Debates

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SEVENTH ASSEMBLY

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Tuesday, 20 September 2011

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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.

Privilege
Statement by Speaker

MR SPEAKER: I wish to make a brief Speaker's statement. On Monday, 15 August 2011 Mr Smyth, in accordance with standing order 276, gave written notice of what he considered to be a breach of privilege. The matter relates to the Standing Committee on Public Accounts' consideration of a nominee for the position of Auditor-General for the territory, in which the committee was faced with a nominee that was publicly announced, as well as approaches to the committee chair by the nominee and the Chief Minister. Mr Smyth provided me with a copy of the government's press release that was released on the same day that the committee was made aware of the proposed nominee, a copy of an article in the 3 June edition of the *Canberra Times* and copies of two emails sent by the chair of the committee.

Under the provisions of standing order 276, I must determine as soon as practicable whether or not a matter of privilege merits precedence over other business. In doing so, I should consider whether the issue is one of substance and is supported by the facts as presented. If, in my opinion, the matter does merit precedence, I must inform the Assembly of the decision and the member who raised the matter may move a motion without notice forthwith to refer the matter to a select committee appointed by the Assembly for that purpose.

As Speaker, I am not required to judge whether there has been a breach of privilege or a contempt of the Assembly. I can only judge whether a matter merits precedence.

In accordance with House of Representatives practice, upon receiving Mr Smyth's letter, I wrote to the chair of the committee asking her if she could inform me of the committee's view of whether the committee was of the view that the matter raised by Mr Smyth had caused substantial interference with its work or whether it has caused or was likely to cause substantial interference with the work of the Assembly committee system.

I received a response from the committee chair indicating that the majority of the committee was of the view that the matter had caused interference with its work whilst considering the proposed appointment of the Auditor-General but that the committee was unable to determine whether the interference was substantial. The committee chair also advised that the majority of the committee was of the view that the matter had the potential, if regarded as a precedent and repeated, to cause substantial interference with the scrutiny and oversight role that the parliamentary committees have on behalf of the Assembly with regard to the process of statutory appointments.

Having considered Mr Smyth's letter and the advice from the Standing Committee on Public Accounts, I am prepared to allow precedence to a motion to refer the matter to a select committee should Mr Smyth choose to move such a motion. For the information of members, I present the following papers:

Alleged breach of privilege—Copies of letters from—

Mr Smyth to the Speaker, dated 15 August 2011.

The Speaker to the Chair, Standing Committee on Public Accounts, dated 16 August 2011.

The Chair, Standing Committee on Public Accounts, to the Speaker, dated 7 September 2011.

Privileges 2011—Select Committee
Appointment

MR SMYTH (Brindabella) (10.04): I move:

That:

(1) pursuant to standing order 276, a Select Committee on Privileges be established to examine whether there was improper interference with the free exercise by an Assembly committee of its authority, in relation to:

(a) the announcement by the Chief Minister, in a press release, of the Government's proposed nominee for the position of Auditor-General;

(b) approaches made to the Chair of the Standing Committee on Public Accounts during the course of the Committee's consideration of the proposed nominee to the position of Auditor-General; and

(c) any other relevant matters;

(2) the Committee shall report back to the Assembly by the last sitting week in November 2011; and

(3) the Committee shall be composed of:

(a) one member nominated by the Government;

(b) one member nominated by the Crossbench; and

(c) one member nominated by the Opposition;

to be notified to the Speaker by 4 pm today.

Mr Speaker, this is a very important issue and it is a very important motion that is before the house. I would implore members to consider the principles that are at stake here in both what has happened and, as has been pointed out, the potential of what may happen in the future.

These matters are not raised lightly. The history of the Assembly shows that there are not too many privileges committees that have been established over time. But, when they are, they should be taken seriously, and they should be about serious matters. This is a serious matter.

What we saw was the nominee for the position of Auditor-General put in the public realm before the committee had the time to do its work, and to do its work properly, without undue pressure. What we had was a dramatic departure from the norm in this place for the last 22 years. To the best of my knowledge and searches, I cannot find another example of where the nominee has been put into the public realm—indeed, not just put into the public realm but heralded as the new Auditor-General for the ACT. And there is a media release from the Chief Minister on 31 May entitled "New Auditor-General for the ACT".

That is contemptuous of the process and it is contemptuous of the committee, where the Chief Minister goes out and names the nominee as though it were a done deal. And it is not a done deal, simply because this is the only appointment that has a process attached to it where the committee has a veto over that appointment. And it needs to be taken seriously, and it needs to be treated with respect. This is the only time that this has happened.

That was then followed up by approaches to the chair. Indeed, when we had a debate in this place recently over my resignation as the deputy chair of the public accounts committee because of this matter, the Chief Minister initially denied that she had spoken to the chair, and we had to ask her about it in question time, where she confirmed that she had. This is not how the process works. This is not how the process should work. The committee should be allowed to do its business without pressure.

Because of this pressure, because of the approaches and because of the press release, we then had the extraordinary and, I believe, unprecedented combinations of action taken by the public accounts committee in regard to a statutory appointment, which was to hold in-camera hearings with the Chief Minister and the head of the public service, who was also in charge of the selection committee. We were forced to ask for an extension of time so that we could consider this matter carefully, and consider it we did.

But it goes to the heart of what we were doing that forced me to write to you, in all good conscience, Mr Speaker. This matter, I think, has serious ramifications for all committees down the track. Indeed, Mr Speaker, you asked us two questions. For members that do not know the process, it is simply that when a member wants to raise a matter of privilege, they write to the Speaker. If it is a matter concerning an activity that occurred in committee, the courtesy is given to the committee so that the committee can make a determination and inform the Speaker of their view.

In this case, Mr Speaker, you wrote to the committee and you asked two questions: (a) with respect to the manner in which the appointment was raised, had it caused substantial interference with the committee's work while considering the proposed

appointment of the Auditor-General; and (b) had it caused or was it likely to cause substantial interference with the work of the Assembly's committee system.

The committee considered this, as is appropriate, and we responded to you through the chair, Ms Le Couteur, on 7 September this year. In regard to the two questions, basically, both (a) and (b), yes, the committee believed there was interference. In regard to question (a), it was hard to determine what the effect of that interference was, but in regard to question (b), yes, the committee did believe that there was substantial interference. On those grounds, members, where you have a committee saying that it has been interfered with in a substantial way in the course of its duty, the only course you have to follow today is, of course, to appoint a select committee on privileges to inquire into this. If we do not protect the way that our committees function, if we do not protect the way in which statutory appointments are made, if we do not as committees hold the government to account, of course, we are diminishing this place, we are diminishing our responsibility and we are letting down the constituents that put us here. I will read from the letter that came back from the committee:

> The committee duly considered your correspondence at its private meeting on 30 August 2011. On behalf of the committee I wish to advise with regard to point (a) that the majority of the committee was of the view that the matter raised by Mr Smyth had caused interference with its work.

So the majority of the committee believed we had been interfered with in the processes that we were following. We had been interfered with in our quest to ensure that the appointment of the new Auditor-General was appropriate and had followed good process and good governance. What did the committee find? We had been interfered with. It goes on to say:

> However the committee was unable to determine whether the interference was substantial.

Some of that, of course, is subjective. But the important thing here is that the committee found there was influence and it had caused us trouble with our process.

In regard to point (b), in a way, point (b) could be even more important than point (a). Point (b) is: "Is it interfering with the committee system and does it have the potential to interfere with the committee system and its processes into the future?" Because remember, members, if we set a precedent today, that precedent is incredibly hard to undo.

What I am asking you to do today is to send this matter to a committee for a committee to determine and make recommendations back to this place so that we get this right for the future, so that this does not happen again, so that committees are not interfered with by the executive and, indeed, so that committees are not interfered with by the Chief Minister, who should set the example. Indeed, on coming to office, the Chief Minister said that there would be a new era of openness and accountability. Instead what we had was this attempt to subvert the process of the committee to appoint the new Auditor-General on which the committee has now found there was interference.

In regard to (b), it is worth reading it out:

> I wish to advise with regard to point (b) that the majority of the committee was of the view that the process undertaken by the ACT government itself in the lead-up to the appointment of the new Auditor-General being made, ie the public announcement of the proposed nominee prior to the committee considering reporting on the nomination, had the potential, if regarded as a precedent and repeated, to cause substantial interference with the scrutiny and oversight role parliamentary committees have on behalf of the Assembly with regard to the process of statutory appointment.

That is what the committee determined—that there was the substantial interference with the committee and that it may lead to substantial interference in the future as well.

I think the case is quite clear. I have more documents here if people want me to read them. We have already canvassed some of the issues when I resigned. But I think the point is that the committee found that there was interference, and that is something that is not to be tolerated.

I believe the easiest way to go ahead with this is to form the committee that I have suggested. What I am suggesting is that, pursuant to standing order 276, a select committee on privileges be established to examine whether there was improper interference with the free exercise by an Assembly committee of its authority in relation to the announcement by the Chief Minister in a press release of the government's proposed nominee for the position and approaches made to the Chair of the Standing Committee on Public Accounts during the course of the committee's consideration.

These are very simple matters. They should be resolved. The Speaker, upon receiving my letter and getting the information back from the public accounts committee, has given precedence to this matter today. I would simply say that if we do not take a stand today, what you will do is leave the door open for the corruption of the committee process into the future. And that, members, is unacceptable.

It is important that where serious concerns over process are made, particularly over the governance that the government has had in this matter, we do investigate them. Upon becoming Chief Minister, Ms Gallagher did promise a new era of openness and accountability, yet one of her first actions was to move away from the established process for dealing with statutory appointments, placing unnecessary and undue pressure on the public accounts committee in both her written and verbal comments.

Members, as a consequence, I have now moved this morning to establish a select committee to inquire as to whether the Chief Minister has committed a breach of privilege through interfering in the committee process. I commend the motion to you.

MR HARGREAVES (Brindabella) (10.14): I thank the manager of government business, the Attorney-General, for allowing me to speak before him. You will note, Mr Speaker, that the letter to you from the committee said that the majority of members said X, Y and Z. I think it is reasonable that the minority view be on the public record. I was the person who put forward that minority view. I wish to reiterate the comments that I made in the meeting and try to bring some semblance of perspective to that particular case.

Mr Speaker, the first question being put to this Assembly is whether substantial interference occurred. I would argue that interference did not occur at all. In fact, there were two issues on which Mr Smyth bases his case. The first one is the presentation to the community of the media release from the Chief Minister and the second one was a series of approaches made to the chair.

Let me deal with the second one first because I know that Ms Le Couteur is listening, although she does not appear to be. I want to have the record show, in fact, that when the approaches were made to the chair, Ms Le Couteur did absolutely the correct thing and said, "I do not wish to engage in the conversation; it is inappropriate." That will happen, Mr Speaker, forever. People will always try, if they feel as though they need to, to put a case before you. But, of course, these approaches were inappropriate. They were dealt with and they will be dealt with exactly the same going forward. Was there any interference in that? No.

Mr Seselja: You are making the case.

MR HARGREAVES: Mr Speaker, would you please ask Mr Seselja to be a little more courteous to the gravity of this particular subject.

MR SPEAKER: Mr Hargreaves, you have the floor.

MR HARGREAVES: It is not acceptable. Mr Speaker, as a member, I did not feel that I was interfered with by people's approaches to Ms Le Couteur. Quite the opposite, Mr Speaker. When Ms Le Couteur quite properly advised me that approaches were being made I felt comforted by her response—that, in fact, there was no, if you like, introduction into the committee deliberations. That was because Ms Le Couteur had dealt with it properly at the time. Was there substantial interference by that matter, therefore? No. Any reasonable person would assume no, there was not. Was there any interference at all? No, there was not because Ms Le Couteur dealt with it as the chair and she dealt with it very well.

I come to the issue of the press release. Mr Speaker, one of the hallmarks of the transition of Chief Minister to Katy Gallagher has been, some would say, her obsession with being transparent and making sure that the community out there in the ACT knows exactly what is going on, what is in the mind of the government. I would put it this way, Mr Speaker: this government under Katy Gallagher's leadership is engaging with the community in the contemplative stage before a decision is taken. Indeed, it was acknowledged in this press release that it is, of course, with the public accounts committee for advice.

What we need to understand is the impact of a press release on the deliberations of members. Mr Smyth has been in this place for as long as I have—quite a long time. I cannot imagine him being interfered with by the production of one press release and, indeed, that applies to Ms Le Couteur as well. I can imagine that if there were a series of press releases put out actually putting forward a given position hoping to garner community support for a particular position. But that was not the case. What we had was one single media release. What flowed from that, Mr Speaker, was an expression

of unhappiness, if you like, from Ms Le Couteur. Instantly there was an offer to address the committee.

It is unprecedented in the history of this place that the Chief Minister of this territory would make an offer to a committee to appear before them in Canberra with her CEO and discuss the issues of how this appointment came about, how it was to be recommended to the PAC. Instead of saying to the Chief Minister, "Thank you very much for the additional information," what we see is the introduction of a proposed privileges committee.

There was no interference. Therefore, there was no substantial interference by definition. The question also before us, Mr Speaker, is whether there is likely to be into the future. Can I say on that issue that Ms Le Couteur's treatment of those overtures was a salutary lesson to us all? Will it happen into the future? No.

I would hope that chairs of committees into the future would disport themselves exactly the same as Ms Le Couteur did with the authority of her office. She will then come back and share her discomfort. Nonetheless, the issue itself was dealt with and I would expect every person appointed as a chair in this place or to a committee of this place to behave exactly the same. I have been a chair in this place. I know what the heaviness of that responsibility is. Again, I think Ms Le Couteur's behaviour in this instance is a good lesson to us all.

Does it need anything done about it going forward? No, it does not. It is quite clear what should have been the case. She was quite right. She said that it is inappropriate to discuss the matters. Bang! Game over, in my view. So that will not happen. There will be no interference with committees by someone approaching a committee going forward, unless there is a chair that does not know how to behave.

Was there likely to be interference going forward by the production of one media release? There was one media release. In fact, if you drill down into Mr Smyth's argument, it is about the headline of that media release. That headline sort of gave the impression that there was a done deal when, indeed, later on in the press release it indicated that the matter had to go before the public accounts committee. It would not be the first time that somebody has had a headline about themselves appear because of a headline printed or published in a media release which was actually not on, not right, not correct. It would not be the first time. But in the substance of the media release, it is actually factual.

Mr Speaker, is it likely to go forward? Is this likely to be a dramatic assault on the democratic process in this territory? I do not think so. What, in fact, is this, Mr Speaker? Mr Smyth did not like the process and he did not like the outcome. The fact is that Mr Smyth is not a minister in this territory. In fact, he is the only person who was a minister in this territory and who has been booted out by the community. That is a salutary comment. He was not happy with the selection process because he was not happy with the selection criteria. My advice on that is that if you are unhappy about that, get into government and change it. But that will not happen in the short term either, will it?

Mr Speaker, the government of the day is entitled to select its statutory officers on the criteria that it sets. This parliament is not the interviewing panel for appointments. It is not the interviewing panel for the Auditor-General, Mr Speaker. It is not. If you have a look at the authority of the PAC, it is to reject something. It is not to set it up. It is not to select the criteria. It is not to conduct the interviews. It is, in fact, to make a position known to this chamber on the position put forward to it by the government of the day.

The committee can say, "We are not happy with the selection criteria; government, please change it going forward." I do not have a problem with that. That is an advisory. But Mr Smyth was not happy because the applicant who succeeded did not meet his personal criteria for the appointment as an Auditor-General. He twisted and turned the requirements under the act.

Mr Smyth: Relevance.

MR HARGREAVES: I do not have to be relevant, Mr Smyth.

Mr Smyth: Yes, you do.

MR HARGREAVES: I do not. This is a privileges committee debate. This is a privileges committee debate and this is a very serious matter. I think you are treating this thing with a comical contempt. In fact, I thought better of you in the past and I am bitterly disappointed that you take this attitude.

Mr Speaker, I contend that there was no interference. I would also contend that the likelihood of interference going forward is not there. I would also contend, Mr Speaker, that the convening of a privileges committee will do nothing more than perpetuate this conversation and do exactly what Mr Smyth wants: give him a platform where he can spruik his particular opposition to this particular appointment. The fact is that the appointment has been made. It is a good appointment. I was there when Mr Smyth congratulated the new Auditor-General on her appointment. Yet we are talking about a process.

We will have before this chamber a conversation around whether or not the Auditor-General should be an officer of the parliament. That time is the perfect time to look at the criteria of appointment. It is a good time to look at the length of term that the Auditor-General should enjoy. It will be the time when we will look at the relationship of the parliament to that position, the relationship of the public accounts committee to that particular position. It is not to engage in what I perceive to be an exercise in just putting one's own view about an appointment process on the record as often and as frequently as one can.

Mr Smyth's motion should be rejected. I understand the depth of his feeling and I actually acknowledged that in the committee. But you also have to ask yourself, Mr Speaker, what this privileges committee will actually achieve. What will it do? I will have to answer the question by saying, "Not much." The first part was dealt with appropriately by Ms Le Couteur. The second part was only one press release and not a campaign.

The likelihood of it going forward does not exist because Ms Le Couteur has shown us the way there, if it has not happened already as a precedent. The likelihood of a campaign to influence a committee can be dealt with at the time that it occurs. Mr Speaker, this is a very serious issue and we should just say to Mr Smyth, "Thanks but no thanks."

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) (10.27): Mr Speaker, the case has not been made out this morning for the establishment of this privileges inquiry. The fact is that the Chief Minister's statement of 31 May this year said nothing more than the facts.

What did the Chief Minister's statement say? It said that the government was announcing the proposed, and I emphasise "proposed", appointment of Dr Maxine Cooper to the office of the ACT Auditor-General. It went on to say that section 8 of the Auditor-General Act requires written notice of the proposed appointment to the public accounts committee of the Assembly and inviting the committee to consider the proposed appointment.

The Chief Minister said on 31 May:

> I have written to the Chair of PAC informing them of the Government's nominee for Auditor-General of the ACT and I look forward to formalising the appointment once the PAC has considered our recommendation.

Those are the facts, Mr Speaker. That is what the Chief Minister's statement was. It was a statement of the facts.

