act.gov.au](http://dhcs.act.gov.au). I am quite happy to send you a copy of that link. There is no cover-up and it really is quite an appalling—

**Mrs Dunne:** Why couldn't the commissioner give me a copy of it when I asked for it?

**MS BURCH:** It is on the website, Mrs Dunne. Why do you not just go and click on it? It really is quite disturbing that members of the Canberra Liberals would suggest that the human rights commissioner and the Commissioner for Children and Young People are in the habit of covering up and that the inquiry is far from transparent.

We have been proactive in addressing the challenges in youth justice over the past 12 months. I am pleased that a number of the issues and recommendations in the report have already been addressed. We have enhanced our programs. The government has been working with 23 community service providers through a forum co-hosted between the Youth Coalition of the ACT, the Community Services Directorate and the Education and Training Directorate to improve services provided to young people in youth justice.

Over the last six months staff have undertaken training in first aid, fire safety, breathing apparatus operations, mental health, suicide training and therapeutic crisis intervention. A number of new models have been added to the 2011 induction program, including emergency management, the understanding of neurobiology of complex trauma and therapeutic crisis intervention. Team leaders and managers have also undertaken training in supervision. Youth workers have participated in new training on report writing and incident reporting.

We have improved communication within the centre with daily briefings with shift staff to communicate the daily report to support the needs of young people, including staff from the Murrumbidgee Education and Training Centre, and the weekly briefings between youth workers and the Bimberi management to provide news and information. A weekly meeting is held between senior Bimberi management and managers from health justice and the Murrumbidgee Education and Training Centre.

We have increased management support for the centre with a new senior manager with experience in New South Wales commencing. A new deputy manager position has been created and is currently being recruited. The director of youth services position, which has been filled on a temporary basis for far too long, I have to say, for

two years, has now been filled. Dr Mark Collis commences on 29 August and I welcome him to this role.

Despite what has been highlighted from the report, I would like to take the opportunity to mark that significant reforms undertaken by the ACT government over the past 12 months have been recognised by the Human Rights Commission in this report which stated:

Positively, the Commission heard that much has changed at Bimberi in the last six to eight months. Generally, many participants report feeling cautiously positive about the leadership behaviour of the current management, and welcoming of the Change Management Strategy that was introduced at Bimberi in November 2010.

This shows that this government has been serious about improving outcomes for young people in Bimberi over the last year and we are seeing those positive outcomes. To continue improving communication within the centre an organisational climate survey has been conducted by Danny O'Neil of the Richmond Fellowship through face-to-face interviews with staff at Bimberi and there are reports that staff perceive a range of improvements to the centre's functioning. We are well on track to establish an after-hours bail support service by October this year to assist young people on bail and fresh charges outside business hours.

A move to a single case management model across Bimberi and community youth justice is now in place. This model will ensure the continuity of relationships with young people within the justice system regardless of whether they are in the community or in custody. Young people will have the same case manager when they leave Bimberi and we expect that this will provide a significant and positive outcome. This has been guided by the development of our diversional framework with a clear focus on the effort of diverting young people away from the criminal justice system, particularly time spent either in custody or on remand in sentence. I think I mentioned earlier today in response to one of the questions that any investment in the detention centre is certainly warranted and needs to be put in place, but we really, as a society, need to look at early intervention and diversion from a detention environment.

We have put in place a task force to oversight and support the government in the recommendations as we move through this. The task force has a significant membership with experts in youth justice and policy and practice—that is, Emma Robertson, Peter Sanderman, Peter Murphy, Rod Little and Danny O'Neil. They have met already. They have had one meeting and they will meet again next week. In addition to those experts, we have representatives of the department of education, Health, JACS and the Chief Minister's department. The task force will be crucial in developing a blueprint for youth justice and that will fall within the key elements of a quality youth justice system identified by the Human Rights Commission.

I accept that we need to develop better information resources for young people and families to understand their engagement with the youth justice system and the service supports that are available. We also need to have a look at how we manage our critical incidents, developing a better support model for staff and involving young people in debriefings. We also need to improve community participation in reviewing a shared

vision for youth justice, including Bimberi. I note that Ms Hunter has picked up the thread, and it is quite a consistent thread through the report from the commissioner, which clearly states that youth justice needs to be embedded within the community. That includes the Assembly, government, departments, members, families and broad society. I welcome that participation and I look forward to a positive contribution from all in this place where we can do better by our young people. The Human Rights Commission's report is timely given that it is two years since Bimberi was commissioned. I look forward to developing a blueprint for youth justice.

Just quickly in response to some of the comments by Mrs Dunne, I still struggle with the notion that she thinks the human rights commissioner is not transparent and is covering up. I just refer to the oversight bodies in place. Each and every week there is one of these—the human rights commissioner, the Commissioner for Children and Young People, the Public Advocate and the Official Visitor. All have a continuing oversight role in youth justice. Mrs Dunne again perpetuates an incident of self-harm that she knows was independently reviewed. It has been said in this place that it was independently reviewed and recommendations were implemented. But that does not suit her rhetoric. It is just appalling that she continues to peddle misinformation.

On the budget, the budget was transferred with \$5.8 million, plus \$700,000-odd on transfer. But I would also—

**Mrs Dunne:** On a point of order, Madam Deputy Speaker.

**MADAM DEPUTY SPEAKER:** Ms Burch, would you sit down? Can you stop the clock for a moment, please. On a point of order, Mrs Dunne.

**Mrs Dunne:** I would ask you to ask the minister to withdraw the accusation that I peddle misinformation in this place. It is unparliamentary and it implies that I mislead this place.

**MADAM DEPUTY SPEAKER:** Ms Burch, would you withdraw it?

**MS BURCH:** In response to that, I have been in this place and I have said that that incident was reviewed independently and Mrs Dunne has indicated that it was not.

**Mrs Dunne:** On the point of order—

**MADAM DEPUTY SPEAKER:** Resume your seat, Ms Burch. Mrs Dunne.

**Mrs Dunne:** Did I hear you, Madam Deputy Speaker, ask Ms Burch to withdraw?

**MADAM DEPUTY SPEAKER:** Yes. I was asking her to withdraw and she spoke again.

**Mrs Dunne:** And she spoke over you so that either she was ignoring your ruling or did not want to hear your ruling.

**MADAM DEPUTY SPEAKER:** She did not hear me, I do not think. I do not think she heard me, Mrs Dunne. Ms Burch, I would like you to—

**MS BURCH:** Madam Deputy Speaker, you are right; I did not hear you. I will withdraw that Mrs Dunne peddles misinformation, but I might have hoped that she would get her information right.

**MADAM DEPUTY SPEAKER:** No, an unqualified withdrawal, please.

**MS BURCH:** I withdraw, Madam Deputy Speaker.

**MADAM DEPUTY SPEAKER:** Thank you very much.

**MS BURCH:** I withdraw that, but I think the point is that Mrs Dunne has been told that that incident was independently reviewed and recommendations acted upon and she chooses to continue to ignore that fact. The budget has been increased in 2010 and in 2011, so since the commissioning of Bimberi there has been ongoing budget investment. I accept that there is work to do in Bimberi and in youth justice broadly. I look forward to the day when we do this in a positive way rather than by way of accusations and counter-accusations that really lead to no positive outcome for our young people at all.

Question resolved in the affirmative.

### **Planning and Development Act 2007—call-in powers Paper and statement by minister**

**MS GALLAGHER** (Molonglo—Chief Minister, Minister for Health and Minister for Industrial Relations): As Acting Minister for the Environment and Sustainable Development, I present the following paper:

Planning and Development Act, pursuant to subsection 161(2)—Statement regarding exercise of call-in powers—Development application No 201119841—Block 7 Section 18 Flynn, dated 13 July 2011.

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

Leave granted.

**MS GALLAGHER:** On 28 June 2011, the Minister for the Environment and Sustainable Development directed, under section 158 of the Planning and Development Act, that the ACT Planning and Land Authority refer to him development application No 201119841. The DA sought approval for, amongst other things, the refurbishment of existing buildings and the construction of a new building to form a new childcare centre. The application also sought approval for the removal of a regulated tree.

On 11 July 2011, in my capacity as Acting Minister for the Environment and Sustainable Development, I decided to consider the development application. On 13 July 2011, I approved the application, using my powers under section 162 of the Planning and Development Act.

In deciding the application, I gave careful consideration to the requirements of the territory plan, the advice of the Environment Protection Authority, Territory and Municipal Services, ActewAGL, the Conservator of Flora and Fauna, the ACT Heritage Council and, as required by the legislation, the advice of the ACT Planning and Land Authority. I also gave consideration to the representations received during the public notification period for the DA that occurred in April and May 2011. I have imposed conditions on the approval of the DA which require, amongst other things, sediment and erosion control, tree protection, verge management and submission of a temporary traffic management plan.

The Planning and Development Act provides for specific criteria in relation to the exercise of the call-in powers. I used the ministerial call-in powers because I considered that the proposal will provide a substantial public benefit, particularly to the broader Flynn community, with the provision of a much-needed new childcare facility. The proposed refurbishment and the reuse of the older buildings will furthermore enhance greater efficiency in the management of these assets. The use of the call-in powers in this instance will also enable the timely commencement of the proposed development by the proponent.

Section 161(2) of the Planning and Development Act specifies that if the minister decides an application, the minister must table a statement in the Assembly no later than three sitting days after the day of the decision. As required by the Planning and Development Act and for the information of members, I table the statement providing a description of the development, details of the land and where the development is proposed to take place, the name of the applicant, details of my decision for the application and reasons for the decision.

## **Planning, Public Works and Territory and Municipal Services—Standing Committee Reports 4 and 7—government response**

**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) (5.12): For the information of members, I present the following paper:

Planning, Public Works and Territory and Municipal Services—Standing Committee—Report 4—*Inquiry into Live Community Events—Interim report* and Report 7—*Inquiry into Live Community Events—Final report*—Government response.

I move:

That the Assembly takes note of the paper.

The government wishes to thank the Standing Committee on Planning, Public Works and Territory and Municipal Services for its work in relation to the inquiry into live community events, which led to a very detailed report on live music. The government



also wishes to acknowledge that more than 70 individuals and organisations provided submissions to the committee or appeared at the inquiry hearings, and we thank them for their contributions.

In February 2009, the Assembly referred a number of issues in relation to live events to the ACT standing committee for inquiry. The inquiry was undertaken to examine matters related to the support of live events, including order of occupancy legislation, community bollards and amendment to building codes. The committee tabled an interim report in December 2009.

Noting the number of issues raised during the committee consultations, the committee broadened the scope of the inquiry to cover a broad range of issues in relation to the support of live events in the ACT, including planning policy, transport and noise-related health issues. The committee reported to the Assembly on this inquiry on 26 August 2010.

The final inquiry report recommends that a number of investigations be undertaken in relation to live events in Canberra. The government response agrees in principle to many of these investigations and, in some instances, notes the review of legislation is already scheduled. The response disagrees with some of the recommendations where they are not considered to be the responsibility of the government or where they are not in accordance with other government policies.

A vibrant arts scene is dependent on community and government support, and I am committed to looking at how we as a government and as a community can better support live music in this city. The government agrees in principle to three interim report recommendations, such as noise standards, improved soundproofing for community facilities and availability of venues for hire for live events.

One of the more difficult hurdles to overcome in this debate is the question of noise impacts on residents from live music. The upcoming review of the EPA, which governs noise restrictions across the ACT, is an opportunity to open up the community conversation about how we can reduce barriers to live music through relaxing noise restrictions without disrupting the peaceful enjoyment of residents in the city, town centres and group centres. I can foreshadow that, through the review of the Environment Protection Act, artsACT will provide a submission that supports changes to noise restrictions in zones B and C, that is, areas of Civic, town centres and group centres, to assist venues wanting to build their live music offerings.

In relation to the final report, the government agrees in principle to 10 report recommendations addressing topics such as noise monitoring and standards, awareness program and the risks of noise, authorisation systems for one-off events, ACTION Nightrider service, taxi rank supervision and public liability insurance. The ACT government is committed to participation and engagement in the arts. It recognises that a healthy arts sector underpins and encourages celebration, belonging and enjoyment of life in communities, and the government values the vibrancy of live music and is committed to fostering the sustainability of live music in the ACT.

Canberra has a diverse musical culture and a history of providing a range of live music events, whether it is a band playing at a nightclub or an outdoor community

festival. The government also plays an important role in supporting live music in Canberra through the provision of programs and facilities. The ACT arts fund supports artists, musicians and bands to further their careers and provides support to key arts organisations that provide venues, infrastructure and advice.

The ACT festival fund and the events assistance program support a range of community and music festivals, which allows Canberra performers, musicians and bands to showcase their performances. By other funded programs, for example, health promotions, sponsorship and youth interact grants, it provides support to community events.

Dedicated government arts facilities provide venues for community events. These are at Belconnen Arts Centre, Gorman House Arts Centre, the Street Theatre, Ainslie Arts Centre and Tuggeranong Arts Centre. We also provide other venues such as the refurbished Albert Hall and outdoor performance space in Glebe Park and Tuggeranong town centre. Programs of free live music performances in Civic known as “groovin’ in the city” and community celebrations such as New Year’s Eve and party in the park provide opportunities for local talents to showcase their art. Large-scale facilities at EPIC and Bruce stadium provide a range of opportunities to support local musicians and national and international artists alike, including the National Folk Festival.

Regulations controlling the hosting and performance of live music are in place to ensure the safety and amenity of the public, patrons, performers and venue operators. However, such regulations also present barriers and impediments to the music industry. It is important that there is a balance between protecting local amenity and public safety while fostering a vibrant music sector.

The cultural ministers council, of which the government is a member, made contemporary music a priority and established a working group on contemporary music development. The working group developed a document *Supporting Australia’s Live Music Industry: suggested principles for best practice*, and I note the inquiry has referred to it in this report here.