This is an important appointment. This is an appointment that attracts significant interest in the broader community. It was entirely reasonable for the Chief Minister to advise the community of who the government was proposing for appointment to the PAC. The question that Mr Smyth has to answer and that the Liberal Party have to answer is this: how does that media statement constitute undue or improper influence?

What Mr Smyth is arguing is that in his view, there may have been a contempt. Contempt is set out in the standing orders. Standing order 277 and, in particular, standing order 277(a) is relevant. The standing order states:

> A person shall not improperly interfere with the free exercise by the Assembly or a committee of its authority, or with the free performance by a Member of the Member's duties as a Member.

Mr Smyth has to make out how the issuing of that factual press release constitutes an improper interference with the activities, in this case, of the public accounts committee. Concepts of undue influence come into play here, Mr Speaker. Undue influence is generally understood to mean that a person is induced not to act of his or her own free will. How is it, Mr Speaker, that the issuing of a factual press release stating a proposed appointment and making it clear that the appointment was contingent on the comments of the public accounts committee, consistent with the Auditor-General Act, constitute an undue influence? The case simply is not made out.

The issuing of the statement does not, and did not, infringe the capacity of the PAC or its members to freely exercise their duties and functions. I have not heard anything to suggest otherwise. That is the fundamental failure with this piece of political posturing from those opposite. Are they seriously suggesting that the issuing of a factual media statement amounts to an undue influence such that it will force members of the public accounts committee to act against their own free will?

Are we all such wilting violets in this place that we cannot take the issuing of a media statement against us by another member? That is not even what occurred in this case. We suffer the slings and arrows of throwing insults and jibes at each other across this chamber and through the media on a daily basis. No-one suggests that that in some manner impacts on our ability to act according to our own free will in exercising our decisions in this place.

Yet Mr Smyth wants to make the argument that because the Chief Minister issued a factual media statement about a proposed appointment, subject to confirmation and advice from the public accounts committee, it is in some way an undue influence. It is an absurd proposition. Members in this place should reflect on that. They should reflect on whether or not you can reasonably make out a case for undue influence, the coercion of members to act against their free will, because that is what contempt is about and that case has not been made out, Mr Speaker. For that reason, the government would ask members not to support this motion today.

MS HUNTER (Ginninderra—Parliamentary Leader, ACT Greens) (10.33): It is unfortunate that the first time we see the text is this morning. It does mean that it is quite a quick turnaround and we do not have the time for the proper consideration that these sorts of matters really should be given. I think it is important that when we do get to matters of this importance, we do take that time to reflect, to be able to look at it in detail, rather than to be, I guess, put on the spot in many ways.

It is also important that we have a process that will look into these matters and consider these matters. There have been some issues—some important issues—raised in Mr Smyth's motion. In this place privileges committees can be set up to be able to do that reflection, to be able to look, to be able, I guess, to delve deeper to find out what has gone on and whether proper processes have been followed.

I think that both sides have reflected on a letter that was sent this morning. We had the situation where the name of the proposed Auditor-General was released publicly before the Standing Committee on Public Accounts had the opportunity to be able to look at that appointment. PAC did have a veto on that appointment. There was a feeling that this was disrespectful of those committee processes. It is my understanding that there has been some correspondence along these lines.

The Greens believe that we need to look at ensuring that committees in this place are respected, that their processes are respected at all times. They are a very important part of any parliament. In this case what is being put forward is that there were some issues around that name being publicly released while that committee had still to meet and also to deliberate on that appointment. Mr Smyth has obviously included that in his motion this morning.

As I said, we believe that the committee will be the place that can explore these issues. The process is far from ideal. Whilst I do say that, I think that proper investigation will provide the outcome that is probably needed. It would have been better to have some more time today. Unfortunately, that is not to happen but the Greens will support Mr Smyth's motion to send this matter to a privileges committee.

MS GALLAGHER (Molonglo—Chief Minister, Minister for Health and Minister for Industrial Relations) (10.36): It appears that the Select Committee on Privileges will be established. I will just put some comments on the record today. This is not around many of the issues Ms Hunter has just spoken about—that is, whether committees are given proper respect. This inquiry is actually to examine whether there was improper interference with the free exercise of an Assembly committee or its authority. So I think we just need to be clear what the privileges committee is actually being established to inquire into.

If I can reflect on this from my own point of view, I came to this role with an openness and transparency agenda. I saw no reason—indeed the law provided no reason—for me to withhold the preferred nomination of the Auditor-General from the community. This is something I thought about. We are doing a lot of new things in this government in terms of providing information to the community. We are publishing cabinet outcomes and we are putting more reports online that have not traditionally been made public. I saw no reason why making public a government nomination, subject to appropriate processes, was in any way in conflict with the work of the committee or, indeed, why I should keep that nomination secret, which is what Mr Smyth appears to think I should have done. Nobody has really provided me with a reason why I should have done that.

If, of course, the Assembly wants to take a view that all government nominations to appointments need to be kept secret from the public, then let us have that debate and stand up and argue why a significant appointment like the Auditor-General and a proposal by the government for that position should be kept secret.

In relation to the process, I wrote to the chair of the committee. That letter was transferred to her office. I later found out that that letter was then transferred unopened to the committee office where it was opened later. My intention was to provide the committee with notice, ahead of the issuing of that media statement, of the proposed nomination. That did not happen. I cannot answer why that did not happen other than I made every effort to make sure that that information was provided to the committee ahead of the media statement.

I also spoke with the chair of the committee when I was made aware that the public accounts committee were cross about the information being put out in the public. That discussion was most genuinely from me to say sorry, that I had not intended to cause the committee any offence and, indeed, that I would be more than happy to work with the committee to address any concerns that they had.

Again, I am very happy to be judged by my peers in this place. I am very confident that the steps I took were in accordance with the agenda that I am running as Chief Minister but also in accordance with the law. For Mr Smyth to feel that he was unable

to make a comment or felt interfered with in making a decision because of a factually correct media statement is simply laughable. I think many of us in this place, considering the conduct of members in this place, would find that laughable. For Mr Smyth, the shrinking violet, to all of a sudden feel incredibly compromised in the very senior position he holds on that committee because a media release has gone out is simply laughable.

This is politics, plain and simple. Fair enough, happy to be judged by that. But let us be clear what it is about. Mr Smyth, if you do not want government nominations to be made public, then stand up in here, move amendments to legislation and argue why government proposed nominations in a factually correct media release announced to the community should be withheld from the community. I would like to see you successfully argue that point in here. But a privileges committee will be established. I look forward to participating in that, and I look forward to clearing any political attack on me through that process.

MR SMYTH (Brindabella) (10.41), in reply: Thank you, members. Just to respond to Ms Gallagher, the statement has been made by Ms Gallagher and Mr Corbell that her press release is factually correct. Well, I think you can call into account just the last paragraph where the Chief Minister says:

> … I look forward to formalising the appointment once the PAC has considered our recommendation.

Not "I look forward to PAC making a recommendation and then we'll formalise the process". That paragraph assumes PAC is just a rubber stamp, and that is the problem with this process. The only defence that the government seems to have is "it's just politics". Well, it is not just politics. If you had a sound defence, you would have put forward the sound defence.

I thank Mr Hargreaves for actually making the case. He says, "Why did she do it?" People will always try; that is what he said. When I was a chair of a committee I cannot remember people trying to influence me on a statutory appointment. People do not always try, and if you know of examples where people always try, then you should have brought them to committees before this, because if you have not as a committee chair brought to the attention of the committee where people have tried to influence you in an appointment, you are letting down the committee system. So, thank you, Mr Hargreaves. As always, you confirm the admission and you make the case.

Mr Hargreaves went on to say, "The onus is on the chairs to do the right thing." The onus should not be just on the chairs. The onus is on all of us, particularly ministers, to behave properly in the execution of our duty. I have complimented Ms Le Couteur before because, when she was approached on two occasions, she brought it to the attention of the committee. Why did she do that? Because she had concerns. Now Ms Le Couteur can speak for herself as to what those concerns may well have been, but she made it quite clear to the committee that she had been approached. In the three years that Ms Le Couteur has been chair of the public accounts committee, that was the first time she has ever written an email to me to say, "I've had this

approach." Why? Because she obviously had some sort of concern about that.

When you get to Mr Corbell's case you get the ridicule. We expect that from Mr Corbell. When he cannot debate an issue on the issues, you go the ridicule line. The point is this: the committee, the majority of the committee, said they had concerns. On the two issues you asked about, Mr Speaker, they found, yes, there was attempted influence in both; could not work out whether it was substantial in the first but did agree that, in the second case, if regarded as a precedent and repeated, it would cause substantial interference with the scrutiny and oversight roles parliamentary committees have on behalf of the Assembly. That is the nub of what we are discussing today.

It does not matter whether it was one influence, whether it was one press release, whether it was one word—it should never happen. If you want a full debate on the whole issue of statutory privilege, let us have that debate. But this is why governments in the past have not made these appointments public, so that the committees could do their jobs without any influence at all, whether serious or not. It is to allow the committees—which are a vital part of a unicameral system—to do their jobs without any interference at all.

Again, I refer to the tone of the press release. It starts with "New Auditor-General for the ACT". If anybody read that, they would assume that is an appointment. Let us face it, a lot of people read the headlines and go, "Okay, we've got a new Auditor-General," and they just move on. The whole point is that this is the first time this has happened. At the end of the press release is the assumption that the public accounts committee is simply a rubber stamp because the nomination has been made.

I had serious concerns over the process followed by the government in relation to the appointment of the new Auditor-General, in the governance of the whole issue and the process that was followed. That led me to write to you, Mr Speaker, and I thank you for determining that the matter does have precedence over other business. It is interesting that, upon becoming the Chief Minister, Ms Gallagher promised a new era of openness and accountability. But this is the only appointment in that time that has been made public.

One of her first actions was to move away from the established process for dealing with statutory appointments, a process about which I am not aware of any complaint. I have been on committees that sent appointments back to government and asked for additional information, and I have been on committees that have questioned the process, but it has always been done in the privacy of the committee so as not to, in a way, embarrass the government by facing rejection of their nominee and also not to embarrass the individual who might have thought they were about to be appointed to something to find they had been rejected. If we want people to come forward to be nominees for government positions, then they deserve to be given that courtesy. Indeed, this has probably caused the new Auditor-General a great amount of discomfort as well.

We have supposedly got this new era of openness and accountability, but it was done at the expense of the committee system, and that is unacceptable. One of her first

actions was to move away from the established process, the process that has served us very well. That is why I am moving this motion this morning, and I thank members for their support.

Question put:

> That **Mr Smyth's** motion be agreed to.

The Assembly voted—

Ayes 9		Noes 6	
Ms Bresnan	Ms Le Couteur	Mr Barr	Mr Hargreaves
Mr Coe	Mr Rattenbury	Dr Bourke	
Mr Doszpot	Mr Seselja	Ms Burch	
Mrs Dunne	Mr Smyth	Mr Corbell	
Ms Hunter		Ms Gallagher	

Question so resolved in the affirmative.

Leave of absence

Motion (by **Mr Hargreaves**) agreed to:

> That leave of absence be granted to Ms Porter for this sitting week due to her attendance at a CPA Seminar in Brisbane.

Petition

The following petition was lodged for presentation, by **Mr Doszpot**, *from 621 residents*:

Arawang primary school—petition No 126

> **TO THE SPEAKER AND MEMBERS OF THE LEGISLATIVE ASSEMBLY OF THE AUSTRALIAN CAPITAL TERRITORY**
>
> **This petition of certain residents of the Australian Capital Territory draws to the attention of the Assembly that:**
>
> The Arawang Primary School has announced plans to move their Early Intervention Unit from the Waramanga Pre-school campus to the Weston Pre-School campus from 2012 onwards, displacing half of Weston Pre-Schools' enrolments to the Waramanga campus. This decision was made by the Arawang Principal and Primary School board without any consultation with the Weston Creek community, part-way through the pre-school enrolment process for 2012.
>
> For many families this change at such a late stage has caused serious disruption and upset for parents who have made enrolment decisions based on the belief their child would be able to attend the Weston Campus.

> While we recognise the intention of the decision is to better facilitate the process of transition there has been no consultation with parents of the Weston Creek community and their views were not sought before this decision was taken.
>
> Your petitioners therefore request the Assembly to:
>
> Urgently request the Government to overturn the decision made by the Arawang Primary School, so that Weston Preschool retains its two mainstream classes and in future that such decisions on feeder school planning are not taken without full consultation with the communities that are affected and before pre-school enrolments commence.

The Clerk having announced that the terms of the petition would be recorded in Hansard and a copy referred to the appropriate minister for response pursuant to standing order 100, the petition was received.

Ministerial responses

The Clerk: The following responses to petitions have been lodged by a minister:

By **Mr Corbell**, Attorney-General, dated 22 August 2011, in response to a petition lodged by Mr Hanson on 21 June 2011 concerning the introduction of a needle syringe program at the Alexander Maconochie Centre.

By **Mr Corbell**, Minister for the Environment and Sustainable Development, dated 22 August 2011, in response to a petition lodged by Ms Porter on 29 June 2011 concerning a proposed 7/11 store at the Spence shops.

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

Alexander Maconochie Centre—drugs—petition No 120

The response read as follows:

> I refer to the petition lodged in the Legislative Assembly on 21 June 2011 on behalf of 234 Custodial Officers and associated employees at the Alexander Maconochie Centre (AMC) expressing their opposition to the introduction of a needle and syringe exchange program (NSP) within the AMC and their concerns regarding the implementation of such a program.
>
> I note that the government has received a report from Mr Michael Moore of the Public Health Association in regard to the proposal to have an NSP at the AMC. The report has examined potential models, how they work within the prison setting, barriers to implementation and how to overcome them. Mr Moore undertook a broad range of consultations with key stakeholders.
>
> The report has made seven (7) recommendations and the Government will now consider the recommendations, and seek the views of the community about the report, prior to finalising its response.
>
> The Government welcomes feedback from stakeholders to assist it with its final consideration of this very important issue.

The Government acknowledges the interests of the CPSU and staff of the AMC and can assure them that staff safety will be a key factor in any decision the Government makes in regard to this matter.

Planning—Spence shops—petition No 123

The response read as follows:

I refer to Petition No 123 lodged by Ms Mary Porter AM, MLA and received by the Assembly on 29 June 2011. The petitioners draw the Assembly's attention to their concerns about a proposed 7-Eleven shop at Spence, and the possible effect on existing automotive repair businesses and other small businesses at the Spence shops.

I am advised by the ACT Planning and Land Authority (ACTPLA) within the Environment and Sustainable Development Directorate that is has received a proposal for alterations to the existing service station to accommodate a 7-Eleven convenience shop. Further documentation has been requested from the proponent before the proposal can be formally lodged as a Development Application (DA).

Once a DA is lodged, it will be publicly notified in accordance with the *Planning and Development Act 2007*. Notification involves a notice in the Canberra Times, a sign on the land advising how representations may be made, and written notification to immediately adjoining neighbours of the subject land. Representations may be made by any member of the community who has a concern with the proposal. ACTPLA has the responsibility for assessing and determining DAs.

ACTPLA will undertake this assessment against the requirements of the Territory Plan, and will carefully consider representations made and any advice received from other government agencies and utilities. Concerned citizens should be advised to take the opportunity to express their concerns when the DA is publicly notified.

I trust that this information is of assistance to the Assembly.

MR DOSZPOT (Brindabella), by leave: Mr Speaker, I take great pleasure in supporting this petition on behalf of 621 parents and friends associated with the Weston preschool. I would like to put on the record that the minister for education, who graced us with his presence briefly here this morning, did not see fit to listen to what this position is about.

This petition is one driven by passion and frustration at a system that is driven by high-handedness and a serious lack of consideration and consultation. To familiarise the Assembly with the issue, as in every school year, and like preschools around Canberra, enrolments for the Weston campus of Arawang preschool opened in May this year. Like most parents, the parents of children in the Weston area considered their choices. For many in the Weston area, they chose to enrol in Weston preschool. As more than one parent has told me, "We based our decision on the reputation of the preschool, the Weston preschool community and research on surrounding schools."

In August of this year parents received a letter from the Arawang primary school to advise them that the school principal and board had decided to change the mix and offer. Instead of two mainstream preschool classes at Weston preschool, the early

intervention unit was to move from Waramanga to Weston and one preschool class was to move from Weston to Waramanga. For half the 2012 enrolment this meant that their campus had changed. And that letter in August was the first time that parents had heard of the changes.

Naturally, a meeting was called by the parents association of Weston preschool to seek an explanation from the principal. At that meeting on 1 September, the principal suggested that the decision had been made based on a finding in the *Snapshot of early childhood development* national report in 2009. She later confirmed that the decision would not be reversed.

There are a number of very disappointing aspects to this. Firstly, there is the absence of any consultation at least with the parents of the preschool children who would be most immediately affected. The principal admitted that the decision had been taken after discussion with the board and with the preschool teachers. In those discussions and deliberations, did no-one stop to think that perhaps the parents of children who were seeking enrolment for 2012 might like a say or perhaps sufficiently early advice that other choices could be made? Obviously not. Enrolments were sought from parents, presumably in the knowledge that the Arawang preschool would be unable to take half the intended enrolment.

There is also this presumption that preschool parents should not, or need not, give any deep consideration as to whether their child attends preschool. That assumption is confirmed by parents who were at that meeting, who suggest that the principal seemed almost surprised that they were making such a fuss over a preschool program that was not compulsory anyway.

The school principal and board also seemed not to realise that the timing of their decision was extremely poor. Such a decision, if it should be made, should be done in a timely manner, not halfway through an enrolment period. The relatively late announcement leaves parents with little choice if they wish to seek alternative preschools. We now have parents with little or no information as to what other options they have.

I understand that another complication is that days on offer vary between campuses. So, irrespective of what transport arrangements have been made on the incorrect assumption that a child will be attending a particular campus, there is the added complication that for some the days also vary.

I know that over recent weeks many parents have emailed members of the Assembly, including the education minister and the Chief Minister. The Chief Minister, on the ABC's Chief Minister talkback last Friday, did promise one caller that she would look into it. Parents also met with ministers at Kambah on Saturday morning. Those who were there will know how angry parents are that their opinions and choices have been ignored.

I hope that this petition, signed by 621 very angry and very concerned parents and friends, and collected over just five days, attracts the Chief Minister's attention and a sensible outcome. These families have been treated very poorly. They should have been consulted. The decisions that have been taken were not taken in a matter of

weeks or months; they must have been under consideration and discussion for some time.