Concurrent with the inquiry into live community events, the ACT government established the Reduction of Barriers to the Production of Live Music in the ACT Interdirectorate Committee in 2009. As part of its deliberations, the IDC held two targeted forums with the live music industry to seek their views. We also looked at the public submissions that were made to the Assembly inquiry. The live music IDC considered many of the same issues addressed in the inquiry and focused on the issues which it considered were appropriate for government action.

I would like to advise the six actions the government plans to undertake to support live music in the ACT. These strategies will allow the government to make a significant impact on the reduction of barriers to live music and build extensive work undertaken by the standing committee inquiry into live music.

In acknowledgement of the cultural, economic and social importance of live music, we note that live music is central to the lives of many Canberrans and contributes to

the rich, diverse and vibrant culture. Live music is particularly important to Canberra's young people in terms of artistic development and social networking and entertaining.

I turn to the investigation of an extension of night-time noise limits. Actual noise or community perceptions of noise-related issues have been raised as key barriers to live music production. While higher noise limits exist during the day, lower noise limits apply from 10 pm. However, as Canberra becomes a more mature city with a wide variety of entertainment, people will be looking to more opportunities and 10 pm may no longer be a realistic time to revert to lower noise levels.

The Environment and Sustainable Development Directorate is responsible for reviewing the noise levels as provided for in the EPA 1997 and will, as a priority, consider the extension of the 60dB(A) noise limits in the Civic centre and other major centres until midnight on Saturday nights. Adequate soundproofing measures, in particular for buildings which have changed their original purpose and which have been refurbished, such as residential apartments, have been identified as an issue.

On the creation of a website of public buildings suitable for use as live music venues, we note that considerable media attention has been given to the lack of suitable music venues in the ACT for the needs of the contemporary live music industry. While there are limited dedicated live music venues in Canberra, the city has a large number of government and community-owned facilities which are suitable for live music. The development of a music venue website will provide information to the community on a wide range of venues which could be suitable. The government will work with the community music sector to develop the website, and I have recently approved funding for this website to be developed.

On the consideration of suitability of new or refurbishing community facilities, we note that appropriate community facilities are particularly important in providing low-cost, accessible venues for performance by young and emerging artists. Community facilities also provide a valuable rehearsal space for many musical activities. Minimal modifications to building plans will be required to make facilities suitable for live performance.

On the provision of information for people wishing to stage live music, we note that there are a number of sources of information available to venues and organisations wishing to host live music. However, there is no consolidated information, and some of the existing information is not specific to live music. We are looking to consolidate this into a single document and the government will work with the music industry to develop the information package. Again, I have recently approved funding for this website to be developed.

These short to medium-term strategies will allow the government to make a significant impact on the reduction of barriers for the production of live music in the ACT and build on the extensive work undertaken by the standing committee's inquiry into live music events. The development of the website and a comprehensive consolidated information access point, plus my commitment to provide a submission through the review of the EPA promoting flexibility across town and group centres for live music, I think, is a good way forward for the live music industry here in the ACT.

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

## **Health—social determinants**

### **Discussion of matter of public importance**

**MADAM DEPUTY SPEAKER:** 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, Mr Speaker has determined that the matter proposed by Ms Bresnan be submitted to the Assembly, namely:

The social determinants of health.

**MS BRESNAN** (Brindabella) (5.24): The Greens have nominated the social determinants of health as a matter of public importance today as a person's social and economic status is one of the most likely factors to influence their health outcomes. These health problems are also typically intergenerational. If we want to improve people's health outcomes and assist them to live healthy lives, as policymakers we must recognise and respond to the social determinants of health—that is, the conditions in which people are born, grow up, live, work and age, which are in turn shaped by political, social and economic factors.

In February 2010 there was a landmark report released in the UK called the Marmot review. The report was the product of a year-long independent review into health inequalities in the UK and was commissioned by the Secretary of State for Health. The report concluded that serious health inequalities do not arise by chance and cannot be attributed simply to genetic make-up, unhealthy behaviour or difficulties in accessing medical care, important as these factors may be. Rather, it is socioeconomic factors that have a direct influence on how long a person lives and the burden of disease they will be exposed to and it is those socioeconomic factors that for many people will exert a greater impact on their personal health than either biomedical or healthcare factors.

In late 2010 a report called *Health lies in wealth* was produced by the National Centre for Social and Economic Modelling and Catholic Health Australia. It said that household income, level of education, household employment, housing tenure and social connectedness all matter when it comes to health. Reducing health inequalities is a matter of social inclusion, fairness and social justice.

If we are to achieve true health reform and significantly improve the health outcomes of the Australian and the ACT populations we must engage in debate about why people lead the lifestyles they lead and then focus on the more basic and underlying socioeconomic disadvantage experienced by some segments of the community. If we are to improve people's health outcomes, we must consider issues such as income, education and housing, as well as intrauterine conditions, early childhood experiences, social inclusion and support, stress, violence and food security.

The *Health lies in wealth* report, based on 2008 data, made some very stark findings. I would like to read out just a few of them. Firstly, it found that if people in the most disadvantaged areas had the same death rate as those in advantaged areas, then up to two-thirds of premature deaths would be prevented. Secondly, it found that those people who are most disadvantaged are at least twice as likely to have a long-term health condition, and in some cases up to four or five times more likely.

If we look at young women in public housing specifically, the report found that 39 per cent of women aged 25 to 44 years are obese, in comparison to 12 per cent of people who own their own home. Smoking is also more common in younger women living in public housing than in any other group, with two-thirds of young women in public housing being smokers. This is in contrast to 15 per cent of young women with tertiary education.

The Australian Institute of Health and Welfare also released some alarming statistics in December last year. They showed that with regard to premature deaths in people under the age of 75, men from low income suburbs were twice as likely to die prematurely as a result of chronic disease than men from high income suburbs. For women, that statistic was 60 per cent higher.

ACTCOSS states in its fact sheets about the social determinants of health that Australians who experience social and economic disadvantage report higher levels of diabetes, diseases of the circulatory system, arthritis, mental health problems and respiratory disease. They are more likely to visit doctors and hospitals and are less likely to use preventative health services, including dental health care.

It is also important to recognise that there is a gradient when it comes to the social determinants of health, as referred to by the World Health Organisation. The debate about the social determinants of health is not just about the haves and have-nots. There is a gradient in between. For example, studies have found that children of people in the second highest quintile have higher mortality than the children of people in the highest quintile.

The ACT population generally benefits from some of the best health outcomes in Australia because of our high levels of income and education. Such averages mask the experiences of those people in the ACT who rely on subsidised income, such as the disability pension. Given that average wealth is high, they cannot compete when it comes to housing or access to a GP. The rate of bulk-billing in the ACT is low and, for people who do work but are low skilled and on hourly wages, this means they may have to forgo earning a wage to access necessary health care.