Why were the parents of 2012 enrollees not considered? Why were they ignored? Why does this government always turn education issues into such warfare? They did not consult over school closures; they are not consulting with the community, or indeed this Assembly, over changes to tertiary education. They cannot seem to negotiate harmoniously with teachers over pay and attendance records. And now they have upset a whole new set of parents with a cavalier attitude to preschool changes.

I thank the parents who drew this issue to my attention. I recognise their support for this issue and their petition by their presence in the public gallery here today.

Justice and Community Safety—Standing Committee
Scrutiny report 42

MRS DUNNE (Ginninderra): I present the following report:

> Justice and Community Safety—Standing Committee (performing the duties of a Scrutiny of Bills and Subordinate Legislation Committee)—Scrutiny Report 42, dated 15 September 2011, together with the relevant minutes of proceedings.

I seek leave to make a brief statement.

Leave granted.

MRS DUNNE: Scrutiny report 42 contains the committee's comments on six bills, 40 pieces of subordinate legislation and five government responses. The report was circulated to members when the Assembly was not sitting. I commend the report to the Assembly.

Public Accounts—Standing Committee
Statement by chair

MS LE COUTEUR (Molonglo): Pursuant to standing order 246A, I wish to make a statement on behalf of the Standing Committee on Public Accounts relating to the committee's inquiry into Auditor-General's report No 6 of 2009: *Government office accommodation*.

Auditor-General's report No 6 of 2009 presented the results of a performance audit that reviewed whether ACT government office accommodation had been strategically managed in an efficient and effective manner. The audit specifically focused on the strategic planning and the management processes, and the compliance with requirements specified in the whole-of-government accommodation strategy.

The committee resolved to inquire further into the audit report, firstly on the basis that the management and delivery of government office accommodation are an important public sector issue. This includes the fact that in some jurisdictions government office accommodation can form the second highest recurrent cost component for government agencies and departments after employee costs; the fact that government

office accommodation can make a key contribution to the successful achievement of government objectives and the delivery of government services to the community; and the fact that government office accommodation provides a functional, safe and accessible workplace for employees. The committee's resolution was made secondly on the basis of the audit findings and thirdly on the basis that any lessons arising from the inquiry may provide useful input for consideration by the government as part of its proposal to consider a whole-of-government office accommodation building project.

The committee's inquiry frame, whilst allowing for examining the findings of the audit report, is forward looking and is focused on best practice planning, acquisition, management, delivery and utilisation of government office accommodation.

The committee tabled an interim report on 15 February this year, as it believed its position with regard to the new government office accommodation building proposal should be brought to the attention of the ACT Legislative Assembly. The committee's interim report made specific comment and three recommendations in relation to the proposal to construct a purpose-built government office building as the government's preferred accommodation option. This included comment on the decision-making process in the context of the Canberra property market; reuse of existing office accommodation buildings versus new construction; opportunity cost of using resources for the construction of a purpose-built government office building, as measured against other projects that may be deferred; and development of the whole-of-government office accommodation strategy. In its response to the committee's interim report, the government indicated that it did not agree to each of the committee's three recommendations.

Since the committee tabled its interim report, the government has announced that it will market test the delivery of new government office accommodation projects for Gungahlin and Civic. The government has also indicated that the delivery of the Gungahlin office accommodation project will be the immediate priority.

Furthermore, the committee notes that the Assembly passed a motion concerning the government office block project on 23 August 2011, noting a number of pertinent matters relating to government office accommodation generally and the delivery of the Gungahlin and Civic office accommodation projects, and also called on the government, amongst other things, to "finalise the government office accommodation strategy".

In its interim report, the committee recommended 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 accommodation project. The government did not agree with the recommendation, stating: "The future office accommodation strategy is now influenced by the government's decision to proceed with the new ACT government office building. The new government office will see significant consolidation of current office accommodation and changes to planned office refits/refurbishments. The office accommodation strategy will now be revised in line with this decision."

The committee reiterates previous comments it has made on this matter as detailed in its interim report. In that report, the committee stated:

> A whole-of-government office accommodation strategy is a significant high level document which should be used to inform the decision making process for the construction of a new government office building. On the basis of the evidence, the Committee has reservations that the development of the Strategy, rather than informing what the decision should be, will, in the main, accommodate the decision …
>
> The Committee believes that this would be contrary to the purpose and intent of strategic planning. The whole-of-government accommodation strategy should therefore be finalised prior to any decision concerning the construction of a whole-of-government office building project or the awarding of any contract.

The committee notes that the ACT government whole-of-government office accommodation strategy is still to be finalised. The committee has written to the Minister for Economic Development requesting that it be provided with a copy of the strategy when it is finalised.

Given the Assembly motion on the government office block project, as agreed to on 24 August 2011, together with the government's recent announcement that it will market test the delivery of new office accommodation in Gungahlin and Civic, the committee has resolved that at this stage any further inquiry into the audit report is not warranted. However, the committee will continue to monitor the outcome of the government's market testing processes and the progress report on the government office block project by December 2011 as required by the Assembly motion.

Mr Smyth: I seek leave to speak to the statement.

Leave not granted.

Standing and temporary orders—suspension

MR SMYTH (Brindabella) (11.04): I move:

> That so much of the standing and temporary orders be suspended as would prevent Mr Smyth from making a statement.

Mr Corbell: No. Circulate your statement. If you have got a speech, you should give advance notice of your speech.

MR SMYTH: But that has never been the practice, Mr Corbell, and you know it.

Members interjecting—

MR ASSISTANT SPEAKER (Mr Hargreaves): Members!

MR SMYTH: It has always been the practice in this place for members to speak to statements.

Mrs Dunne interjecting—

MR ASSISTANT SPEAKER: Mr Smyth! Mrs Dunne! Minister! If I have to stand, I will. The motion before—

Members interjecting—

MR ASSISTANT SPEAKER: I will not speak again. I am in a mood. I will not speak again. The motion before the house is that standing orders be suspended for such period as would prevent Mr Smyth from addressing the statement.

MR SMYTH: Mr Assistant Speaker, it has always been the practice of this place that when a statement or a report is tabled on behalf of a committee, the members of that committee have an opportunity to address the statement or the report. In the case of a report, there is a motion, and it flows naturally as a matter of course. In regard to statements, given that the chair is speaking on behalf of the committee, members have often sought leave. I cannot recall an occasion when somebody has been denied leave in this way to speak to a statement. Perhaps it is more about the petulance of the manager of government business than about the statement or what might occur.

It is important that when committees make a statement—this is an important issue; it is a $432 million issue—somebody should have the opportunity to speak to it. I seek the leave of the house to speak to the statement.

MS LE COUTEUR (Molonglo) (11.06): I would have to largely agree with Mr Smyth's statements. It is normal practice in this house to let members of committees speak on committee business. I see no reason why Mr Smyth should not be allowed to speak on the committee's business.

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) (11.06): The point of the standing order utilised by Ms Le Couteur is for Ms Le Couteur, on behalf of the committee, to make a statement to the Assembly. It is not the point of the standing order to allow every other member of the committee to make a statement.

I have to say that there is a bit of a double standard emerging in this place. When it comes to the government, every statement made by a minister is increasingly being required in advance, in writing; yet we have members of the opposition and members of the crossbench standing up and not just making short statements but making prepared speeches on matters where no advance notice has been given, where no advance copy of the speech has been given. We have just had Mr Doszpot, with leave, make a prepared speech that went for 10 minutes on a matter. There was no advance notice of that speech given to any other member of this place. Yet ministers are being asked by this place to jump through hoops repeatedly—

Mrs Dunne interjecting—

MR ASSISTANT SPEAKER: Mrs Dunne, that will do.

MR CORBELL: to give advance copies of statements to other members a minimum of two hours ahead of them being made. The same rule is not being applied to everyone else. Quite frankly, the government has had enough of it. Members need to reflect on the double standard they are imposing on themselves vis-a-vis the government, when it comes to statements being made in this place. It is as simple as that.

MRS DUNNE (Ginninderra) (11.07): Again, we have got the government being petulant, stamping its feet and saying, "We've had enough." In fact, I would predict that the time taken to debate the suspension of standing orders would probably exceed the time that Mr Smyth would seek to speak in his statement. The statement made by Ms Le Couteur was a relatively brief one and I am presuming that Mr Smyth would be relatively brief as well. It has been the practice of this place for members to speak on committee matters. To not grant Mr Smyth leave today would be a substantial departure from practice.

As to the idea that the government are being put through hoops when they put an item on the blue and say that they are seeking leave to make a statement, the government have been put through hoops because the government have not been as good as their word. We have had recalcitrant ministers who have not provided statements. In fact, I understand today that Mr Corbell is going to make a statement soon after this. He has asked for leeway because of the importance of the matter. Everybody has agreed that the two-hour rule will not apply because it is an important matter. This is how we deal with things. We deal with things in a collegial way. Mr Corbell has made a case this morning that he was still working on the statement and could not meet the two-hour rule and, because of the importance of the matter, my understanding is that the shadow has said that that is fine on this occasion.

But there have been occasions when ministerial statements have been brought down without warning to members of the crossbench and the government and there have been occasions when ministerial statements and statements by ministers have departed substantially from the approved text—from the notified text, I should say—and that is why the government is being put through hoops, because so far the government has not shown that it is a team player.

Mr Smyth has asked for leave, which is not unusual, and it has always been granted in the past. But today Mr Corbell is tetchy. He is attempting to create a precedent because he is in a very bad mood today. That is not a good reason for creating a precedent. I thank Ms Le Couteur—

Members interjecting—

MR ASSISTANT SPEAKER (Mr Hargreaves): Order!

MRS DUNNE: for her supportive comments and I look forward to standing orders being suspended.

Members interjecting—

MR ASSISTANT SPEAKER: I said order! Resume your seats. This is not a matter to be messed with. I will not have it. The next time I have to speak, someone is going to get named—not warned, named—and check your standing orders if you do not think I can do it. Now, Mr—

Mrs Dunne: Mr Assistant Speaker—

MR ASSISTANT SPEAKER: Do you want to make a comment?

Mrs Dunne: I think I have finished. I was about to say that I look forward to standing orders being suspended.

MR ASSISTANT SPEAKER: Mr Seselja. That sort of backhand comment will not be tolerated again, Mrs Dunne.

Mrs Dunne: Sorry, could I say—

MR ASSISTANT SPEAKER: That was backhanded. You know it was and I know it was. Now—

Mrs Dunne: Mr—

MR ASSISTANT SPEAKER: Please resume your seat.

Mrs Dunne: I was finishing my speech.

MR ASSISTANT SPEAKER: Mr Seselja, do you wish to speak on the motion?

Mr Seselja: I do, Mr Assistant Speaker.

MR ASSISTANT SPEAKER: Okay, you have the floor.

Mrs Dunne: I was finishing my speech.

MR ASSISTANT SPEAKER: Just test me.

Mrs Dunne: I am going to raise that with you. That is just pathetic.

MR SESELJA (Molonglo—Leader of the Opposition) (11.11): It is unfortunate that Mr Corbell is engaging in a hissy fit on this issue. It is probably not surprising—the particular issue on which he is engaging in a hissy fit—so let us deal with the two issues. The first is that we are talking about the government office accommodation strategy, the government's plan to spend $430 million of taxpayers' money on a building that we do not need. Mr Smyth should be entitled, as a member of that committee, to speak.

In the ordinary course it would have been a short speech. It would have taken up less time, presumably, than we have spent debating the suspension of standing orders. Often we give leave without notice—not just for ministerial statements when we are

given notice. When we look ahead at the presentation of papers today, there are a number of papers there. In many cases ministers ask to make a short statement and as a matter of course we grant leave.

If it is the new standard from the government, which it appears to be today, that leave will not be granted then that will apply across the board and we will have to go through this rigmarole every time someone wants to speak. I do not think we want to get into that way of doing things. It will be slow, it will be cumbersome and it will be unhelpful. But if it is the government's position from here on in that they will not grant leave—

Mr Corbell: No, it's the position you're imposing on us already.

MR ASSISTANT SPEAKER: Minister, please.

MR SESELJA: It is not. Mr Corbell interjects. He interjects without the facts.

Mrs Dunne: Go on—name him.

MR ASSISTANT SPEAKER: I do not need your advice.

MR SESELJA: We often grant leave without any notice. After every question time we do. As of today, we will not, until this is resolved. It cannot be one rule for us and one rule for them. All members should be treated with courtesy. There should be a reasonable time to speak. Mr Smyth should have been allowed to speak and in the ordinary course of events he would have been. It is a ridiculous hissy fit from Mr Corbell because he is having a bad morning. But if that is the precedent, that is the way we will operate. I think that will be unfortunate, but until further notice that will be the new standard applied.

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

MR SMYTH (Brindabella): Thank you, members, for the courtesy that is normally extended. It is interesting that the rules are so flexible now. This is an important 246A statement from the public accounts committee on Auditor-General's report No 6 of 2009: *Government office accommodation*. It is important for a number of reasons. The public accounts committee took a very forward-looking view when we undertook this discussion, as so nicely outlined by Ms Le Couteur, in that we wanted to find any lessons that could be learned and applied to future projects. And lo and behold, a future project came sailing along—the $432 million great big government office building. The committee made an interim report asking that a number of things occur. It asked for some information to be given to the committee. It asked that no contracts be signed until such time as some work had been done. It asked for the government to finalise its office accommodation strategy. What did we get from the government? "No, no, no."

We have got a unanimous report from a committee of the Assembly asking the government to do something and what do we get from the government? We get: "Get lost. Go away. We're not listening to you. We will do as we please." This does raise the question of the government being accountable to the Assembly and it does raise

the question of the government really understanding that they are in government because of a decision of the Assembly. They are a minority government and minority governments need to be very careful. They get a little bit arrogant, they get a little bit complacent, they get a little bit out of touch and they spend a little too long in the ivory tower where they think that they just rule rather than govern.

It is unfortunate, because we have seen a shifting position. It is quite unclear what the government's position now is on the $432 million great big office building. Initially it was: "Full steam ahead. We've done the work. We're just going to build it." Now, with a new minister in charge, it is: "Well, maybe we haven't done enough work. Maybe we haven't made a decision and maybe we are going to market test."

The Greens have a view about reusing existing accommodation. That view is held by a number in the community. We have a different view in this place on expending this money as to what the appropriate use for that amount of money might be and in terms of priority. I think all of us agree that ACT public servants should be housed appropriately. In the market, given what the federal government can afford to provide, we need to be very careful that we do not fall behind simply in an accommodation sense.

But that does not justify the spending of this money in the way that this government has gone about it. Of course, we had the remarkable hearing in the estimates committee where there were more members than are actually in this place at the moment sitting at the committee table. There were more people than I have ever seen attend a committee hearing on the government side in the history of the Assembly. That is the level of concern. What we have had from the government by way of response is: "Go away. We're just going to ignore you."

We know that this is a shifting feast. It is uncertain what the government are doing. One could almost be suspicious that they are preparing to back away from this because they know they have got it wrong. We have seen different rhetoric from the former Chief Minister, this Chief Minister and the now Treasurer.

This 246A statement simply says that we as a committee will keep a watching brief. We will continue to monitor the outcomes of the government's market testing processes. We look forward to the progress report on the government office block which is due by December 2011 this year as required by the Assembly motion. I do not think it is as clear cut as the government suggests. It is a very important issue. It will have a great effect not just on Civic but particularly the area around Dickson. It will have an impact on Gungahlin because there is a proposed building for Gungahlin. It means potentially other areas of the ACT do not get this sort of accommodation, and the question is: have they been considered?

This is an important matter. It is a matter that we will keep a watching brief on as a committee. It is certainly a matter the Canberra Liberals will keep a watching brief on. It is certainly something on which the government will have to continue to make their case, I hope, before the Assembly appropriates the $432 million that will be required to build this building.

MR SESELJA (Molonglo—Leader of the Opposition), by leave: I think it is important that we get a few things on the record on this and I think it is important in relation to this particular statement. At the heart of it and at the heart of the office accommodation strategy is the question of this $432 million office. This is an opportunity for the government to abandon bad policy. Unfortunately, the Chief Minister has attached herself to this policy. With the change of leadership in the Labor Party there was the opportunity for Katy Gallagher to walk away from this project because it is the wrong project. Spending $432 million on a government office building that we do not need is something that should be abandoned. I would again today call on the government to abandon this project.

But, unfortunately, the Chief Minister has tied herself to this project. She now owns it and she has indicated that this government wants to push ahead with it, regardless of whether it is a good idea, regardless of whether that money could be better spent elsewhere, regardless of whether office accommodation could be delivered in a more efficient and more effective manner and regardless of the impact that it may have on our town centres in concentrating so much of the public service into this one building which will become a white elephant down the track.

I would again call on the government to abandon this project. It is a slap in the face to taxpayers who are seeing local infrastructure and local services being neglected. It is a slap in the face to those hardworking families who are being asked to pay more and more and are facing serious cost-of-living pressures that this government would put the highest infrastructure priority on a $432 million government office building which we simply do not need. I would call on the Chief Minister and the government to do the right thing and walk away from this project.

They do seem locked into it. The Chief Minister had the opportunity to walk away from it when she became leader. She chose not to. She has tied herself to it. She should untie herself from it. She should admit that she was wrong. She should admit that this is a bad project that will have bad ramifications for the community, and taxpayers in particular, and abandon this project for the sake of all Canberrans.

Mitchell—chemical fire
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), by leave: I rise to give members an account of last week's serious chemical fire in Mitchell and to outline how the government and its agencies are responding to ensure the continuing safety of the Canberra community and the health of its environment.

I do so to demonstrate this government's commitment to transparency and accountability and to ensure that reliable and up-to-date information is readily available to the public. I will undertake to provide subsequent advice to the Assembly as necessary.

Just after 11 pm on Thursday, 15 September the ACT Fire Brigade attended at a fire at the Energy Services Invironmental site on Dacre Street, Mitchell. This facility is a privately owned and operated transformer oil PCB de-chlorination and recycling plant.