In December last year, the ACT Health Council expressed its concern that if more is not done to reverse the trends in obesity, the ACT was likely to see a decrease in life expectancies. We know that obesity is more likely to affect people on lower incomes with poorer levels of education, which does make this a social justice issue. We need a much more informed debate on healthcare delivery which is not just about acute care, particularly hospitals, but also looks at issues of social justice. Catholic Health Australia's CEO Martin Laverty said after issuing the *Health lies in wealth* report:

Health reform in the last term of government focused on hospitals, not the drivers that cause people to end up in hospitals. With 75 public and private Catholic hospitals across Australia, we absolutely support the need for hospital reform—but we'd prefer to keep people out of hospital. As a sophisticated nation, health reform needs to also consider the social determinants of health by linking education, housing, and welfare policies to health outcomes.

Catholic Health Australia called on governments to adopt the World Health Organisation's social determinants of health framework, fund targeted preventative programs, fund non-government organisations to provide health promotion activities and actively support high school completion as a priority for those at risk of non-completion.

The Greens recognise and applaud the fact that the ACT has the highest level of school completion rates. Much of this is due to our higher average income, but for students from a low income background there are very good programs in the ACT to keep them involved. The ACT can and should look to adopt and move on those three other recommendations from Catholic Health Australia.

In 2008 the World Health Organisation's Commission on Social Determinants of Health produced a report called *Closing the gap in a generation—health equity through action on the social determinants of health*. This report recommended that governments and policymakers incorporate the social determinants of health into health planning and programs.

Government can do this in four ways: one, through the development and improvement of universal social protection and support for level of income and healthy living for all; two, developing healthcare systems that use the principles of equity, disease prevention and health promotion; three, adopting a social determinants framework across policies and programs within the health departments and strengthening the stewardship role of implementing the framework across government; and, four, developing mechanisms to fund cross-government action on the social determinants of health and allocate these funds fairly between regions and social groups.

WHO, through another one of its networks, has also suggested that governments can use the social determinants of health to reduce health inequity in three more ways: one, by distributing resources in a more equitable way to ensure the provision of basic services, the protection of human rights and the right to a decent standard of living; two, by establishing and maintaining legislative and regulatory frameworks with the goal of health equity; and, three, by monitoring the health outcomes of different groups of consumers and evaluating programs that are targeted to reduce inequities to inform further interventions.

In addition, at a local level, ACTCOSS has recommended that in order to deliver greater social justice, program and policy developments need to ensure that people living with the most disadvantage are assisted in a holistic manner and that people experiencing disadvantage are delivered services across a range of ACT and commonwealth government departments.

If the ACT government were to adopt a social determinants of health framework, it would deal with consumers' health problems by also looking at those other factors which impact on their wellbeing, such as housing and employment. At a high policy level, we must recognise that almost every aspect of government and the economy has the potential to affect health and health equity. Treasury, education, housing, employment, transport and health are some of these portfolios. While health may not be the main aim of policies in those other portfolios, they have a strong bearing on health and health equity.

Policy coherence is crucial. Different government departments' policies must complement, rather than contradict, each other in relation to health equity. For example, transport policy should actively encourage other active transport other than just car use, as it is contradictory to health policy.

Obesity is a public health challenge which cannot be solved by the health system alone. Prevention requires an approach that ensures a sustainable, adequate and nutritious food supply, participation in physical activity, and a family, educational, and work environment that positively reinforces healthy living. Very little of this action sits within the capabilities or responsibilities of the health sector.

If we use the South Australian government as an example, in 2008 it introduced a health in all policies approach, emphasising that health and wellbeing are largely influenced by measures that are often managed by government sectors other than health.

The process is similar to a health impact assessment. The key difference between the traditional health impact assessment approach and the health in all policies approach is that health impact assessments tend to be applied after a policy, plan or proposal has been developed but before it has been implemented. The health in all policies approach usually commences prior to a policy or proposal being developed. To quote the government webpage:

Implementation of Health in All Policies provides a system which enables governments to respond in a coordinated way to the health and wellbeing needs of the population. Health in All Policies also aims to bridge the gap in health inequities, especially those seen within the Aboriginal and Torres Strait Islander populations.

There are examples from South Australia showing how the South Australian strategic plan was linked with the health in all policies approach. This could be done in the ACT, for example, with the Canberra plan and social plan.

By adopting a social determinants of health approach to policy development and service provision, we are acknowledging that people require a range of supports and services to improve wellbeing and health outcomes. The investment in such an approach to planning could contribute to an increase in the health outcomes of people in the community who are experiencing disadvantage and require the most assistance.

As I have noted, while the ACT is a community with higher than average incomes, we have people experiencing significant social disadvantage which then translates to poor

health outcomes. It is important that we pursue health policies which focus on and look at social determinants of health to help people achieve better health outcomes early on in their life and not just after they need acute health services.

**MS GALLAGHER** (Molonglo—Chief Minister, Minister for Health and Minister for Industrial Relations) (5.37): I welcome the opportunity to talk on this very important subject—the social determinants of health—this afternoon. I welcome Ms Bresnan's comments around wanting an informed debate on a subject broader than just hospital performance. I do not necessarily agree that the national health reforms were only about hospitals. They certainly formed a large part of the discussions and the areas of disagreement through the COAG process and through jurisdictions analysing their own positions around national health reform, but, indeed, the less controversial side of national health reform was the establishment of the national partnership agreement on preventive health which was signed back in 2008 as one of the first steps towards national health reform. From memory, I do not think any jurisdiction opposed the establishment of that national partnership.

I think the national health prevention agency is now up and running with its executive staff in place, which is certainly welcome from my point of view, because a larger agency focused just on this area of health will significantly assist small jurisdictions like us to look at the latest evidence and best practice in relation to providing services in this area to local communities.

I agree with Ms Bresnan that the ACT is regarded as a generally affluent community in comparison with the rest of the country, but we know that there still is disadvantage experienced by large numbers of members of this community. We also know, and it is well established, that social and economic disadvantage impacts on health status, with those in lower socioeconomic groups experiencing poorer health status. So there is no doubt that addressing the social determinants of health will contribute to improved health outcomes for the ACT population as a whole, particularly vulnerable and disadvantaged people, including people with a disability, children and young people, the aged and Aboriginal and Torres Strait Islander people.

The ACT Council of Social Services compiled a report in 2007, *Characteristics of low income ACT households*, and this reported from data in 2006. It will be good to have that updated through the latest census data information. There were about 16,000 ACT households in the bottom Australian equivalised income quintile which equated to around 13 per cent of the ACT's total households.

There are several pockets of ACT households that experience severe disadvantage and are masked when viewed at broad geographic levels, such as statistical subdivision. This is partly due to the ACT's urban planning and design, which distributes our public housing through most suburbs, and when viewed at the ABS collection district level rather than at the statistical subdivisional level, the ACT has five collection districts that fall within the bottom five per cent in Australian rankings for relative socioeconomic disadvantage under SEIFA.

The majority of these are located in north Canberra and typically feature high levels of public housing and generally accommodate people in receipt of government



income support. We have developed a number of strategies and plans to address some of the health issues that are identified in the report by ACTCOSS including those issues relating to socioeconomic and environmental factors which require across-government partnerships with agencies responsible for areas such as housing, education, family services, disability and planning and partnerships between clinicians and consumer and community groups.