PCB is the common term for the chemical polychlorinated biphenyl. PCBs are injurious to human health and are persistent pollutants of the environment. Imports of PCBs to Australia have been banned since 1986. However, PCBs were widely used as an insulating fluid inside electrical transformers, and ESI treats that fluid to remove and destroy the PCBs so that the oil can be recycled. Some of the chemical reagents used in this process are also dangerous. This means the company requires a number of approvals to operate. I shall return to the regulation of this facility later.

The fire was fuelled by the dangerous substances on the site and this restricted the ability of firefighters to aggressively attack the fire. There was also considerable concern that the smoke plume from the fire was potentially toxic. For this reason the Fire Brigade commenced and continued atmospheric sampling at appropriate locations around the fire.

Heavy smoke, followed by a series of explosions on the site, caused the ACT Fire Brigade to pull back for the protection of firefighters. This allowed a reassessment of the fire and the marshalling of resources, ensuring a concentration of fire-fighting efforts to contain the fire while planning for an effective solution.

ACT firefighters continued to contain the fire throughout the night while the incident management team operating from the Fairbairn headquarters and the unified command on the scene planned a comprehensive attack strategy to be implemented over the following eight hours.

The potential toxicity of the smoke plume resulted in a decision by the unified command team on the scene to evacuate Exhibition Park in Canberra. Campers at Exhibition Park were evacuated to a centre established at Dickson college. Premises operating in Mitchell overnight were also evacuated.

In the early hours of Friday morning an emergency alert system warning, using the emergency alert telephone-based warning system, was issued to Canberra residents within a 10-kilometre radius of the fire. The warning was to stay indoors and turn off air-conditioning equipment.

Based on the results of the atmospheric testing, the area of concern was later reduced. However, because of fears for the safety of members of the public, Mitchell, including major roads through the suburb, was closed.

The fire was brought under control at approximately 10 pm on Friday, 15 September. Concerns about the impact of the fire and the potential for contamination by chemical toxins resulted in a decision to keep Mitchell closed for the weekend. Final extinguishment of the fire was achieved at 10 am on Saturday, 17 September after a strategic attack mounted between 4 pm and 6 pm on Friday evening and dealing with a flare-up overnight at approximately 4 am.

All available class foam supplies in the ACT were utilised with the support of Aviation Fire Fighting and suppliers, while additional supplies were sourced from interstate. At the peak of the fire, 11 Fire Brigade units, including hazmat and aerial fire-fighting vehicles, and over 50 personnel attended the scene.

ACT Policing provided road blocks to the Mitchell area, which was closed to all traffic, and all persons were evacuated. Police also advised people in adjacent areas that they may need to be evacuated depending on the direction and severity of the smoke plume. ACT Policing were part of the unified command team on the site at Mitchell.

Atmospheric monitoring commenced as part of the ACT Fire Brigade initial response. Hazmat crews monitored the atmosphere throughout the 48-hour firefight and continued to support the Environment Protection Authority thereafter.

A Fire and Rescue New South Wales hazmat response was also activated in accordance with cross-border arrangements. A hazmat crew responded by helicopter from Sydney, while two fire trucks were dispatched to Queanbeyan for use in responding with ACT Fire Brigade to daily business across the territory.

The EPA was on site early Friday morning. Its initial focus was to seek to prevent potential contaminants from entering the environment, particularly the stormwater system. Temporary earth bunding was quickly put in place along affected waterways.

Once the fire was contained, the EPA, in collaboration with their colleagues from New South Wales, set up a comprehensive sampling regime. Multiple samples were taken from soil, water, air and residue in and around Mitchell, through the likely affected waterways and right across the plume trail across the ACT and into parts of adjacent New South Wales. These samples have been transported to the New South Wales EPA's environmental chemical analysis laboratory in Lidcombe. This facility is a specialist, expert and experienced facility and utilises internationally accredited analytical techniques.

Samples were tested against these standards for a number of factors, especially the presence of organic chemicals and heavy metals. These two categories of substances effectively cover the chemicals known to have been in the factory as well as likely products of the combustion and recombination of those chemicals.

The results for the factory site and the surrounding parts of Mitchell were received on Sunday evening and all were negative; that is, they contained no traces of chemical toxins. This is consistent with the fact that the fire burned at a very high temperature of over 1,000 degrees.

Of course the EPA is not suggesting that there was no pollution emanating from the fire. The area in and around the fire contains amounts of residue, ash and other remnants of fire-fighting material. However, the testing is conclusive that it poses no threat to human life or the environment.

ACT Health, based on the results of this testing, concluded that risk to the health of people in this area from chemicals released in the fire is low. On this basis, the incident controller for the recovery phase decided on Sunday evening to reduce the Mitchell exclusion zone to the area immediately surrounding the fire; that is, Dacre, Tooth and Pelle streets.

To further reduce the very low risk posed by any material deposited by the fire, ACT Health issued information for people returning to Mitchell. This is a series of simple precautions designed to avoid accidental exposure, including such things as washing hands after cleaning premises and washing any food left in the open. People were also advised that if they encountered any unfamiliar ash, liquid or solid material at their premises, they should contact Canberra Connect, who would advise a visit with the EPA.

The remaining exclusion zone that is still in place is necessary because of the extensive presence of a residue which does not pose a significant human health hazard but which can best be cleaned up under the supervision of the EPA. Once this is completed, access back into that area, except for a site around the factory and its immediate environs, will be allowed.

The EPA is now focused on three key tasks:

- analysis of the remainder of the test results, once they have been completed by the Lidcombe laboratory, to allow any further necessary environmental protection or remediation measures to be put in place;

- clean-up of the fire site itself to ensure that it is no longer a potential source of contamination; and

- clean-up of other areas, especially the bunded ponds and affected waterways.

This last task is already underway. Liquid and solid waste is being removed by expert and appropriately authorised contractors to secure sites from where it will eventually be remediated and then properly disposed of under strict conditions.

The EPA will continue to monitor the impact of the incident on the environment over the long term and will use the coercive powers under the Environment Protection Act to ensure that the owner meets its obligations in relation to the restoration and clean-up of the incident site. Temporary bunding will remain in place in waterways and around the site until clean-ups are complete.

Again, reflecting this government's commitment to transparency on this matter, I have asked the EPA to put all the final test results and associated information, along with contextual advice, on its website as soon as is practicable.

Let me now turn to the planning and regulation of this facility. The first point I would make is that this is the only hazardous chemical processing facility of its type in the ACT. On 28 March 2008 a development application was lodged for the proposed

waste oil recycling facility with associated offices and storage areas at block 15 section 22 Mitchell.

The application reflected the company's move from old premises in Mitchell to a state-of-the-art factory with superior environmental safeguards. The site is located in the IZ1, general industry zone, under the territory plan.

At the time of lodging the DA the 2002 territory plan identified the site as precinct "a", general industry precinct, of part B3, industrial land use policies. The development is defined under the territory plan as a "hazardous waste facility". Hazardous waste facility means the use of land for the collection, storage, treatment or disposal of hazardous waste. Hazardous waste facility is a permitted use in the IZ1, general industry zone.

The application was lodged prior to the Planning and Development Act having effect. As such the application was assessed in accordance with all the relevant requirements of the Land (Planning and Environment) Act. The characteristics of the proposal were such that it fell under the list of prescribed classes of defined decisions in appendix II of the territory plan that required a mandatory preliminary assessment; that is, "any proposal involving the disposal, storage, transfer of hazardous chemicals/substances".

The final preliminary assessment was submitted to the planning authority in June 2008. The PA and the DA were publicly notified in the *Canberra Times* on Saturday, 28 June 2008 and by notifiable register on the legislation register in accordance with part 4 of the land act. No written representations were received. Consultation with relevant agencies, including the EPA, was undertaken.

In accordance with the requirements of section 121(2) of the land act, consideration by ACTPLA was given to the PA to determine whether further environmental impact assessment was required. The PA was found to have adequately identified the range of possible impacts of the proposal on the physical, natural and human environments. As a result of this, it was decided that no further assessment was required.

The DA was approved subject to conditions on 26 September 2008. Condition 3(e) required the DA applicant to lodge a statement clarifying that the equipment proposed to be used in the new development was identical to that tested in the preliminary assessment.

A statement dated 12 October 2008 was submitted by ESI to verify that the existing equipment and storage tanks, being MRP5000 oil regeneration plant and PCB de-chlorination plants, were relocated to the new site. In other words the already approved and tested equipment used to process the waste oil in the original factory was relocated to the new premises.

As they are obliged to, ESI currently hold an environmental authorisation under section 41A of the Environment Protection Act. The conditions contained in the authorisation were developed in consultation with the then commissioner for the environment and other environment protection authorities to minimise the risks associated with treating hazardous waste and to provide for sound environmental outcomes. A clear environmental advantage of the treatment process is that it removes

and renders safe the PCB while not destroying the de-chlorinated oil which is then able to be reused in the electrical network.

Before the authorisation was issued, the EPA undertook background checks on ESI. The company was incorporated in the ACT in March 2002 with the purchase of the Oil Services Section of Energy Services International.

A copy of the authorisation is available on the Environment and Sustainable Development website. The authorisation indicates that the facility is located in Winchcombe Court, Mitchell. As already noted, the facility has moved to Dacre Street. The authorisation relates to the chemical storage and processing and the conditions in the factory. EPA staff have based their decisions, including their reviews, on inspections of the current premises.

The EPA undertakes annual reviews of this authorisation. The most recent review, conducted in accordance with the requirements of section 57(1) of the Environment Protection Act, covered the period 4 April 2010 to 3 April 2011. It was completed in May 2011. This review which was conducted determined that ESI was operating in accordance with the requirements of their authorisation. The EPA did request ESI to update its hazop plan, the water management plan and the waste management plan. The EPA has been working with ESI to assist them in meeting this request.

Consistent with the conditions of the environmental authorisation, the facility is operated in accordance with the Australian and New Zealand Environment and Conservation Council polychlorinated biphenyl management plan. All PCB waste coming into the ACT must be transported in accordance with the national environment protection measure for the movement of wastes between states and territories. The EPA has dealt with ESI around potential breaches of its authorisation on three occasions.

Firstly, the ACT Fire Brigade responded to a fire on 12 February 2005 at the previous Winchcombe Court site. The fire was limited to a transformer which was connected to equipment that reclaimed residual oil from the transformer. Following an initial review by the EPA, an infringement notice under the Environment Protection Act was issued. Secondly, an environmental infringement notice was issued to ESI on 11 July 2005 for the minor offence of waste within 10 metres of a drain or entry to the storm water system. Thirdly, a warning letter was issued to ESI in January 2011 for transporting and accepting a controlled waste for disposal/storage at the facility without a valid consignment authorisation. This was due to an administrative oversight by the waste producer; that is, not by ESI. A warning letter was also sent to the waste producer.

The other relevant regulatory framework is the Dangerous Substances Act and the Dangerous Substances (General) Regulations 2004 which contain specific requirements for certain premises, plant or systems to be registered or notified but not licensed under the regulation. The person in control of the premises must notify the chief executive, or now the director-general, if they "handle" a "placard quantity" of any dangerous substance. A placard quantity of a dangerous substance can be as little as 50 litres or kilograms or as great as 5,000 litres or kilograms, depending on the type of substance.

Once a premises has a placard quantity of a dangerous substance, whether that be of a single class of dangerous substance or a mixed class of substances, the director-general must be notified of all other dangerous substances on the premises. A register of each dangerous substance must be kept at the premises and be readily accessible. The register must be accompanied by a current safety data sheet for each substance.

ESI was previously located at Winchcombe Court, Mitchell, and had registered these premises with WorkSafe ACT in accordance with this provision. The new premises at Dacre Street in Mitchell have not been registered by ESI in accordance with the requirements of the Dangerous Substances Act and regulations. ESI had been made aware, when registering its previous premises, of its obligation to revise the registration should circumstances such as changes in quantity or location occur.

WorkCover had been made aware by ESI's architects that the company was planning to relocate its premises. WorkCover formally reminded the architects of their previous advice to ESI that the substances held at any new premises would need to be notified as part of a new registration. No subsequent registration was received.

The primary purpose of registration is to ensure that information is available to emergency services in the case of an incident. To this end, the business is also required to have such information, a manifest, available in a place, kept in a red weatherproof container inside and as close as practicable to the main entrance, that can be readily accessed by emergency services. Initial advice from the Fire Brigade is that emergency services were able to quickly access this manifest information on site on the night of the fire. The exact circumstances surrounding this issue will be covered in the WorkSafe investigation.

Over a period since early 2005, there have been five incidents in which WorkSafe ACT and its predecessor, WorkCover, have been involved with ESI. These incidents involved a small fire, which I mentioned earlier, and an explosion, occurring in 2005 and 2006. A chemical spill also occurred in 2009. All these matters were attended to by WorkSafe ACT. All these incidents occurred at the previous premises of the company. Inspectors from WorkSafe ACT and its predecessor, ACT WorkCover, managed these issues with ESI at the time, issuing notices and requiring improvements in systems and processes in line with the legal requirements.

An outcome of the 2009 visit to the former site was that WorkSafe reviewed the ESI environment, health and safety management plan and noted that the company was, as is appropriate when such complex operations are involved, in the process of reviewing its standard operating procedures and OH&S requirements.

There are three separate investigations of the incident underway or soon to commence. WorkSafe will undertake an investigation of this incident. The Environment Protection Authority will also conduct an investigation under its statutory powers. ACT Policing and the ACT Fire Brigade are already jointly preparing a report for the coroner, who is authorised to investigate fires in the ACT. All these investigations are independent of the government and their terms of reference and conduct are matters for the relevant authorities utilising their statutory powers under legislation.

WorkSafe will examine questions such as whether the manifest was complete and whether it complied in all other ways with legislative requirements. Similarly, there is conflicting advice at this stage as to whether there was appropriate placarding in place and this will also be examined by WorkSafe investigators.

A more thorough consideration will be given to WorkSafe's compliance response to the registration issues that I have identified. This may include:

- examination of the dangerous substances register;
- identification of sites with any similar substances and, if necessary, in concert with other appropriate regulatory bodies, a review of the management of substances at those sites;
- identification of any sites which have failed to renew their registration and determination of whether this has happened for appropriate reasons or whether re-registration should occur;
- implementation of an ongoing process to identify and notify sites where registration will expire in the near future; and
- consideration of whether all registered sites should be reminded again of their obligations under the Dangerous Substances Act and associated regulations.

This incident has also raised a number of questions in the community over planning policies and regulations as they relate to the location of hazardous industries in relatively close proximity to residential areas. The government is committed to ensuring a safe and secure environment for the people of the territory and, therefore, I believe these policies and practices should be examined in light of contemporary best practice used in other jurisdictions both nationally and internationally.

To that end, I can advise the Assembly that I have instructed the director-general of the Environment and Sustainable Development Directorate to commission an independent and expert review of these matters. I will announce terms of reference and the identity of the independent reviewer in the near future.

Finally, I will turn to the issues around communications to the public about this incident. Emergency alert is a nationally coordinated, telephony-based warning system designed to send messages to the landline and mobile telephones of residents in a defined geographic area. The ACT is a partner in emergency alert and has established a capacity to use the system operationally in the ACT.

Two emergency alert messages were issued as a result of this incident. The first was issued at approximately 1.40 am on Friday, 16 September. It was issued to people with registered billing addresses for mobile and landline telephones within the suburb of Mitchell, including EPIC and the Canberra racecourse. The first voice message advised:

> Emergency. Emergency. The ACT Fire Brigade is responding to a Chemical incident in Mitchell**.** Residents are advised to evacuate the suburb immediately including the racecourse and EPIC. Further information is available via Canberra Connect, or go to www.esa.act.gov.au.

The first text message advised:

> Emergency. Emergency. The ACT Fire Brigade is responding to a Chemical insadent in Mitchell. Resadents are advised to evacuate the suburb immediately.

A second emergency alert was issued at approximately 3.20 am to people with registered billing addresses for mobile and landline telephones within the suburbs of Franklin, Crace, Harrison, Watson, Downer, Kaleen, Lyneham and Hackett. The second voice message advised:

> The ACT Fire Brigade is responding to a chemical incident in Mitchell. Residents of Franklin, Crace, Harrison, Watson, Downer, Kaleen, Lyneham, Hackett are advised to shelter indoors, immediately. If you are indoors, close all windows, doors, vents and turn off, air conditioning. Further information is available via Canberra Connect, or go www.esa.act.gov.au.

The second text message advised:

> The ACT Fire Brigade responding to chemical insadent in Mitchell. Resadents of Franklin, Crace, Harrison, Watson, Downer, Kaleen, Lyneham, Hackett stay indoors.

There has been some criticism levelled at the ESA regarding the ambiguity of the messages issued. I am aware there were spelling errors in both messages issued via SMS and it is regrettable that this led to uncertainty regarding the origin and authenticity of the messages to some people.

The emergency alert system issues warnings via voice recording and SMS, based on predefined templates for a particular emergency. The template of the voice message requires the originator to submit words in writing spelt phonetically to ensure that words will be pronounced correctly when the system automatically converts text to voice. The phonetic spelling was inadvertently also inserted into the text messages when they were issued.

On preliminary advice, it also appears there were a large number of fixed landline services identified in the target area of the second warning that were not contacted. This was a result of insufficient time being allocated to allow the emergency alert system to dial all the numbers in the target area. The timing allocated is operator defined, and future use of emergency alert will consider ensuring more time is allowed for a campaign to be completed. The challenge associated with this is that the dialling of landline and mobile numbers in a large area could take many hours to complete successfully. This obviously has an impact on the capacity to issue alerts in a timely manner.

Despite this, these factors should not detract from the initial success of emergency alert. The wording and issue of any future alerts using the emergency alert system will be critically examined as part of the ESA's after-action review for this incident.

Further information was also provided to the community through the use of social media such as Twitter, which saw a substantial growth in the number of followers of

the ESA Twitter account during the event. Twitter was also used to keep news media updated on the response to the incident.

Regular updates were provided through the ESA website, which also saw a considerable increase in usage. Local radio, television and newspapers were also engaged to partner the emergency services to provide accurate and timely messages to the community. I want to thank everyone in the local media, particularly local radio, for their unstinting efforts in keeping the community informed throughout this incident.

Over the next few weeks, operational debriefs will be conducted amongst Fire Brigade, ESA, EPA and other personnel involved. The Fire Brigade will collate all operational information and provide a post-incident analysis to the government.