I have just briefly mentioned the national partnership agreement on preventive health. I think there has been about \$5.6 million in facilitation payments to the ACT through that national partnership which began in July 2010 and which will continue until June 2015. There are also reward payments which will be available to the ACT community on meeting the eight performance benchmarks outlined in the agreement.

Facilitation payments will fund the delivery of five different initiatives: social marketing, enabling infrastructure, healthy children, healthy workers and healthy communities. We have also secured commonwealth funding for the healthy communities initiative in March 2010 as one of the 12 pilot sites to receive funding through a local government area grant. This project is aimed at creating environments in north Canberra that maximise participation of at-risk target populations, for example, people who are disadvantaged and at risk of weight-related chronic disease, in dietary education, healthy lifestyle and physical activity programs.

We have already undertaken some consultation with local organisations. They have established two heart move groups and walking groups in collaboration with the Heart Foundation. There has been the promotion of cycling through cycle education and supporting community cycling events and the delivery of a number of nutrition education events in collaboration with community health dietitians, Nutrition Australia and the Red Cross FOODcents program. Of course, this program will grow, and funding for phase 2 of this initiative until June 2013 has been secured.

I think we need a bigger discussion, and probably in this place—and not wanting to tell committees what they should be doing, but I would imagine it may be an interesting subject for the health committee—on the broad-based population interventions that we do in this area where we spend quite a lot of money putting out promotional information and activities aimed at everyone across the community and weigh that up—I know this is a debate that happens in public health circles *ad nauseum*—against the opportunities that present to a community like the ACT if you were to target those specific interventions to particular population groups.

When you look at some of the data that we get through the Chief Health Officer's report or even talking to the Chief Health Officer himself—and I do not think he has an answer on what is the best way to go—I think it is time to have a look at whether we put more effort into targeted preventive health initiatives here in the ACT and that we identify particular groups that we would like to work with. For example, we set ourselves a target and we resource a reduction in smoking rates amongst our Indigenous population as one of those ideas but also how we target our education around obesity and physical activity.

At the moment we fund multiple little programs with small bits of money that I am sure make some impact, but would they make the same impact if you pulled that

together and had a better resourced program with a clearer target about what you want to see out of that? I think that is worthy of further discussion. As I said, I would welcome a discussion with members in this place around that, because I am actually not sure what the answer is and what is the right way to go. For example, if you look at the health promotions money that goes out every year, the old health pact money, about \$2 million goes out every year through different funding rounds for communities, schools and fall preventions. There are probably five or six different funding rounds with anywhere from \$200,000 to \$300,000 for some funding rounds. That goes out every year, and it has been evaluated through the life of the program.

But what if you took \$2 million, carved it up in a different way, set targets and actually identified particular outcomes that you wanted to see? Would that make a difference? Would that be better value for money than funding \$5,000 here for a community garden and \$6,000 there for a school breakfast program? I do not know what the answer is, but I think it is worthy of a discussion as we move to dealing more comprehensively with preventive health initiatives than we perhaps have done in the past.

I think it is worth a discussion in this place or for a committee to consider. Certainly from what I can see, despite the length of time that we have had programs working and intervening in particular areas, whilst we are seeing improvements in some areas, there are other areas where we are either seeing no improvement or a continued decline. That is certainly the case for the issues of obesity and alcohol consumption, particularly within particular age and gender groups across the ACT. We are making some gains, but should we refocus and retarget? That is the question I would ask the Assembly.

**MR HANSON** (Molonglo) (5.47): I rise to speak on this matter of public importance—the social determinants of health—and thank Ms Bresnan for bringing this important matter before the Assembly. It is an interesting discussion that the Minister for Health raised with regard to preventive health measures and how we should be targeting those. It is worthy of further debate. If we have a system where we are just spending money in a haphazard fashion that is not measuring the outcomes and we are not achieving any measurable goals, you do have to question how that money is being spent. I think we do need metrics around it. We need to make sure that our message is targeted. If it is a message about falls prevention or something that is targeting elderly Canberrans, we have to make sure it is targeted at the right demographic. That is work that needs to be done if it is not working satisfactorily at the moment.

Mr Speaker, it is widely recognised that the social determinants of health are going to have a far greater impact on a person's wellbeing than many other areas of health policy. We talk about hospital beds and X-ray machines and other elements of health care, but the University of Canberra's National Centre for Social and Economic Modelling found in its report *Health lies in wealth* that socioeconomic status is the single biggest indicator of life expectancy and health status.

I am sure we are all in agreement in this chamber on the importance of addressing the social determinants of health. However, I can imagine that we are not necessarily in

agreement about the best way of doing so. Statistically, Australians are in very good health. We are consistently ranked in the top 10 OECD countries in terms of life expectancy. However, good health is not shared equally by all Australians. As stated by the Public Health Association, there are significant differences in the rates of death and disease, life expectancy, self-perceived health, health behaviours, health risk factors and health service utilisation. The determinants of the inequalities in health are often outside the health system and relate to differences in education, occupation, income, employment status, postcode, ethnicity and gender.

On average people who are in lower socioeconomic groups have shorter life spans and poorer health. They have higher rates of death and disease and are more likely to be hospitalised and less likely to use specialist and preventive health services. Up to 65 per cent of people in public housing have long-term health problems compared with only 15 per cent of homeowners.

The social determinants can be broadly defined as including healthy behaviours—eating more green vegetables, perhaps taking the stairs rather than the lift, and minimising your alcohol intake. Determinants also include socioeconomic characteristics such as education, housing and ethnicity. For example, Indigenous people with low levels of educational attainment were more likely than those who have completed year 12 to regularly smoke, to consume alcohol at high levels and engage in low levels of exercise. They were also less likely to eat fruit or vegetables on a daily basis.

Being overweight and obesity have become increasingly more prevalent among socially disadvantaged groups, particularly in urban areas. In 2008 a University of New South Wales study found that, like most other risk factors for ill health, excess body weight tends to be more prevalent among people further down the socioeconomic scale. Similarly, the use of tobacco increases as socioeconomic status decreases.

Broad features of society such as policies and decision-making authority also play a role. The impact on socioeconomic circumstances and physical environments which, in turn, influence people's health and behaviour, their psychological and mental states and factors relating to safety can all produce further health effects. Unemployment and instability in employment can have a major impact on health. Education and employment are closely correlated. The lower wages and unemployment related to inferior formal qualifications—those people who do not attain year 12 or above—results in lower socioeconomic status. And lower socioeconomic status is universally associated with poorer health outcomes.

Employment can also have a direct impact on short-term health outcomes. A 2007 ANU study found that there is strong evidence that work is generally good for physical and mental wellbeing. Worklessness is associated with poorer physical and mental health and wellbeing. Work can be therapeutic and can reverse the adverse health effects of unemployment.

Social integration is also a key determinant of health. Social integrations can be defined as the comfortable insertion of a person within society. Social relationships

and social support are important for mental and physical health. Social connections, including engaging with friends and peers, undertaking education, hobbies and other activities, have a direct benefit for health. Social integration is especially important for mental wellbeing. Studies show that people with mental illness are more likely to have smaller social networks and their network tends to decrease in size as the duration of illness increases.