This fire was a complex operation, which exposed members of the ACT Fire Brigade to considerable risk. The efforts of these firefighters to continue a sustained operation for the time period involved is worthy of praise from the entire ACT community and I commend the ACT Fire Brigade for their efforts. Firefighters were assisted in their efforts by many other ACT government agencies and by ACT Policing. Many of the people who participated in the response went above and beyond their normal duties to ensure, as much as possible, the safety of the ACT community and to limit the impact of the fire.

A carefully managed and planned response to the environmental impact of the fire was quickly put in place by the Environment and Sustainable Development Directorate, particularly through the ACT EPA, to determine the extent and concentration of any toxic material and plan a response accordingly. And all of these staff should also receive praise for their efforts under very difficult circumstances. I thank them for their efforts.

Special mention should also be made of the support received from the New South Wales EPA who provided assistance with monitoring and gave overnight priority to analyse samples to support the ACT response. Fire and Rescue New South Wales also provided assistance to the ACT Fire Brigade responders at Mitchell and provided other appliances on standby to provide fire cover for the remainder of the city while the fire was being fought. Aviation Rescue and Fire Fighting supplied a firefighting crew and vehicles, and this was also greatly appreciated.

This incident has been a dangerous and a disturbing one. But it has also amply demonstrated the strengths and capabilities of the structures adopted by the government for the coordination of an emergency management incident.

In conclusion, I want to assure the Assembly and the broader community that the government will respond to the findings of the independent investigations into this incident and make whatever changes are necessary to its policies, regulations or practices to ensure we can continue to provide a safe and healthy environment for the community.

Electronic government documents
Statement by minister

MS GALLAGHER (Molonglo—Chief Minister, Minister for Health and Minister for Industrial Relations), by leave: I am very pleased to have the opportunity today to speak to the Assembly on the open government reforms that are being developed across a number of areas of government and administration. These are reforms that, along with the structural changes to create a single public service, are significantly enhancing how the government can serve, speak with and respond to the community.

In the ministerial statement on open government I made in June this year I committed the government to some important principles. I said I would promote even greater transparency in process and information. I said I would encourage and enable participation by Canberrans in the business of government and I said I would work with the community, drawing on its skills and expertise, to find solutions to issues that we collectively confront as a city.

In that same statement, I set myself, my ministers, the heads of directorates and every single public servant a new default position. I said there ought to be a presumption that information available to the government should also be made available to the community. We as a parliament, as a city and as a community are better placed than almost any parliament, people and city on earth to make greater openness and better communication work to our advantage.

Our system of government is like no other in the country. Our community is smart and brimming with ideas and goodwill. We can do things here in a way that suits us rather than in ways that state and territory governments have traditionally done things. For the first time since self-government we can put in place systems we have designed ourselves and systems that fit.

As Chief Minister I would like to see everything I promise delivered at once, but I also have a duty to see that what I promise is delivered well. I have a duty to see that what is delivered is solidly based; that it does not, while letting the light shine on one aspect of government activity, inadvertently injure an innocent bystander.

The adoption of a default position that information will be made available to the community should not and does not relieve the government of its moral and legal duty to respect the privacy of ordinary Canberrans. It does not exempt the government from its duty to obey the law when it comes to commercial confidentiality or copyright.

The government is pursuing its reform agenda with all possible speed, but not without care and not without caution. That said, today I can assure you that change—cultural, attitudinal and actual change—is taking root right across government. Already we have delivered on, or are well advanced in relation to, a number of the initiatives I announced in June.

I promised to publish a weekly online summary report of cabinet proceedings. The first of these was published on 6 July. A summary of every cabinet meeting since that date now sits online, available to anyone.

A dedicated open government website is on schedule to be launched next month. The site will be a gateway for access to government information, including access to government material released under FOI applications. Until now, one of the perverse and unintended consequences of freedom of information has been that the information released to an applicant has frequently then been selectively culled by that applicant, with only the bits that suit their argument ever being made public. Freedom of information ought to mean just what it says. If the information is fit for dissemination, let us make it available to everyone—the applicant, the reporter writing the story and the ordinary Canberran who decides that he or she wants to see the whole context of an issue.

Of course this new website will be much more than just a repository of FOI documents. It will be a place where Canberrans will be able to read for themselves the background reports that help guide government decisions, and even internal government reviews of issues.

As members would be aware, I have also established and funded a dedicated Government Information Office, in part to coordinate the progress being made on open government initiatives right across the spectrum. The creation of this office is part of the comprehensive structural reforms arising from the Hawke review. Together, these reforms constitute a new way of governing as we head into our second century as a city; a way of governing that is tailor made for the mature city and mature community that we have become. No longer are we hostage to our history.

One of the tools that help free us from that history is technology. Our capacity to share information has been transformed by modern technology. But the pace of progress is swift and its direction can be difficult to anticipate. Most of us have at some stage bought a flash new home computer only to see it quickly superseded by a machine that can do more things and do them better.

The same reality confronts governments and other big institutions such as universities, which invest very significant proportions of their budgets on ICT. That is why I recently announced a new ACT public service ICT strategic plan which not only creates a stronger strategic frame for the ICT investments the government makes but also supports and enables the work we are doing in the area of open government.

One area in which I expect to see some significant progress is in the provision of government data to third parties, whether they be scholars seeking to make a contribution to social policy development or individuals developing new ICT applications for mobile phones and other devices to enhance our daily lives.

As with other sorts of government information, unless there is a good reason why this data should not be made available, there should be a presumption in favour of release. In fact, for some time now the government has been contributing a number of datasets to a national dataset repository called data.gov.au.

The government is happy to go further than that, but all of us need to understand that it is not always just a matter of saying yes every time someone asks for the keys to the filing cabinet. Data need to be set in a form that is accessible and useable. Sometimes,

for historic reasons, they are not and cannot be quickly adapted. Data also need appropriate and meaningful metadata. People's privacy needs to be respected. The law must be upheld. And, as with other aspects of open government, if access to data is worth doing it is worth doing well.

To that end, the government is taking a methodical approach. First, we are developing an ACT government information policy that will explicitly address the issues of how to improve access to government datasets, including formatting and metadata. Under this policy, each directorate will need to show that it has a clear plan to make existing, non-exempt datasets available. This policy is part of the ICT strategic plan and is scheduled for completion before the end of the year.

To help the government and the directorates prioritise and focus their efforts, we will host an online community consultation later this year, targeting researchers, developers and the public, so we can understand which government datasets are likely to be most in demand.

All of the work of recent months in relation to open government has been made easier by the fact that for the past few years our Territory Records Office has been busily developing standards and guidelines for digital record keeping. More recently, over the past six months the office has developed a digital record pathway to improve strategic digital record keeping right across the government. The pathway recommends mandating digital formats for long-term records and the use of open standards, consistent with policy of the National Archives. This work by our own records office puts us in a good position to really push forward with a number of our open government initiatives. The groundwork is laid.

As members would know, my government has already been actively exploring ways to encourage more Canberrans to participate more directly in the work of government. The government's updated community engagement manual released last week highlights the potential of social media in this regard. More than a million Australians are active users of Twitter, while Facebook reportedly has 10 million or so active users. Governments cannot ignore these figures any more than business can.

My colleagues and I in the past month or so have conducted two virtual community cabinets, using the social networking service Twitter, to test the appetite of Canberrans for this kind of short and sharp, one on one access to cabinet ministers. While we did not know what to expect, I am pleased to say that the feedback has mainly been positive. We are looking at future events, building on our experience with Twitter cabinet but incorporating real-time, online forums as well as social media to allow for more in-depth discussion than is possible in 140 characters. As with Twitter cabinet, these forums will be a leap into the unknown, but I think Canberrans will be as keen as I am to give it a go.

I might also say that it is not just ministers who are testing the potential of these new methods of connecting with their fellow Canberrans. Every directorate has a potentially powerful and productive role to play as we open up avenues for the community to better engage with the workings of government.

As a starting point I would encourage all who have not already done so to visit the Time to Talk website, which has become the online point of first contact for community consultation. If you hop onto the site today, you can have your say on the nurse-led walk-in centre at the Canberra Hospital, or join a conversation about whether Twitter cabinet has been a worthwhile experiment. Over time, the site will be hosting a growing range of community online events, from the online community cabinet I mentioned a moment ago through to in-depth community panels, open discussion forums and wikis.

Whilst many of the challenges we wrestle with in relation to open government are technological ones, there are also in some instances legal and other considerations that need to be teased out. For example, while I understand the desire by some members in this Assembly for the government to copyright all ACT government publications under Creative Commons licences, I am advised that such a step requires extremely careful policy development to ensure proper protection of the territory's intellectual property. This exploratory work is underway and I would be happy to brief members further at a future date.

There is excitement in the government in relation to the initiatives I have spoken about today. There is a real enthusiasm to see where open government can take us, to see how it can allow this government to better serve and engage the community and to better explain why and how certain decisions need to be taken.

By its nature, this will be a journey without end because there will always be an emerging technology to challenge us and push us out of the comfort zone. The immediate thing is to start from a philosophical position that more communication is better than less communication, that more openness is better than less.

The structural and cultural reforms the government is putting in place have the potential to make this city a leader in the kinds of things I have spoken about today. I look forward to updating members again as these initiatives become part and parcel of the regular, daily business of government.

MS LE COUTEUR (Molonglo), by leave: I welcome the minister's statement, as it is pursuant, as it says, to an Assembly motion that I moved earlier this year. I think it is great to see the ACT government moving in the direction of more open government.

Probably one of Ms Gallagher's most interesting statements was about the perverse and unintended consequences of freedom of information. I have done only a very little bit of freedom of information research so far, but that is certainly true: you always wonder what is behind the black bits. They clearly have been culled.

I applaud the government saying that, unless there is good reason why data should not be available, there should be a presumption in favour of the release. That, of course, was part of the motion. The other thing that was part of the motion, which I note the government voted against, was to copyright all ACT government publications under the Creative Commons licence. I would point out that it is more than just the desire of some members of the Assembly. It was actually in a motion passed by this Assembly that the government should do this, so I look forward to the government completing

that work, because I think it is the obvious way forward in terms of proper protection and proper use of our data.

In am also a little disappointed that on page 6 the government say they have recently announced a new ACT public service ICT strategic plan but on page 7 say it is scheduled for completion before the end of the year. It would be great to see it before that.

I have to agree that data needs to be in a form that is accessible and useable. I would like to say that this is an area where the government can learn a lot from the rest of the world. As planning spokesperson, I have a particular interest and knowledge here. I recommend, as I have recommended a number of times, to the government that they look at planningalerts.org.au, which comes from the OpenAustralia Foundation. It provides for any address, I think, in Australia an alert as soon as there is a DA that comes out near your location and it is very well done. It would be great.

The government thinks it needs to do consultation about what data people would like, and I think it is great that it does, but I would like to let you know that there are some things clearly needed already: ACTION timetables and useable DA information.

I very much applaud also the office developing a digital record pathway, because that was one of the major issues that the public accounts committee had when we reviewed the ACT government's record keeping.

So, in summary, thank you very much for this, minister, and I hope to see more positive action in the future.

Work Health and Safety Bill 2011
Detail stage

Clause 1.

Debate resumed from 23 June 2011.

Clause 1 agreed to.

Clauses 2 to 9, by leave, taken together and agreed to.

MS GALLAGHER (Molonglo—Chief Minister, Minister for Health and Minister for Industrial Relations) (12.07): I move:

> That the clauses be considered in the following order:
>
> (1) clauses 116 to 151;
>
> (2) clause 172; and
>
> (3) the remainder of the Bill in sequential order.

This is largely technical due to the drafting system bequeathed to us by the commonwealth under the national harmonised model work health and safety laws.

Question resolved in the affirmative.

Part 7 (including clauses 116 to 151).

MRS DUNNE (Ginninderra) (12.09): I thank the Assembly for its indulgence in the somewhat unorthodox way we are doing this. It is complicated but it will all become obvious—it will become simpler because of this.

Ms Gallagher: I hope so.

MRS DUNNE: Look, I assure you, Chief Minister—only here to serve.

Part 7 will be opposed by the Canberra Liberals for a variety of reasons. As Mr Seselja said in his comments on the in-principle stage, the Canberra Liberals oppose the notion of union rights of entry under an entry permit scheme which is set up by this part. This part sets up the scheme to investigate reasonably suspected breaches of work health and safety. The reasons we do not support this are numerous.

The bill already proposes quite extensive powers to inspectors and the regulators, and these officials play an independent role, and they have higher levels of powers of entry and powers of search. Unions do not have the same levels of powers of entry and powers of search and, for the same reason, we would not support right of entry for any other group, be they employers or people who were just interested in occupational health and safety.

Any powers conferred on a union under part 7 could just as easily rest—and, in fact, they do rest—with inspectors or regulators. An example is the power to discuss work. With the exception perhaps of the issue of discussing work health and safety matters with employees, this is something which inspectors and regulators should be doing on a regular basis and, of course, they should be discussing these matters with employers as well.

Further, this part contemplates that unions will have a right of entry to a workplace based on reasonable suspicion. This issue of reasonable suspicion was commented on by the scrutiny of bills committee, and this test, which is relatively low and highly subjective, has been criticised on a number of occasions by the committee not just in relation to this but in relation to other bills that have come before the Assembly. The scrutiny of bills committee recommended that the reasonable suspicion should be replaced with a higher threshold of a reasonable belief.

To put it in sum, the Canberra Liberals oppose this entire part because it is an added level of bureaucracy and an added layer of compliance, and there are some onerous powers in here. As I have said before, the regulator and the inspectors already have powers of entry and powers of search. There are issues that have come up there which we will discuss later in the bill. I have concerns about the levels of powers the

inspectors and the regulator have. They are much more stringent than the powers we give to police, and I think these should be matters of some concern to members of this place.

But, in addition, what we have in part 7 is another set of powers—a set of lesser powers—which generally reflect the powers of the inspectors. We do not see any reason for this duplication of powers. If we succeed in deleting this, we will immediately delete 15 pages of legislation, which has to be a good thing if nothing else. By doing this, we will actually cut down and simplify this piece of legislation.

This is not to say that we think people should have open slather on work sites or in workplaces to act in an unsafe way. That is not the case. We believe there should be appropriate safety measures, and we believe those appropriate safety measures are ensured by the actions of the regulator and his inspectors and that the powers which are given to unions in this case are unnecessary and duplicatory but at the same time are lesser powers than those provided to inspectors.

There are some considerable concerns with this, and I have put forward this scenario to the officials. There are powers in this part that allow union officials who have a right of entry to compel people on the site to give them assistance. There is a risk that people who are not absolutely full bottle on the legislation will get themselves into trouble.

I create the scenario of a building site where there are a whole lot of people working—technical workers, manual workers, labourers and the like—and someone who has power under part 7 comes on site and says to somebody walking by, "Here, give me a hand to do this." He is doing another job, and in the way that people do on building sites, probably with colourful language, he tells him that he is not going to help him do that because he is busy doing something else.

That would be a very tricky act that has penalties attached to it, because the people on the site may not actually recognise that this person is a person who is exercising his powers under part 7 of the act. However, if a workplace inspector, an official, came on site it would be much more obvious that that was what he was doing. It is interesting that those powers do not always translate into the workplace inspectors area.

For a variety of reasons the Canberra Liberals will be opposing this part. We believe that in some cases it creates an extra layer of bureaucracy in this already complex piece of legislation and creates a set of powers which are unnecessary and duplicatory. It is not actually about whether the unions exercise these powers; it is that having a third party exercise these powers—whether it be a union group or an employer group or any other interest group—is unnecessarily duplicatory in this already complex piece of legislation.

MS GALLAGHER (Molonglo—Chief Minister, Minister for Health and Minister for Industrial Relations) (12.16): I understand that Mrs Dunne is opposing the current clauses. The government will not support Mrs Dunne's position on this, which would in effect remove the whole of part 7 of the bill.

Mrs Dunne: Knock me down with a feather.

MS GALLAGHER: Yes, I do not think that is going to shock you, but it does not shock me that you have brought your position forward.

As members would know, part 7 provides a right of entry by union officials that have a work health and safety entry permit. The right of union officials to enter a workplace to investigate safety breaches has been a longstanding part of the occupational health and safety legislation in Australia, and indeed internationally, for many years. Union officials play an important role in occupational health and safety, and, in my experience, far more often than not they play a very responsible role in their dealings with business owners in enforcing their occupational health and safety obligations.

The right of entry is tightly controlled. Before being able to gain entrance into a workplace a permit holder must firstly obtain a permit under the Fair Work Act and then apply to the Office of Regulatory Services for a permit issued under this act. It is not simply a matter of someone just rolling up and being given a permit. There is a process to follow and a determination to be made by the regulator.

Entry permit holders are required to undergo training so that they are aware of their obligations under the legislation. Entry permit holders are only able to enter a workplace without notice where there are reasonable grounds to suspect that there has been a contravention of the act or where there are reasonable grounds to suspect that a contravention is occurring. If an entry permit holder wishes to consult with workers on occupational health and safety matters, they are required to give notice of their intention to enter the workplace at least 24 hours before they intend to do so.

Our current Work Safety Act provides the same level of access to union officials. I have not been advised of any complaints suggesting abuse of this role. While some may suggest that it is possible for some to abuse this position, I would say there are enough safeguards in place to prevent this from happening. If an entry permit holder contravenes any of the conditions of the entry permit or acts in an improper manner whilst exercising their right of entry, the regulator is able to revoke the permit.

I draw members' attention to the very positive and proactive role that unions have played. If you just think of some events of last week in relation to asbestos and in relation to issues out at the Cotter Dam, unions are active in this space and they have a role to play. Yes, that role needs to be regulated, and that is what this legislation allows for.

MS BRESNAN (Brindabella) (12.19): The Greens will not be supporting Mrs Dunne's proposed amendment, which would remove the right of permit holders to enter the workplace. Work health and safety permit holders are people who hold an office in or are employed by a union. The amendment proposed by Mrs Dunne effectively seeks to take away the rights of unions to enter workplaces to investigate breaches, to advise and consult workers and to hold discussions about work health and safety. The Greens are strong supporters of these rights. The Greens care about

worker safety, and we cannot overlook the important role that unions and the right to entry plays in ensuring work safety.

The Chief Minister has already mentioned the asbestos incident at Fyshwick. With this recent scare, my understanding is that the relevant union exercised its right to enter and inspect the site. Its involvement has resulted in a stronger safety outcome where the asbestos must be cleaned up more quickly than first proposed. We do not believe it is satisfactory that inspectors or the regulator are the only ones permitted to enter a workplace. It is not possible for them to do the same job as unions, nor does the regulator have the resources to do the same job. The result of the amendment would undoubtedly be a significant reduction in inspection, oversight, worker consultation and worker safety.

In response to some of the concerns raised by Mrs Dunne, I point out, as the government has noted in its response to the scrutiny committee on this issue, that there are a number of rigorous safeguards and limitations in the provisions, particularly in relation to permit holders. Amongst these are the requirements that the permit holder must give notice, can only enter in working hours in relevant areas of the workplace, and the regulator is able to impose conditions on permit holders.

Question put:

> That part 7 (including clauses 116 to 151) be agreed to.

The Assembly voted—

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

Question so resolved in the affirmative.

Clause 172.

MRS DUNNE (Ginninderra) (12.24): Clause 172 in this legislation is where we deal with the right against self-incrimination. This is one of the human rights issues that occupied the Canberra Liberals in relation to this legislation. This clause takes away from people, admittedly in limited circumstances, the right to protection from self-incrimination.

The minister's officials and staff have spent a lot of time trying to convince us that we do not need to be concerned about the removal of this basic right because it is in such limited circumstances. But it is a matter that was commented on by the scrutiny of bills committee at some length; it has been on other occasions commented on by the scrutiny of bills committee, and it is a matter of considerable concern for the Canberra Liberals. I also note that Western Australia has not gone down the path of abrogating

the right to protection from self-incrimination and it believes—and I believe—it can maintain a national approach to occupational health and safety.

There is this sort of strange approach from the current government in relation to template legislation which I think is alarming—this will come up a number of times in the debate here today—where we see the government saying, "We have to do this because we've been to COAG and we've have had a discussion in COAG and COAG has agreed that we will have national uniform legislation." In doing so, this government, who like to say, "We were the first government in Australia to implement a charter or rights," is undermining one of the fundamental rights in that legislation.

This is an important matter, and it is a matter that the Canberra Liberals will not agree to. We believe that, although this matter is hedged around with protections, the longstanding and fundamental right in common law jurisdictions of the right to remain silent and not have that interpreted in any way in relation to guilt or otherwise is not something we trample on lightly. This is an issue that the Canberra Liberals have a consistent record on.

This government likes to beat their chest and say, "We have legislated in this space." All they have done after they have legislated in this space is to spend their time systematically trampling on the rights of Canberrans. We have seen it with attempts to make changes in the courts to do away with jury trials in a range of areas, we see it here, and we will see it again in relation to the reverse onus of proof later in this debate. The Canberra Liberals will be known by their actions, and our actions are clear and our beliefs are clear—we should not lightly legislate away people's rights. We will not be part of a piece of legislation that legislates away such a fundamental right.

A number of amendments are consequential upon this clause passing. From memory, they are amendments 11, 12, 14, 16 and 17. I understand from the discussion that me and my staff have had that this very important clause is not going to be opposed by the Greens. They think it is all right to abrogate people's privilege against self-incrimination. I understand, therefore, that clause 172 will remain in the bill in its current form. If that is the case, then amendments 11, 12, 14, 16 and 17 will not be moved. But I commend to the Assembly the notion that we should not be trampling on people's rights, and the Canberra Liberals will have no part of it.

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

Sitting suspended from 12.30 to 2 pm.

Questions without notice

Children and young people—care

MR SESELJA: My question is to the Minister for Community Services. Minister, on 8 September 2011, Mrs Dunne received a briefing from officials of the Care and

Protection Group within the Community Services Directorate on the residential care placement of children or young people in the care of the director-general with a non-government organisation. Apparently, that NGO was not approved as a suitable entity under the Children and Young People Act. Minister, on how many occasions have placements of this nature been made and on what basis under the act were these placements made?

MS BURCH: I thank the Leader of the Opposition for his question. Yes, you are right: Mrs Dunne was provided with a brief on the afternoon—I think you requested it in the morning and the brief was provided to you in the afternoon. As members would know, in September I wrote to the director-general seeking an independent review around this emergency placement, the circumstances of that placement and around issues of compliance with the act. I also sought, as part of that review, a review of current placements, on matters of compliance with the act. As we know, Public Advocate Anita Phillips is undertaking that review.

As stated in relation to this matter, I have not been happy for the act apparently to be breached. But the only circumstances in which I would find this acceptable is where officers had no alternative when they were seeking an emergency placement. I think all of us here would understand that care and protection workers do a fabulous job and act at all times in the interests of children. I think that a primary responsibility for care and protection, and as an element of the act, is that they assure safety and security for the children. Without pre-empting the review, what I hope it will find is that it will validate that the actions were done and the circumstances were in the best interests of the children.

Mr Seselja, in late July I was briefed by the directorate on a number of things, including care and protection staff shortages, the shortages of foster carers and also the occasional use of unapproved agency staff in emergency situations. I continued to ask for assurances from that point that these placements met our standards.

Information provided by the directorate centred on the fact that while ad hoc arrangements had taken place, based on the immediate necessity of removing those children into care, some of these legislative obligations may not have been attended to. That is what I have now been informed, in the last little while. So, Mr Seselja, while you are looking at me, in July I was informed that there were some ad hoc placements being made, and I sought assurances and guarantees that our standards were being met. As I continued to seek assurances and continued to ask questions, it became apparent that the matters were of concern to me. Hence I felt that last week I had no other action to take but to call for an independent review, and that is what I have done.

MR SPEAKER: Mr Seselja, a supplementary.

MR SESELJA: How many times was the law breached by your directorate in this way?

MS BURCH: Part of the independent review is to look at those compliance matters; so I think we will hold, we will wait, until the Public Advocate undertakes those

reviews which will consider not only the July emergency placement but will consider all current placements as well. If information is still required after that, I am happy to take it.

MRS DUNNE: A supplementary question, Mr Speaker.

MR SPEAKER: Yes, Mrs Dunne.

MRS DUNNE: Minister, for each of the placements that we are talking about, what procedures did the directorate follow to establish the status of any organisation that was taking children as being a suitable entity under that act? If they did not do that, why did they not do that?

MS BURCH: In these emergency situations let us put it in context that we have children that are at risk and need an emergency placement. Whilst there have been some compliance matters on this, I just do not know what the opposition would have care and protection staff do. Each and every day care and protection staff do an incredible job for our community. They take kids out of risk—kids that are in danger of being harmed—and they put them in a safe and secure environment.

In the most recent placement, the emergency placement that Mrs Dunne is referring to, the agency involved is contracted by the department for transport services. There was also a case management arrangement in place by a registered out-of-home care provider. I am not quite sure what those opposite would seek the care and protection staff to do—to ignore those children's risk and safety issues or to do the best they can in those circumstances?

MR SPEAKER: Ms Hunter.

MS HUNTER: Minister, you spoke of shortages of care and protection workers. There has been recruitment going on for many years. What are you doing as minister to ensure that we can retain staff in our care and protection system?

MS BURCH: This is a tough job to work in and the ACT and other jurisdictions can certainly say that this is a tough business to be in. I think that members here and broader members in the community should be thankful that we have people to do such an incredible job. We have about 550 children in care at the moment and we have been under some staff pressures. Earlier this year we recruited overseas and I understand that there are 40-plus—I think it is 45-plus—overseas people recruited who have taken acceptance of an offer. They are starting to come in place. I think there are three in place now or there will be 20 in place by December-January, with the remaining coming on in the new year.

As far as how we manage staff and provide support and assistance to them are concerned, I met with a number of staff yesterday afternoon and I plan to meet with them again during this week. They raised with me some of the issues, and I have already spoken with the director-general about that. That is about increased supervision and support. They are under pressure, so often, where they sought to get that supervision and support in house, they are doing the hands-on work themselves.

We will look at arrangements about how we can put that into place. That will not create the extra positions we need overnight, but certainly these are a dedicated crew, absolutely committed to do the best they can for our children. Equally, if they raise matters with me that I can address, I will.

Mitchell—chemical fire

MS HUNTER: My question is to the Minister for Police and Emergency Services. Minister, it is in regard to the fire at the ESI facility in Mitchell on Friday. In media interviews after the fire the ESA indicated that between 3 am and 7 am on Friday morning they were in contact with a number of hazmat experts and scientists to determine what the risks were associated with the substances that were burning at the site—to paraphrase, "ascertain what we were dealing with". The ESA were able to obtain the manifest of what was in the factory; however, did not appear to be clear about the full implications of what would happen to the chemicals when they combusted.

Minister, can you explain what emergency response plans this facility had in place to manage a potential scenario such as the fire that occurred?

MR CORBELL: The emergency response plans for the facility are a matter for the management of the facility. I do not have the details of that but the details of the plans and safety arrangements that the management of the facility had in place, or the facility itself, will be the subject of a detailed investigation, first of all by the Fire Brigade and the police, in preparing their report for the coroner, also by WorkSafe ACT in relation to safe work practices and also by the EPA in relation to environmental authorisations and the fact that we now have a polluting event as a result of this fire.

MR SPEAKER: Ms Hunter, a supplementary.

MS HUNTER: Minister, aside from retrieving the manifests from the site, why is it that the ESA were not fully aware of all the chemicals that might be present on the site and how they would react if combusted at a high temperature as soon as the fire was notified by fire authorities at 11.30 pm on Thursday?

MR CORBELL: The requirements for the operators of this facility are to ensure that, amongst other things, a manifest is present at the site that can be obtained by emergency services in the event of a fire or other emergency. The manifest was present on the site and, I am advised, was obtained by the first responding units of the ACT Fire Brigade when they arrived at the scene of the fire. The exact adequacy of that information and whether or not it allowed the Fire Brigade to fully determine what response was required at the scene of the fire is the subject of the Fire Brigade and police investigation, amongst others.

MS BRESNAN: A supplementary.

MR SPEAKER: Yes, Ms Bresnan.

MS BRESNAN: Minister, was there any delay in the issuing of the alert to inner north suburbs because there was a lack of information about the chemicals on the site, and would a fully prepared emergency response plan have allowed ESA to issue alerts to close windows and stay inside earlier than was done on the morning of 16 September?

MR CORBELL: A full action debrief will be undertaken by the emergency services in relation to their response to the incident and all of these issues will be considered as part of that process. I would, however, make the observation that I do not believe that the advice provided by the emergency services was in any way delayed due to a lack of information. The fire brigade always take a precautionary approach and, as soon as they ascertain that they believe there is any possible risk to the broader community, they take appropriate steps. That is what occurred in this instance. The initial emergency alert that was issued was issued at the direction of the incident controller at the scene based on the information available to him and based on his assessment of what was occurring at the scene. I have received no advice to suggest that there was any delay in the issuing of that alert and information to the community.

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

MS LE COUTEUR: Thank you, Mr Speaker. Minister, can you provide the Assembly with a list of people that the ESA consulted in regard to the management of the fire on the morning of 16 September?

MR CORBELL: I am happy to provide those details to the Assembly. What the ACT Fire Brigade did was to contact their colleagues in the New South Wales Fire Brigade, who do have significant additional expertise in the area of chemical fire and large-scale industrial chemical fires. This is for obvious reasons. Obviously, the ACT has a limited number of these facilities compared to large jurisdictions such as New South Wales and Victoria, given the large number of industrial complexes in those jurisdictions. As is always the case, the ACT Fire Brigade drew on the advice available to them from their colleagues interstate, and that assisted them in making further assessments about the management of the fire as the morning of Friday moved on.

The Fire Brigade was also able to obtain further additional advice from a hazmat expert who was currently present in the ACT at the time that the fire took place. Their advice was also drawn upon. But I do not want this in any way to suggest that the Fire Brigade do not have the training or the knowledge or the skill sets needed to deal with this type of fire. They do. But given the relative lack of frequency with which these types of incidents occur in the ACT, it is sensible and logical for them to draw on advice from jurisdictions that have to deal with these incidents on a more frequent basis. I think that was an entirely responsible course of action for them to take.

Visitors

MR SPEAKER: I draw members' attention to the fact that in the gallery today we have a number of people joining us from the ACT government's work experience

program. I welcome you to the Assembly and I hope you draw some lessons from the question time experience.

Questions without notice

Children and young people—care

MRS DUNNE: My question is to the Minister for Community Services. Minister, it recently emerged that a residential care placement of children or young people in the care of the director-general with a non-government organisation may have been in breach of the Children and Young People Act—you said as much yourself earlier in question time—in that that organisation was apparently not approved as a suitable entity under the Children and Young People Act. In fact, on 30 August 2011, the ACT Government Solicitor sent the organisation a letter in which it was stated that the organisation had "never been approved by the Director-general as a suitable entity in terms of s63 of the Act". Minister, given that you were advised in July that there were possible breaches of the act, what did you do to ensure that the children in care in question, who were still in care in August, were safe, and what did you do to ensure that this never happened again?

MS BURCH: I thank Mrs Dunne for her question. As I have indicated, in late July, in a briefing to me, there was notice around difficulty in care and protection staff—pressures on care and protection staff, pressures on foster care placements. There was also commentary about use of unapproved staff. It also went on to say that there were strong oversight positions in place. As I have said, I have been seeking assurances that services meet our standards, that oversight is absolutely strong and that all things being equal are in place.

Throughout this whole period, Mrs Dunne, my primary concern was the safety of the children. The care and protection staff make tough decisions. Again, I call on you to say what you would do in these circumstances. If you had children that needed care and protection, would you put in place arrangements—

Members interjecting—

MR SPEAKER: Thank you, members. You will have your chance in a moment.

Mr Hanson interjecting—

MR SPEAKER: Mr Hanson, I have been clear.

MS BURCH: Would you not put in place the best that you could do? Would you not put in place, utilising a service that is known to you, an oversight by a registered out of home care provider to provide case management on a tight and documented basis? Would you not seek to have those types of assurances in place?

I have, over that period, sought information from the directorate. I have to say that some of the information back to me from the directorate had a level of uncertainty because of the oversight arrangements that were in place. I met with the provider of this service on the Friday afternoon, and I still have questions. So I felt that I had no

alternative but to seek clarity on this, and the way forward through clarity was with independent review with the Public Advocate. She will certainly provide to us commentary on the circumstances surrounding this, if any breach occurred, and what alternatives were open to the director at the time.

I think that it is somewhat galling for Mrs Dunne to stand here and say, "What do you do in some circumstances?" when she herself has breached the confidence of the organisation that came to her in good faith before they came and raised these concerns with me, and provided their documentation in a flap and a flurry at the end of the week where it was quite easily identified as that provider. Mrs Dunne knows this because she went to some effort to conceal their identity. In fact, she also then provided a more secure copy of that document so that she would not be found out. She has been found out.

Mrs Dunne interjecting—

MS BURCH: She has absolute disregard for the people that come to her in confidence. You are quite happy to splash their name and ruin their reputation.

Mr Hargreaves: Point of order, Mr Speaker. Mrs Dunne said quite clearly across the chamber to the minister, "You broke the law." That (1) is unparliamentary and (2) casts aspersions on the minister and on the member herself. And also she has to either put up or shut up. I ask you to ask her to withdraw, Mr Speaker.

Mr Seselja: On the point of order, Mr Speaker, earlier in question time Ms Burch acknowledged that her directorate had broken the law. Her directorate acts on her behalf. If they don't like the fact that the directorate acts on her behalf, that is Mr Hargreaves's problem. But she has acknowledged it in question time today.

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

MR SPEAKER: Stop the clocks.

Mr Hargreaves: Mr Speaker, that is just being a bit disingenuous. The accusation was quite crisply clear across the chamber. Mrs Dunne could be more definitive in what she says, but she was not. She was precipitous, as usual, and you should ask her to withdraw that statement, Mr Speaker.

MR SPEAKER: I did not hear the remarks from Mrs Dunne. I intend to proceed without the point of order.

MS BURCH: I heard the remarks.

MR SPEAKER: I did not hear the remarks. I am going to proceed. Minister Burch, I invite you to return to the specific question rather than what you think Mrs Dunne might or might not have done, in the remaining time you have.

MS BURCH: Mr Speaker, I have made comment that there appears to be—may have been—a breach of this act. I have also said that under the circumstances the primary plank of the act is to provide safety and security for the children. *(Time expired.)*

MR SPEAKER: Mrs Dunne, a supplementary question.

MRS DUNNE: Minister, in earlier comments you said the act allowed the directorate to do this. The act also specifically outlines, in section 63, what procedures must be followed if a non-suitable entity is appointed. Were those procedures followed?

MS BURCH: I imagine that will all become apparent through the Public Advocate's review.

MR COE: A supplementary, Mr Speaker.

MR SPEAKER: Yes, Mr Coe.

MR COE: Minister, when did the directorate first become aware that the placement may have been in breach of the act and what action happened in response?

MS BURCH: The directorate provides placements for over 550 children. Some of these placements are in emergency circumstances. Some of these placements may not be ideal. But the alternative is, what, to leave them in an unsafe and insecure environment?

Mrs Dunne: On a point of order, Mr Speaker, relevance. The question was directly: when did the directorate know and what did they do? It was not about what their motivations might be.

MR SPEAKER: Let us come to the question, Minister Burch, thank you.

MS BURCH: The directorate at all times have sought to place these children in a safe and secure environment. They have put in place oversight arrangements by a registered out-of-home care provider, as opposed to the alternative which I think beggars belief. But the Public Advocate is reviewing all circumstances around compliance on this matter and every other current placement—

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

MS BURCH: and I think the Public Advocate—

Mr Smyth: Is there a point of order or not?

MR SPEAKER: I am just letting her finish the sentence Mr Smyth, but we will do it your way. We will stop immediately. Sit down, minister, thank you.

Mr Smyth: Mr Speaker, under standing order 118(a) and (b), it is quite a specific question about when did they become aware and what did they do. You directed her to come to the essence of the question.

MR SPEAKER: Yes, I did.

Mr Smyth: She ignores you. Will you direct the minister to answer the question? If she does not want to, then she can sit down.

MR SPEAKER: Let us come to the question, Minister Burch.

MS BURCH: I will leave all these compliance matters to be revealed, documented and outlined in the Public Advocate's review.

MR HARGREAVES: Supplementary, Mr Speaker.

MR SPEAKER: Yes, Mr Hargreaves.