Education is a key determinant of health as it provides individuals with skills and knowledge that can be used to improve their health and access appropriate services. Education impacts on health in two ways: firstly, through teaching that enables children to learn specifically about health; and, secondly, through the educational process as a whole which provides skills such as critical thinking and making choices that enable children to opt for healthy lifestyles.

Access to quality education and health literacy are strongly associated with health behaviours and risk avoidance, equipping individuals with the resources needed throughout the course of life to achieve a secure income, provide for family and cope with health outcomes later in life. Children from disadvantaged backgrounds are more likely to do poorly in school and drop out early. Subsequently as adults, they are more likely to feel less empowered to provide good health care, nutrition and stimulation to their own children.

Environmental factors such as provision of and access to local public facilities and spaces for recreation and play are directly correlated with health and wellbeing. Poorly planned urban road networks, overcrowding and building on unsafe land all reduce opportunities for physical activity and increase the risk for injury and violence.

All of these determinants have a significant impact on health service use. As previously mentioned, people in lower socioeconomic groups are less likely to use specialist and preventive health services. Just because health services exist does not mean that people are using them or using them well. Generally, for example, men use health services less than women. A general practice survey of Australian men found that one in four had not visited a GP in the last 12 months compared to one in 10 females. It is widely documented that your local GP plays a vital role in the monitoring and provision of health services. Often GPs are the first to acknowledge and the first to educate individuals on the impact that their lifestyle choices are having on their health and the health of their families.

In the ACT it can be difficult to access your local GP. The GP task force found that we currently have a shortage of 70 FTE doctors in the ACT equating to a shortage of 140 doctors on the ground. In recent years we have seen the closure of many small suburban GP clinics. This means that Canberrans have lost the valuable resource of a local GP who knows and understands their family's circumstances and medical history. The low rate of bulk-billing GPs in Canberra further exacerbates the effects of health on low socioeconomic demographics. People simply cannot afford to see a GP in Canberra in a timely manner. Indeed, we have the highest cost of visiting a GP anywhere in Australia.

Why should we take action on the social determinants of health? Because health inequalities are unavoidable, but they are amenable to change. Shifts in

socioeconomic conditions can change the health of populations both positively and negatively. Health inequalities can also affect everyone's health and wellbeing. The excessive burden of health problems, such as infectious diseases, alcohol and drug misuse, mental illness and violence in disadvantaged groups, also has adverse health and social impacts on all sectors of society, not just on the individuals involved.

There is also a major economic impact of social and health inequalities. Excess morbidity and mortality increases health and social costs and also causes reduced economic productivity. There is widespread evidence on the cost effectiveness of early intervention for chronic disease, and some suggest that that is five times the financial return for every dollar spent. Also, many incidences of disease have a number of common behavioural and biomedical risk factors, such as poor diet, physical inactivity, tobacco smoking, excessive alcohol use and excessive weight. By tackling the social determinants of a particular health problem, we can lower the risk factors of a number of health issues. Focusing on the social determinants of health allows coordinated strategies to keep people healthy and out of hospital, which is the most expensive treatment place for health.

So it is quite clear that the social determinants of health are a significant issue that we need to deal with, but I think we all have different approaches as to how we should deal with them. We would see individual responsibility as key to that. Perhaps others would see a greater role for government. But what is clear is that we need to coordinate an approach, and I am not confident at this stage that we have that with this government and that the money that is being spent on preventive health measures is getting the bang for the buck that we actually require.

**MR SPEAKER:** The discussion on the matter of public importance is now concluded.

## **Adjournment**

Motion (by **Ms Gallagher**) proposed:

That the Assembly do now adjourn.

## **Australian Centre for Christianity and Culture**

**MR SMYTH** (Brindabella) (5.57): I want to bring to the attention of members and the people of Canberra that on 4 August this month at the Australian Centre for Christianity and Culture there was the dedication and, although they did not unveil it, the unveiling of the mural wall of the Holy Spirit on our land. For those that do not know, the Centre for Christianity and Culture is part of the Charles Sturt University. It houses a number of things, including St Martin's theological. There is a chapel, there is a labyrinth, there is a biblical garden and now there is a splendid mural. The mural is the representation of the Gija people in the east Kimberley of their view of the Holy Spirit.

I will just read the explanation card: "Mural wall of the Holy Spirit in our land. This mural wall represents a painting depicting the Holy Spirit in our land by the late renowned elder, lawman and painter of the Gija people of the east Kimberley, Hector Jandany." In the painting the Holy Spirit is depicted in the form of the white owl of

the Gija people from Warmum to Texas down in east Kimberly, of which Hector Jandany, who was a Christian, the tribal custodian, said—and here are the words of Hector himself—“The Dreamtime owl, like the Holy Spirit in our land, watches over us here in our country, in our hearts and everything. He cares for us all here in the whole of our land.”

Hector’s original painting is in the collection now of the National Gallery of Australia, but it was actually commissioned by Sir William Deane, a previous Governor-General of Australia, and his wife. Sir William is on the board of the Australian Centre for Christianity and Culture. They thought it important for the centre to have interpretations and representations of Indigenous spirituality. If you have not seen it, this is a massive piece of art. It is probably 2½ or three metres tall by probably 12 to 15 metres long. It is made up of thousands of ceramic tiles. It was done by a firm called Mosaics by Morrisey.

Morrisey is a family. There is Mr Morrisey, Mrs Morrisey and three kids and all of them had a role in slicing up the individual pieces. From a distance the owl certainly stands out but, as you get closer, you can see the texture in the wall and when you get very close it is a very impressive piece of public art, but it is also a very expressive piece of the spirituality of one of Australia’s great modern artists, one of Australia’s great Indigenous artists. If you have not seen it, it is really worth a viewing.

I would like to thank Professor James Haire for his invitation to the opening. I just want to say that when you have people like Sir William and Lady Deane working on it and then Lowitja O’Donoghue comes and speaks about it and then you have people saying, “We’d particularly like to thank Jim Murphy,” it is another finger that Jim Murphy had in another pie of fundraising. Jim made a substantial effort towards the funding of this. I was very pleased that the centre presented to Margaret Murphy a small commemorative plaque in honour of Jim and his efforts in assisting the Centre for Christianity and Culture in their endeavours.

It is a great place. If you have not been, whether you are religious or not, there is some significant Indigenous art there now in the form of the mural wall. There are some large totems. There is a ceremonial fire. There is a labyrinth. If you do not understand a labyrinth, the tradition used to be that if you could not make the pilgrimage to Jerusalem to see the place of Christ’s death, you could walk this labyrinth and contemplate, and it is a whole series of turns. It is not unlike life: as you are getting close to the centre, it turns away.

There is a biblical garden. If you have ever wondered what all those plants in the Bible look like, well, they have got most of them there in a garden in Canberra, which is quite interesting. Then as you come over the rise and go down towards, I think, Bowen Crescent, there is a substantial piece of original native grasslands which the centre holds in trust for all of us. It is quite a wonderful facility to have here in the ACT and now quite a wonderful piece of Indigenous spiritual art here for all to see.