MR HARGREAVES: Minister, will you table the director-general's letter to the Public Advocate requesting the review, and is the Community Services Directorate providing resources to assist the Public Advocate to conduct the review?

MS BURCH: I am quite happy to table the letter that the director-general has sent to the Public Advocate and I am quite happy to advise members here that we will be supporting in any way we can the Public Advocate to undertake that review. I am quite happy to table that. I table the following paper:

> *Children and Young People Act 2008*—Possible breach of section 63—Copy of letter from the Director-General, Community Services Directorate, to the Public Advocate, dated 14 September 2011.

I will leave it there for members' interest. The director-general has indeed written to the Public Advocate volunteering that the directorate will provide assistance with all records and documentations as provided. The directorate has undertaken work with the Public Advocate to ensure that there are adequate resources during the course of the review and the directorate will provide one full-time equivalent staff member to be seconded to the Public Advocate—

Mr Hanson interjecting—

MS BURCH: to assist her to undertake the first part of her review. The member has recently finished a secondment to the Public Advocate so is well aware of and familiar with the work processes—

Mr Hanson interjecting—

MR SPEAKER: Thank you.

MS BURCH: and I think that shows the good faith in which the directorate is entering into this review.

MR SPEAKER: Mr Hanson, last question time I made clear to the chamber my distaste for the gratuitous insults put across the chamber. I think the comments you've made in the last minute or so fall into that category. I ask members to raise the standard of commentary in the chamber. Dr Bourke, you have the call.

Hospitals—elective surgery

DR BOURKE: Chief Minister, can you please outline to the Assembly the latest information on the management of the elective surgery waiting list?

Opposition members interjecting—

MS GALLAGHER: Mr Speaker, I will try to answer this question without responding to the interjections from those opposite, who find it impossible to learn from your repeated warnings about conduct in question time.

This week the government released the ACT surgery report card as another measure of providing more information to the community about the work that government does. This report card has been developed to show people the progress that has been made in the area of elective surgery, particularly in seeking to increase the number of operations and reduce the waiting times, including resulting in fewer people on the waiting list.

It is very clear that since 2001 access to elective surgery has increased by about 65 per cent. This is despite population growth in the order of 16 per cent. In the last financial year the public hospitals, with some small assistance from the private hospital sector, managed to deliver 11,336 elective surgery operations. This was 16 per cent above the 9,778 operations provided in the previous financial year and well above the target that was set of 10,712 operations.

The increase in activity has resulted in a significant improvement in the number of people waiting too long for surgery. In just 18 months the number of people waiting longer than clinically recommended time frames has been reduced by 44 per cent. This figure is now the lowest it has been in more than eight years. This will continue to trend down over this year with the additional investment that has been made by the ACT and commonwealth governments.

The report card shows that the six-month median waiting time was at 76 days at the end of July 2011. As we have said, the median waiting time has recorded higher numbers while we focus on ensuring patients who have been waiting too long have access to their surgery. For example, in the first two months of this year the median wait time was down to 58 days. This number will move around a bit over the next few months, but it is significantly less than the 76 days that was reported for the first two months of the last financial year.

So we can see that progress is being made in reaching the targets. For categories 1 and 3, 95 per cent of patients and 79 per cent of patients respectively were seen on time. In the 90th percentile, that number has come down to 326 days. That is capturing the people waiting for the longest time. This is significantly less than last year and, indeed, is inside the one-year maximum waiting time for people listed as category 3 patients. We can see that progress is being made. There is more work to be done. I thank all of the staff who have been involved in the elective surgery reduction strategy for the hard work that they have put in and, indeed, the partnerships that we have created with the private sector to assist us with our work.

MR SPEAKER: A supplementary, Dr Bourke.

DR BOURKE: Chief Minister, how will the government manage growth in demand for elective surgery in the future?

MS GALLAGHER: I thank Dr Bourke for the question. We are seeing promising signs in the management of elective surgery, but we must always look to the future. One of the challenges that this system has, regardless of the political flavour of the government that is in power at the time, will be that we have two public hospitals. Both of those public hospitals carry an emergency load. Indeed, that will not change. We will not have more than two intensive care units. So much of our elective surgery operations will remain within the two public hospital town.

In terms of the future, it must also include Queanbeyan. This is currently an under-resourced but new facility. I believe there has to be some resolution. Whether that be the ACT government managing operations at Queanbeyan Hospital or the New South Wales government managing operations at Queanbeyan Hospital, I do not really mind, as long as the hospital is actually doing what it was built for. That will significantly improve access to surgery, particularly with 30 per cent of our elective surgery program being provided to residents of the surrounding New South Wales region.

We will also look to continue our relationships with the private sector. I note Mr Hanson is not as supportive of those private-public sector relations. I think it is the future of any successful elective surgery strategy in this town, based on the fact that we are a two-hospital town and that there is some capacity in the private sector to do some high-volume work. For less urgent conditions, it gets them out of the acute system. We do not pay any more for it, that is a regulated price. And there is capacity in the private providers. It has to be seen as a viable option going forward. The other area, of course, is—*(Time expired.)*

MR HANSON: Supplementary, Mr Speaker.

MR SPEAKER: Yes, Mr Hanson.

MR HANSON: Minister, why is it that one in three elective surgery patients is waiting longer than clinically recommended times?

MS GALLAGHER: It is basically driven by demand and capacity, Mr Speaker. You cannot wave a magic wand and change the fact that 50 per cent of the work that is done in our hospitals every day is emergency work. Almost 7,000 operations are done every year in emergency work. When you have got half your capacity tied up doing that, you are going to have difficulty managing the demand in elective load. That is why other jurisdictions have flexibilities that we do not have. That is why I am looking to a solution with Queanbeyan. That is why I am looking for solutions in the private sector. This is not an issue that is going to be managed within the two public hospitals while they are carrying the emergency load that they carry for the region. It simply cannot be done, unless we dramatically increase the number of operating theatres in both of those hospitals. That will happen over time, but it will not happen

immediately so, in the short term and despite the extra operating theatres that have been brought on, in the short term it has to be around operating theatre utilisation, Queanbeyan hospital, private sector, and also encouraging people to lead healthier lifestyles so that they do not end up on the elective surgery waiting list.

MR HARGREAVES: A supplementary.

MR SPEAKER: Yes, Mr Hargreaves.

MR HARGREAVES: Chief Minister, can you advise what percentage of activity elective surgery represents when compared with the overall hospital activity?

Mr Hanson: She just said 50 per cent.

MS GALLAGHER: No. I am sorry, Mr Hanson, you are wrong there. You are always quick with the answer. It is just that you never listen to the question. What Mr Hargreaves asked was actually what percentage elective surgery represents when compared to overall hospital activity.

Mrs Dunne: Is that what he meant to say?

MS GALLAGHER: That is actually what he said. If you lot were not interjecting as much as you were, you probably would have heard. This is where, I think, we need to understand that elective surgery is only a part of hospital activity. In fact, it constitutes about 17 per cent of all hospital inpatient activity. In fact, there are a whole load of things that are done, about 83 per cent of the work in public hospitals, which are actually not related to elective surgery. For example, last financial year we provided 100,000 inpatient episodes of care, 110,000 emergency department treatments, 350,000 outpatient services. These cover things like cardiology, renal medicine, respiratory medicine, infectious diseases, births, cancer services, aged care services and mental health services.

Whilst we are seeing progress in elective surgery, I do not think it is fair to judge an entire public hospital system by the waiting list or, indeed, the median wait time within that. You must have a look at the public health system more broadly. I think, when you do have an honest look at that, the Canberra community can feel very proud of the work of the staff of their public health system and the very significant amount of activity that they are able to meet on a day-by-day basis.

Children and young people—care

MR SMYTH: My question is to the Minister for Community Services and is on the matter of letters, seeing that she was so interested in letters recently. Minister, on Friday, 9 September 2011, Mrs Dunne wrote to you concerning a residential care placement made by the Care and Protection Group within the Community Services Directorate for children or young people in the care of the director-general with an organisation that apparently had not been approved as a suitable entity under the Children and Young People Act. Mrs Dunne wrote you a further letter on Monday, 12 September, three days later, in which she expressed concern that the placement

may have been in breach of the act. Mrs Dunne has received no response to either of these letters, but after receiving Mrs Dunne's two letters, you made public statements in relation to the matters raised in those letters. Minister, given the seriousness of the matters raised by Mrs Dunne, why have you failed to respond formally to Mrs Dunne's two letters and when will you provide that response?

MS BURCH: I hope to get a response to Mrs Dunne by the end of this week.

MR SMYTH: A supplementary, Mr Speaker.

MR SPEAKER: Mr Smyth.

MR SMYTH: Minister, is it your usual practice to ignore important correspondence from MLAs, instead seeking to respond by making public statements?

MS BURCH: There are various demands on my office and my time and what letters I respond to. I can assure Mrs Dunne that she will get a response to her letter at the end of the week.

MRS DUNNE: A supplementary question, Mr Speaker.

MR SPEAKER: Yes, Mrs Dunne.

MRS DUNNE: Minister, given that you have admitted that you have known about this issue since July, was it the case that it was because I raised this issue with you and raised it with statutory office-holders that you actually went public on this issue?

Dr Bourke: On a point of order, Mr Speaker, the original question was about correspondence in the minister's office and the response to it but I have not heard that with regard to Mrs Dunne's question.

MR SPEAKER: I think we might have the question again, Mrs Dunne. Dr Bourke, in taking your point of order, I actually lost my train of thought on Mrs Dunne's question. So let us have the question again.

MRS DUNNE: The question was: given that Minister Burch has admitted that she knew about this since July, did she go public as a result of my letters?

MR SPEAKER: On that basis I think the question is in order, Dr Bourke. It relates to the letters that Mrs Dunne sent, which is the line of questioning. Minister Burch, you have the floor.

MS BURCH: Thank you, Mr Speaker. I hate to disappoint Mrs Dunne, but the answer is no, it was not in response to her letters.

MRS DUNNE: A supplementary.

MR SPEAKER: Yes, Mrs Dunne.

MRS DUNNE: Minister, do you expect the community to believe that this was entirely a coincidence or are we dealing with this matter publicly because I stumbled across this breach?

MS BURCH: They are obsessed with "it's my little bag and I'll run home and play with it". I have been seeking assurances from the department and seeking information on questions for a number of weeks. I met with the provider on the Friday and it was after that that I continued to have questions in my mind. There was no further action for me but to have an independent review by the Public Advocate.

This is not about Mrs Dunne; this is not about her. This is about the safety and security of the children in care. Can I say that I want to thank those care and protection workers that work in such a challenging and harsh environment, where they get very little thanks—and I certainly have not heard any thanks from those opposite regarding those workers that do care and protection.

Can I say that this is not in response to Mrs Dunne. The only thing that I have sought to do in response to Mrs Dunne's letters is to apologise to the provider. I am happy to apologise to the provider that came to Mrs Dunne in good faith. She has disclosed their identity far and wide on the world wide web.

MR SPEAKER: Thank you, minister; I feel we are off the topic.

Mitchell—chemical fire

MS LE COUTEUR: My question is to the Chief Minister and concerns the financial aspects of the Mitchell fire. Chief Minister, what progress has been made in determining whether compensation should be paid to the businesses in Mitchell which have been adversely financially affected by the fire?

MS GALLAGHER: I thank Ms Le Couteur for the question. This is a matter currently before government. We had not, and have not to my knowledge, had any formal request from a business for compensation at this point in time. At this morning's meeting we had about 60 businesses present. Between the Treasurer and me, it was raised by a couple of individuals; I have to say it was not the major issue discussed.

I think the next steps are for people to understand their own business insurance arrangements, to understand the insurance arrangements that exist with ESI. The difference I explained to the businesses is whether government can just intervene at this point when we are not dealing with a natural disaster. We are dealing with an industrial accident. There are business insurance obligations there. So what I would say is that we are having a look at this. We have provided an avenue for business to come forward to us if they are experiencing some financial hardship that is not covered through normal insurance arrangements. I think the position that the Treasurer and I got to was that we will see what that looks like. At this point in time we have not finalised our thinking on it other than to say that we are acting cautiously. We do not want governments to start intervening in areas that would, I think, send a

message that people did not need to carry their own insurance to cover them for things such as this.

MR SPEAKER: Ms Le Couteur, a supplementary.

MS LE COUTEUR: How much funding is available to cover any compensation if it is required from the ACT Insurance Authority, any ACT government insurance cover or would be recovered from the company, ESI?

MS GALLAGHER: On that broader question, there are costs involved in the clean-up. The EPA would have incurred substantial costs and, of course, the emergency response would have. That will all be worked out in time. I think the focus in the last four days or five days has really been to make sure we can get Mitchell opened as soon as possible but that all the appropriate testing was done and that the emergency response was finalised.

SEMSOG, the security and emergency management senior officials group, which meets frequently and has met frequently since early Friday morning, has officers of the Treasury and Economic Development directorates that sit on it and they are actively interested in this space. But we do not have any final advice, including what we may be able to recoup for some of those costs from the factory owners through their business arrangements.

MS HUNTER: A supplementary.

MR SPEAKER: Yes, Ms Hunter.

MS HUNTER: Minister, what discussions has the government had with ESI about their liability and have you considered how the government's compensation payments will be affected if they go out of business?

MS GALLAGHER: I think there have been discussions with the business owner. I have to say that the focus of those discussions in the last few days has been about managing the immediate response rather than who is going to pay for what. But those discussions will be had. It has certainly been made very clear to me, from the EPA particularly, that there are responsibilities of the owner that need to be met here. So they will be ongoing, and I am sure we will both be very happy to update Assembly members as they progress.

MS BRESNAN: A supplementary.

MR SPEAKER: Yes, Ms Bresnan.

MS BRESNAN: Minister, at this stage will compensation payments be restricted to those businesses within close proximity to the fire or widened to include all businesses in Mitchell?

MS GALLAGHER: I think I have probably covered off the answer to that with Ms Le Couteur's question. We are not at this point offering blanket or open

compensation for essentially business continuity, a disruption that has occurred due to this incident. People have been affected differently and, indeed, a number of the business owners at the meeting today said they had been in touch with their insurers already; some of them were heading along that journey.

I have to say—and I do not want to prejudice any future decisions that will be taken—that was not the priority for Mitchell business owners today. The priority was to get back into their businesses and get them open for business. Many of them already are, but particularly in those three streets that have been affected—Tooth, Pelle and Dacre streets—I think there are 100-odd businesses that are still affected.

Even if the exclusion zone is reduced this afternoon, which we hope it will be—the washdown has been completed, to my understanding—it may just now involve the closure of a couple of businesses in very close proximity to the factory. So obviously there is a different level of disruption for different businesses. Businesses, as far as we understand, have insurance arrangements in place. There will be some responsibilities on ESI and the government is actively interested and talking with people in this space. As there are further developments in this area, we will certainly let people know.

Children and young people—care

MR COE: My question is to the minister for housing. Minister, the former Ginninderra police residence on the Barton Highway is leased to Barnardos and is used for residential care placements of children and young people in the care and protection system. It has been alleged that the residence was unsuitable for a recent residential care placement because it is claimed that there were no beds, no running hot water, inadequate electricity supply and broken window panes, with glass on the floor. Matters such as hot water and electricity supply in Housing ACT properties normally would sit within the responsibility of Housing ACT. Minister, how is it that a Housing ACT property could be allowed to be in such a state as to be unfit for human habitation?

MS BURCH: I thank Mr Coe for his question. You are right: the property is head leased through Barnardos and they have responsibility for its ongoing condition. It is one of I think 620-plus properties that we head lease to organisations, within the Office for Children, Youth and Family Support and through disability services as well. Certainly, there has been an issue around the preparedness and the state of the property. It is my understanding that when that was raised with Barnardos, it was addressed and some repairs were done.

I sought some clarity on this at the end of last week when these comments came to light. I asked Housing to go through its maintenance list and they found a report of a leaking hot-water system. The following day, a temporary repair was put in place and I think two weeks later a permanent repair had been put in place. I think there was some confusion. Certainly I was confused because I was referring to a July placement. The matters around the bedding were actually a comment around an earlier placement. Barnardos has since clarified that. Certainly for the July emergency placement there was adequate bedding and provisions. There are problems with the electricity. Housing ACT and I find it unacceptable for a head lease tenant not to bring that to our attention or not to make remedy itself.

But that house can no longer be used for care and protection use since, through Mrs Dunne, it has been identified as a care and protection property. I have instructed Housing that it will not be used for care and protection and we will source another property for Barnardos. I find it untenable to have a property identified, given this quite stressful and challenging sector of care and protection. But I do not want future placements there to be exposed to the risk of having any unhappy family or extended family seeking that place with the potential of finding their children.

MR SPEAKER: Mr Coe, a supplementary.

MR COE: Yes, Mr Speaker. Minister, when did Housing ACT first become aware of these issues and have they all been rectified? If yes, when were they rectified? If no, why, and which ones are outstanding?

MS BURCH: As I have said, Mr Coe, the hot water system has been replaced. Barnardos is responsible for the whitegoods and the beddings and it is my advice from Barnardos—

Mr Coe interjecting—

MS BURCH: It is my advice that it was early July that bedding and all that was done. They have provided me with copies of receipts and delivery through—I cannot remember what the furniture is; I cannot remember the dates but I know it was in July. But, as for the electricity board, that is a problem there. The property is empty, it will not be used and it certainly cannot be used, as I have said, for care and protection from here.

Mr Coe: Point of order, Mr Speaker.

MR SPEAKER: Yes, Mr Coe, on a point of order.

Mr Coe: The question was: "When did Housing ACT first become aware of these issues"—not when were they addressed by Barnardos or by another—

MR SPEAKER: Minister Burch, the specific question, thank you.

MS BURCH: On the hot water, they became aware of it when they responded to a maintenance on 1 August. That is my understanding. That is my understanding: on 1 August they were drawn there from a leaking hot water system. Before that, I have a maintenance report which covers gardening, painting, repair of a smashed window, on various dates. If that is what you are asking, Mr Coe—

Mr Coe interjecting—

MS BURCH: I am quite happy to bring a maintenance list from Housing ACT—

Mr Coe interjecting—

MS BURCH: but we have not been responsible for each and every response of repairs and maintenance on that property. But I am quite happy to bring what we have.

MRS DUNNE: A supplementary question, Mr Speaker.