### **“Babies in Beans”**

**DR BOURKE** (Ginninderra) (6.02): Last Sunday I attended a very happy event at the Canberra Hospital on behalf of the Chief Minister. I participated in the awards

ceremony for Canberra's cutest baby in a beanie competition. The competition was organised by Leonie Keogh of Snowgum Studio to raise funds for the neonatal intensive care foundation. This year the judging was tough, with 139 babies entering the competition. The entry fee was \$30 and parents sought sponsors for their children. Two parents raised \$800 each. A total of \$9,900 was raised for the foundation by this event.

The neonatal intensive care foundation provides valuable equipment for the neonatal intensive care unit that is useful for the continuing improvement of the service but that is not available through normal government channels. Of course, the government remains the primary source of funding for the NICU, but community involvement through fundraising highlights the fact that Canberra is a community and allows people to show they care. Fundraising is an effective way of bringing a community together, especially when it has an entertaining result such as this.

I would like to thank the work of Mr Peter Cursley, chair of the neonatal intensive care foundation, and his board. The foundation also does great work in supporting research and education activities so that the unit can contribute to our knowledge of the problems of the newborn. I also acknowledge Associate Professor Zsuzsoka Kecskes, clinical director of the neonatal intensive care unit, and her staff. I understand the unit admits approximately 650 babies a year and that more than 150 of these babies need assisted ventilation using sophisticated equipment not available elsewhere.

Staff at the unit recognise the essential role of parents as part of the care team. Parents are not considered as visitors and are welcome 24 hours a day, seven days a week. The unit has also been the first neonatal intensive care unit in Australia to install a webcam so that parents can see their babies when they are unable to be at the hospital with them. This was launched in 2010, in January.

You may be aware that the ACT government has funded a new women's and children's hospital. The new hospital is being built at the north end of the Canberra Hospital campus around the existing maternity building, which will be renovated and incorporated in the finished facility. It will be a state-of-the-art, three-storey facility on the Canberra Hospital campus. Paediatrics, maternity services, the NICU, gynaecology and foetal medicine and specialised outpatient services will be co-located in one place. Construction began in July 2010 and stage 1 of the construction, involving an expansive extension, is being built beside the existing maternity building. It is expected to be operational in the first half of 2012.

Stage 2 will involve a major refurbishment of the existing maternity building and will be completed in the following year. The women's and children's hospital will provide 146 beds. It will also provide an increased number of ambulatory care—that is, outpatients—consulting rooms, clinical office space, education and training facilities and family accommodation. There will be a playground and landscaped spaces. The women's and children's hospital at Canberra Hospital will set the benchmark for women's, paediatric and newborn care within Australia. I congratulate the health minister on this additional funding.

In conclusion, I was very pleased to be part of the awards ceremony for the babies in beanies photo competition. The work carried out by the neonatal intensive care foundation contributes to our wonderful hospital and is greatly appreciated.

**World Youth Day  
Legislative Assembly—printed material**

**MR SESELJA** (Molonglo—Leader of the Opposition) (6.06): I recently had the opportunity, along with Dr Bourke, to farewell some of our World Youth Day pilgrims from Canberra. There are a number of Canberrans and people from our surrounding area, the Archdiocese of Canberra and Goulburn, attending World Youth Day in Madrid, and it was a great pleasure to see them off at the Rheinberger Centre a couple of weeks ago. I was jealous of them. It sounds like a lot of fun, and I am sure that those who go will have a great time.

But I would like to say that the welcome we received from Archbishop Coleridge and, indeed, from the Catholic Life Office and from Daniela Kesina and Shawn van der Linden was wonderful. I pay tribute to them for the wonderful work that they do. I think that these people are great ambassadors for Canberra and for our surrounding region. So we should be very proud of them going to Madrid on our behalf and representing Canberra, and I am sure that they will represent us very well.

I also wish to make a statement in relation to the circular to members yesterday. It was brought to my attention that there was, as reflected in your letter, Mr Speaker, a printing mistake made by a staff member in my office that saw material produced that was not within the guidelines of the Assembly. I subsequently asked for a report on the issue, and this was submitted to the Speaker on my authorisation and expressly confirmed by me personally.

I am advised the material was printed by a new staff member who had received an ambiguous instruction relating to printing from a USB flash drive where two documents were printed instead of one. One of those documents was an acceptable document relating to the business of the Assembly. The other was printed in error. The material was not distributed or used in any way. While I am satisfied there was no malicious intent to this issue and it was an honest mistake, it serves as a timely reminder of how diligent we all must be in this place.

At my instruction, all offices of the opposition have been reminded once more that, though mistakes can occur, I will look dimly on any further lapses in either attention to detail or judgement, whatever the circumstances may be. I offer my apology to the Assembly and thank the office of the Clerk for their assistance in resolving this issue.

**Organ donations  
Mix it Up exhibition  
Canberra Multicultural Environment Garden  
Arthritis ACT**

**MS BRESNAN** (Brindabella) (6.08): I want to briefly mention some events I have been to quite some time ago but have not had the opportunity to mention. First, I



attended a service of thanksgiving on 14 May this year at Old Parliament House, which the Chief Minister spoke at. It was an incredibly moving service. It was a service for transplant recipients and for family members or friends of people who had lost their lives and donated organs, a service of remembrance and thanksgiving for what these people had given in giving life to someone else but also for family members and friends to be able to remember these people who had lost their lives and donated organs.

We heard at this service from a family who had lost a brother and a son. I think they were incredibly brave to get up and tell their story, which would have been an extremely hard thing to do. We also heard from people who had received organs about what it meant to them in terms of really changing their life. And I think it was a reminder, and I think it should be a reminder for everyone, of how important organ donation is and that when family members do put this down as a request it should be recognised and honoured by family members and how important it is to people in terms of giving life.

I also attended, along with Ms Porter, Mr Doszpot and Mr Rattenbury, the opening of the Canberra Multicultural Environment Garden, which was led by the Canberra Interfaith Forum. The purpose of creating this garden, which is, incidentally, near Clare Holland House, is to promote environmental protection and sustainable living in Canberra, to encourage meditation on environmental heritage and caring for it, to enable hospice visitors to experience calm and harmony in nature, to promote mental and spiritual healing and multicultural reconciliation and to strengthen interfaith and multicultural links among all spiritual traditions.

The garden was supported by a number of groups and it was wonderful to see a wide variety of groups supporting the creation of this garden. They included the United Ngunnawal Elders Council, ACT Palliative Care Inc, the Little Company of Mary, the ACT Mental Health Foundation and the Mental Health Community Coalition. I congratulate everyone involved on creating this wonderful resource for the ACT.

I also attended a couple of months ago the opening of the Mix it Up exhibition, which celebrated the World Day of Cultural Diversity, at the Tuggeranong Arts Centre. The exhibition was opened by the minister, Joy Burch. It was an excellent exhibition provided by people from around the world and, as the brochure states, it highlighted their cultural experiences. They included Rosalind Lemonh from Sierra Leone, Mariana del Castillo from Ecuador, Ying Zhang from China, Reynaldo Valera from Cuba and Duncan Smith who is an Aboriginal artist.

As I said, it was a wonderful opportunity for these people to share their stories and explore cultural identities. It was about bringing different communities together and sharing that through art. I congratulate everyone involved at the Tuggeranong Arts Centre on putting together this wonderful exhibition.

Very quickly, another event I attended in June was a variety concert in aid of Arthritis ACT. It was held at the Austrian Australian Club in Mawson and involved performances by the Austrian Choir and the Forrest National Chamber Orchestra. The event was emceed by Tony Holland. I would like to acknowledge at this stage the

work by Tony at Arthritis ACT, as he has now left Arthritis ACT, and wish him well in his new position at OzHelp. OzHelp are an excellent organisation as well and I am sure I will be in touch with him in his work there. I congratulate Arthritis ACT on this wonderful event. It was extremely well attended and a wonderful day of entertainment in aid of providing funds to Arthritis ACT, which is an important organisation here in the ACT.

### **Presentation Sisters**

**MRS DUNNE** (Ginninderra) (6.13): This week marks the 125th anniversary of the arrival of the Presentation Sisters in Lismore and I thought that I would take this opportunity, as a daughter of the Presentation Sisters and one of their educational progeny, to pay tribute to the work that they have done in Lismore and the surrounding towns in that time.

Lismore is one of six congregations of the Presentation Sisters, which was founded in the mid-18th century at the height of the penal laws in Ireland in response to the lack of education provided to, especially, the poor in Ireland. In the mid-1880s, the Presentation Sisters, who had grown from their very small formation by Nano Nagle into a substantial group, started essentially missionary work in Australia and at various times went to Tasmania, Wagga, Queensland, Western Australia, Sydney and Lismore.

The Presentation Sisters, under the leadership of Mother Stanislaus, with two other nuns and five novices, arrived in Lismore in 1886, in August. They immediately commenced the operation of two schools: St Mary's college, a high school which became partly a boarding school; and St Carthage's primary school. At the time, Lismore was not a diocese. The local parish priest was Father Jeremiah Doyle; he was the one who had sought to bring them here and he eventually became the first Bishop of Lismore a couple of years later.

I want to pay tribute to the great work of the Presentation Sisters over those 125 years in the building of education—principally, but not solely, education for women. The school that I attended, just by example, from the year that I attended, turned out doctors, businesswomen, horticulturalists, physiotherapists, bankers, teachers, nurses, logisticians and politicians—many, but not all of them, mothers as well. There are many other professions as well—a huge range of public servants. The worth of the Presentation Sisters' contribution to education in Lismore and the contribution of the religious sisters' education to Australia in general should not be underestimated. It was marked with the canonisation of Mary MacKillop of the Cross last year and the founding of her order here in Australia, but there are many other orders that have made a significant contribution.

On the 125th anniversary of the arrival of the Presentation Sisters in Lismore, I say thank you to a range of sisters, some who are still with us and some who are not: Sister Carthage was the principal of my school when I started, when it cost four shillings a week to attend the school, so I started pre decimal currency; Sister Jude, Sister Assumption and Sister Charles, who were amongst those who saw me through my primary years; Sister Chanel, who ran St Mary's college for many years;

Sister Josephine, who taught me maths, not all that successfully, though it was not her fault; Sister Margaret, Sister Scholastica and Sister Damien; a range of music teachers and all of those people who contributed to the cultural life of many young women in Lismore. I pay tribute to them.

### **Freemasons Association**

**MR COE** (Ginninderra) (6.17): Earlier this month I was honoured to be invited to attend the grand installation of the right worshipful brother Mr Derek Robson AM as the new grand master of the United Grand Lodge of New South Wales and the ACT of ancient, free and accepted masons and the investiture of grand officers. Derek Robson is the 37th grand master to be installed since 1888 and holds the position after 33 years of service to the Freemasons in the ACT. Some of the past grand masters for the United Grand Lodge include Admiral Sir Harry Rawson, Lord Gowrie, Lieutenant General Sir John Northcott and, most recently, Dr Gregory Levenston. The event was held in Sydney at the Convention and Exhibition Centre at Darling Harbour; they hosted grand masters and delegations of Freemasons along with their friends and family from across Australia.

Freemasonry is steeped in history and is one of the world's oldest and largest fraternal organisations. The Freemasons Association of the ACT and New South Wales facilitates all of the activities of Freemasons in New South Wales and the ACT and is the social wing of the United Grand Lodge of New South Wales and the ACT. The association conducts various social events, promoting support for and contributions to the community. It holds charity activities on a regular basis and has been responsible for donating hundreds of thousands of dollars to worthy causes, including the Victorian bushfire appeal and the Queensland flood appeal. The organisation is also running a campaign entitled "Men's health—no more secrets", which was described in detail by the past grand master at the National Press Club in February 2007.

The organisation's new grand master is the National Secretary of the Returned and Services League of Australia. In addition to his role at the RSL, Derek is the Executive Director of the Australian Forces Overseas Fund, is Chairman of the National RSL Clubs and Licensed Sub-Branch Forum and represents Australia on the Royal Commonwealth Ex-Services League, providing assistance to all veterans of the commonwealth. Derek has already contributed much to the community through service in the Navy, the RSL, Rotary, the Freemasons and other organisations.

I would like to put on the record my support for the grand officers for 2011-12. Derek Robson will be supported by Deputy Grand Master the Right Worshipful Brother JR Melville, and the Assistant Grand Master, the Right Worshipful Brother W Mehanna. He will be supported by the right worshipful brothers E Maniago, F Pamplona, Reverend Dr JF Hely, Reverend PW Kilkeary, Rabbi Dr SH Tov-Lev, RK Collins, JE Armfield, WS Whitby, IR Newbery, GC Redfern, K McGlinn, CJ Craven, KC Taylor, A Georges, CF Sillince and J Baldwin; the very worshipful brothers LP Carter, AG Ebert, WV Sinclair, PE Robinson, PM Ratcliff, JR Angeles, JJ Begbie, CI Wattle, IN Cox, FJ Dunster and PL Miller; the worshipful brothers RK Murray, PA Howlett, N Mannoun, AV Owen and GW Singleton; and Brother ARB Slater.

The following worshipful brothers will be serving as grand stewards: B Akpinar, JB Bertram, PJ Bertram, AC Boyden, JE Brown, MA Cooper, RED Dixon, G El-Chami, DJP Eurlings, IM Galloway, KJ Gisborne, DP Goonasekera, RHM Hannon, KWJ Hunt, JM Le Faucheur, WT Lewis, RC Lloyd, BG Maples, PJ Mason, LM McComish, DBT McKay, RW Nash, RJ Reid, KW Reynolds, LB Smith, PJ Smith, RN Taylor, RE Weblin and DJ Wilson. The grand tyler will be the right worshipful brother GW Beatton.

A number of those people are actually from the ACT; I congratulate those in particular on their service in representing the entire United Grand Lodge and I wish them all the best for the year ahead.

Question resolved in the affirmative.

**The Assembly adjourned at 6.22 pm.**