MR SPEAKER: Yes, Mrs Dunne.

MRS DUNNE: Minister, what is Housing ACT's standard inspection regime for its properties and what is the average time taken to rectify problems identified with those inspections?

MS BURCH: We do have a standard line of response to various repairs and maintenance. We have same day, within a day, within a week. It depends on what they are. As I have just said in response to Mr Coe, I will provide a maintenance list that Housing ACT has to identify all the responses to that property. I am happy to do that. But I have also said that some elements of repair and maintenance have not come through Housing ACT and have been responded to by the head lease, which is Barnardos. I will seek information on that and also bring that back.

MR SPEAKER: Mrs Dunne, a supplementary.

MRS DUNNE: Minister, will you undertake, by close of business today, to table all of those documents that Mr Coe has asked for, that is, the condition reports on the Ginninderra police residence at the time it was leased to Barnardos and all inspection and maintenance requests since then?

MS BURCH: It has been leased to Barnardos since 2002; so it has been leased to Barnardos for some years, as head lease. As I say, I am not quite sure that I can produce it today, through a non-government organisation, and burden them with this request to have this here within the next number of hours. But I am quite happy to bring what I can from Housing ACT and as far back as those documentations can be easily sought. If I do not bring it back this afternoon, I will bring it back by the end of this sitting week. I cannot guarantee what Barnardos can provide but I will certainly be asking the question.

Environment—recycling bins

MR HARGREAVES: My question is to the Minister for Territory and Municipal Services. Minister, can you tell us, please, what is the current status of the rollout of recycling bins in the city centre?

MR CORBELL: I thank Mr Hargreaves for his question. As members would be aware, the government provided $165,000 for the purchase of bins and another $80,000 for servicing to trial a rollout of recycling in the city centre this financial year. The current proposal is for a recycling bin trial in the city centre, including City Walk, Garema Place and the city bus interchange, with a view to resolving any issues that may arise during the trial, such as contamination and any issues with servicing.

In August this year a prototype recycling bin was installed in Garema Place. A sample of recyclable material taken from the prototype recycling bin was assessed and it was found that the capacity to recycle what was deposited in the bin was approximately 95 per cent. Information from this trial of the prototype has been used to inform the final design of the bins and the estimated ongoing cost associated with the trial.

There will be 37 bins—or waste stations, I should say, that comprise a garbage bin and a recycling bin—located across the city centre. The locations will be informed by details of the volume of rubbish and recyclable material collected from existing rubbish bins. The new recycling bins will be stainless steel, consistent with the Canberra central design manual and consistent also with the style of other bins in the city and other street furniture.

The bins will have effective signage. Signage will be easy to read, A3 in size and yellow in colour. The next step is a full rollout of 37 recycling bins. We expect these to be in place by the end of 2011. Following installation of the bins, data will be collected over a six-month period to determine the levels of recyclable material collected from the trial and this will be used to prepare an evaluation report expected in September next year.

MR SPEAKER: Supplementary, Mr Hargreaves.

MR HARGREAVES: What feedback has there been from the community and business in the city centre about the recycling bin program?

MR CORBELL: The installation of the prototype bin was an opportunity for feedback from the community on the proposal. Comments were sought on the final design and labelling of the bins from members of the public as well as from Canberra Central Business District Ltd and other ACT government agencies. There was a link on the Territory and Municipal Services website to provide for feedback.

TAMS received numerous responses from members of the public, all of whom expressed 100 per cent support for the trial. Specific comments were received from ACT government agencies, and I think also from Ms Le Couteur on behalf of the Greens, about the design and functionality of the bins, but no comments were received on the actual design of the bin from members of the public. All feedback was considered by a small working group from agencies across government and a final design agreed for use in the city centre trial.

As I have mentioned before, the new bins will be stainless steel, consistent with the Canberra central design manual, and the bins will be located next to rubbish bins, on the right-hand side, wherever possible.

DR BOURKE: A supplementary.

MR SPEAKER: Yes, Dr Bourke.

DR BOURKE: Minister, how much waste is being collected as part of this program and what are the key measures of success?

MR CORBELL: I thank Dr Bourke for his supplementary. During the trial of the prototype, which went for approximately five weeks, approximately 30 kilograms of recyclable material was recovered from the prototype bin in Garema Place. As I mentioned before, that material was found to be 95 per cent recyclable. The key measure of success of the trial to commence in the city later this year will be the volume of recyclable material diverted from landfill to the materials recycling facility at Hume. All waste collected from the 37 bins to be installed in the city will be weighed and the volume of recyclable material measured during the trial period. That waste will be measured over the full six-month period. Street-level recycling will be tested, in terms of not only the volume of recyclable material collected but also the cost effectiveness of that approach.

MS LE COUTEUR: A supplementary, Mr Speaker.

MR SPEAKER: Yes, Ms Le Couteur.

MS LE COUTEUR: Minister, I thank you for rolling out this part of the Labor-Greens agreement. My question is about the signage. It was actually very difficult to find that bin. Will the new signage be yellower and bigger?

MR CORBELL: I am sorry, what was the question again?

Ms Le Couteur: You described the signage as being yellow and A3. Will it be different from the signage on the prototype, which was a very pale brown-yellow and difficult to see? Will it be bigger and better?

MR CORBELL: I am at somewhat of a disadvantage—I am actually colour blind—but I will take advice and provide an answer to you.

Mitchell—chemical fire

MS BRESNAN: My question is to the Minister for Industrial Relations and concerns the storage and handling of dangerous chemicals in workplaces including the ESI fire site, most specifically PCB. Minister, does the national management plan for PCBs cover best practice for worker safety, and has the ACT implemented the national management plan locally?

MR CORBELL: As the Attorney-General I have responsibility for the Office of Regulatory Services which includes WorkSafe ACT. Given the regulatory aspect of those operations, I am their responsible minister. I am not familiar with the details of the documents Ms Bresnan refers to. I will need to seek some advice and take the question on notice.

MR SPEAKER: Ms Bresnan, a supplementary.

MS BRESNAN: Minister, given that WorkSafe was not aware of ESI's new premises, will it now investigate whether any work safety breaches were occurring at the new premises, including by interviewing workers?

MR CORBELL: Yes. WorkSafe ACT is conducting a full investigation of the circumstances surrounding the fire and issues around safe work practice and the occupational health and safety duties of ESI. That will be the subject of a formal investigation by WorkSafe ACT.

Members interjecting—

MR SPEAKER: Thank you, members. I think the joke really has passed. Perhaps we can cut down on the comments. Ms Le Couteur, a supplementary.

MS LE COUTEUR: Minister, what recourse will be available to workers who may have been exposed to safety risks in ESI during the time that WorkSafe was unaware of ESI's location?

MR CORBELL: Whether or not WorkSafe ACT was aware of the location is not a relevant consideration when it comes to their occupational health and safety duty. Businesses have an occupational health and safety duty. That is a universal legal obligation on the employer. It does not relate to where they are physically located. It is a requirement under the law that the management of businesses have certain obligations in relation to occupational health and safety.

I think it is too early to speculate on what may or may not occur out of the WorkSafe ACT investigation. I have been fully briefed by the commissioner for work safety, who is also the executive director responsible for WorkSafe ACT. He has advised me of what steps he is taking to undertake a detailed investigation into work practices and safe work practices at the ESI site. I have every confidence that his investigation will be a thorough one and I think, given that, we have to await the outcome of the WorkSafe ACT investigation. I will add that, as part of that investigation, WorkSafe ACT will be interviewing relevant staff from the ESI facility.

MS HUNTER: Supplementary.

MR SPEAKER: Yes, Ms Hunter.

MS HUNTER: Minister, are you aware that other states, like Victoria, have stricter and more thorough laws governing PCB, and are the ACT's laws sufficient?

MR CORBELL: My understanding of the regulatory arrangements in place in relation to the governance of PCBs, which is a matter in relation to environmental protection legislation, not dangerous goods legislation, which was the subject of Ms Le Couteur's question, and indeed Ms Bresnan's initial question—we are shifting between those two areas but they are quite distinct. On dangerous goods, the requirements in relation to the dangerous goods act relate to the need to notify if there are placard quantities of particular substances, as I outlined in my statement to the Assembly this morning. The obligations under the environmental protection legislation relate to getting formal approvals to store and use those materials here in the ACT.

So the ability for ESI to operate here in the ACT is contingent on the approvals that they receive from the EPA. Without an authorisation from the EPA, they cannot operate. That is the key approval. That approval was in place. It is the subject of review on a yearly basis, on an annual basis, with the most recent review having been conducted earlier this year. In relation to standards around the management of PCBs, my understanding is that the EPA applies the relevant nationally agreed standards.

Hospitals—waiting lists

MR HANSON: My question is to the Minister for Health. Minister, in the recently released national partnership agreement on the elective surgery waiting list reduction plan it states: "While not achieving its targets under part 3A or for the 90th percentile of part 3B, the ACT met its target under part 3B for the median waiting time and under clause A23.c is eligible for 40 per cent of its share of reward funding under part 2." Why did the ACT fail to meet its targets under part 3A under the elective surgery waiting list reduction plan?

MS GALLAGHER: Because of the long wait strategy that we are implementing, Mr Speaker.

MR SPEAKER: Mr Hanson, a supplementary.

MR HANSON: Minister, what is the total funding that the ACT would have received had we met our elective surgery targets and how much will be received now that we have failed to do so?

MS GALLAGHER: I can get the total figure. There are different quantities under different national partnerships. I think it is in the order of $20 million that has been received in extra funding from the commonwealth government for a range of activities that have occurred. This is the agreement, of course, that you urged us not to sign up to. We have received that money already. I think it is in the order of—

Mr Seselja: You were giving away 50 per cent—

MS GALLAGHER: There we go again. There is your defence. We have done about a thousand more operations in the space of one year with some of that money. And it is important to note that in order to get the full reward funding, money we missed out on—I think Mr Hanson is fully aware—is about $900,000.

Mr Hanson: I want the exact amount. That is my question.

MS GALLAGHER: I will bring you the exact amount. It is in the order of $900,000. In order to get that we would have had to stop operating on 105 long-wait patients in order to get funding to do just under 100 additional operations.

Mr Hanson: You couldn't do both?

MS GALLAGHER: No. It was not a do both situation. In order to manipulate the waiting list, which is what we would have had to do, we would have had to restructure

the operations. Instead of doing it based on clinical need and people who have been waiting the longest, which is what we had been doing, we would have had to stop focusing on the people who had been waiting the longest and remove people who had been waiting shorter times. In total, we would have had to stop about 105 operations. The decision we took was the right one. We got $700,000 more in reward funding.

MR SMYTH: Supplementary, Mr Speaker.

MR SPEAKER: Yes, Mr Smyth.

MR SMYTH: Minister, how many people will miss out on elective surgery because the ACT will not receive this funding?

MS GALLAGHER: The reward funding depends on the nature of the surgery you would have applied it to, but as a rough ruler it would have paid for about an additional hundred operations, but we would have had to stop 105 in order to get it.

MR SMYTH: A supplementary, Mr Speaker.

MR SPEAKER: Yes, Mr Smyth.

MR SMYTH: Minister, can you guarantee that we will meet elective surgery targets in the future?

MS GALLAGHER: That is the intention, Mr Smyth. The additions to the waiting list are outside the control of politicians. Based on what we know now and demand drivers that we have seen, yes, we have plans in place. This was a brief snapshot in time—six months. I have met with the federal minister to let her know that we would have difficulty reaching some of the targets, based on the make-up of our waiting list. We have met all of the targets. Indeed, we met the targets within a month of not achieving them. So we were not far off. But I think that the strategy of just keeping on doing what we are doing—the benefits of that are outlined in the report card—was the right decision. We have done 11,300-odd operations this year. We will do 11,300 operations next year. We have $700,000 additional reward funding to inject into the system to do probably 80 extra operations on top of that.

Canberra Institute of Technology—alleged bullying

MR DOSZPOT: My question is to the Minister for Education and Training. I draw the minister's attention to articles in the weekend's *Canberra Times* regarding bullying incidents at CIT. The article quotes two former staff who talk of a "culture of bullying and harassment" at the institute. The article further notes that WorkSafe ACT is still investigating seven complaints against CIT after it issued improvement notices to three separate work areas at the institute earlier this year. Minister, when did you first become aware of allegations of bullying and the fact that a culture of bullying was developing, or in fact is well established, at CIT? Given that there appear to be ongoing bullying issues amongst current staff, what have you done about it?

MR BARR: I draw the attention of the shadow minister to the comments of the Chief Executive of the institute in that article in relation to the allegations he has raised.

MR SPEAKER: Mr Doszpot, a supplementary.

MR DOSZPOT: Minister, what actions are you aware that Adrian Marron has taken to deal with this, and are you satisfied with the dealing of the management of this issue so far?

MR BARR: I am pleased that Mr Doszpot has acknowledged the statutory responsibilities in relation to this matter—

Mr Smyth interjecting—

MR BARR: in both his initial question and in the supplementary.

Mr Hanson interjecting—

MR BARR: Mr Marron outlined in that article the management of CIT's response—

Mr Smyth interjecting—

Mr Doszpot interjecting—

MR BARR: to those questions and there are, as again Mr Doszpot alluded to in his question, processes underway. In my view, those processes should be allowed to reach their conclusion without political grandstanding.

Opposition members interjecting—

MR SPEAKER: Members!

MR COE: A supplementary, Mr Speaker.

MR SPEAKER: Yes, Mr Coe.

MR COE: Minister, these allegations date back over several years and the AEU has been aware of them for some time. Have you discussed this with the chief executive officer and, if not, why not?

MR BARR: Yes.

MR SPEAKER: Mr Coe, a supplementary.

MR COE: How can potential employees be confident that bullying issues have been addressed and CIT has an appropriate workplace culture, especially given that you are not willing to give answers in this place?

MR BARR: As I indicated in response to Mr Doszpot's question, there are processes underway dealing with each of those incidents, as is appropriate.

Mr Hanson interjecting—

MR BARR: Mr Doszpot indicated in his question—

Mr Hargreaves: Point of order, Mr Speaker.

MR SPEAKER: One moment, Mr Barr. Stop the clocks, thank you.

Mr Hargreaves: Mr Hanson just said across the chamber to Mr Barr, "Are you going to cover it up just like Katy?" I ask him to withdraw that.

MR SPEAKER: Mr Hanson, it is an imputation. I invite you to withdraw it.

Mr Hanson: On the point of order, Mr Speaker, I do not think that the claim that it is going to be covering something up is an imputation. This is clearly something that we have had substantive motions in this chamber about before—about Ms Gallagher's behaviour. I was simply asking the question. The fact that Ms Gallagher has covered up the bullying accusations at Calvary hospital has been the subject of a substantive motion in this place and I was simply asking the question of Mr Barr as to whether he is going to take the same action. I do not think that it is in any way a breach of the standing orders.

MR SPEAKER: I see your point, Mr Hanson; nonetheless, it needs to be debated in a substantive motion, not in an interjection. That does not provide it with cover. I ask you to withdraw the comment.

Mr Hanson: I withdraw.

MR SPEAKER: Mr Barr, you have the floor.

MR BARR: As it would appear the opposition have grasped, there are processes that are available to staff members of the Canberra Institute of Technology who may feel aggrieved by a variety of particular issues.

Mr Smyth: What did you do, Andrew? Did you investigate?

MR BARR: I do not have an investigative responsibility in this matter.

Mr Smyth: You have a ministerial responsibility.

MR BARR: I do not have an investigative responsibility. We have appropriate legal avenues and appropriate authorities for staff who are aggrieved to undertake. They are pursuing those avenues. It is not my responsibility to undertake, nor will I—

Mr Smyth interjecting—

MR SPEAKER: Thank you, Mr Smyth.

MR BARR: a shadow investigation of a particular task that is rightly, in legislation, delegated to either the Chief Executive of the Canberra Institute of Technology or the

various government agencies that have responsibility in relation to the investigation of workplace complaints. It is not the role of politicians to be investigating public sector workplace complaints.

We have appropriate procedures in place. They are being utilised. I will not be intervening. It does not matter how many times the shadow treasurer seeks to catcall across the chamber. Those processes and the law will be followed.

Members interjecting—

MR SPEAKER: Order, members! I think that with the start of the new roster for question time today there is a little bit of confusion. I am going to use my discretion to call the Chief Minister.

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

MR SPEAKER: It is my understanding that members will need to formally end regular question time. We will now move immediately to the rostered ministers questions. Today's rostered minister is the Minister for Economic Development. You will have seen the supplementary daily program. I am going to take the questions in the order on the daily program. I call Ms Bresnan with the first question.

Rostered ministers question time
Minister for Economic Development

Housing—affordability

MS BRESNAN: In relation to the affordable housing strategy you recently said in question time on 18 August that considerable analysis was being done on measuring how many low income households are in housing stress. Can you please outline what is the scope of that work, who is undertaking it and when it will be made public?

MR BARR: The Economic Development Directorate progress report on the affordable housing action plan is due to be released next month, Mr Speaker, and work on the next phase of the strategy will be released in early 2012.

MR SPEAKER: Ms Bresnan, a supplementary.

MS BRESNAN: Does the government agree with findings of the Australians for Affordable Housing coalition that the ACT had the worst rates in the nation for low income households in housing stress?

MR BARR: No, Mr Speaker.

Environment—carbon strategy

MS HUNTER: Minister, in relation to the lack of government initiatives to make our economy less carbon intensive, the government has committed to developing a clean economy strategy. However, the Economic Development Directorate website under

the environment and sustainability heading only mentions the government office building, real estate policy and waste management within the directorate.

Minister, what actual tangible initiatives has the government undertaken to foster low emission economic activity in the territory over the last three years? Particularly, what economic incentives has the government created for low-emissions activities and what economic disincentives has the government created for emissions-intensive activity?

MR BARR: The ACT government expects that the federal government's clean energy future package will provide the significant economy-wide incentives for low emission activities. The government believes in supporting innovation and clean technology innovation as part of that. There is funding available through the Innovation Connect or ICon program. The government has indicated a commitment to a clean economy strategy to address territory-wide policy settings. This will be released in April 2012.

MR SPEAKER: Ms Hunter, a supplementary question.

MS HUNTER: Minister, accepting that we need to diversify the economy and move away from reliance on the public sector, are other government strategies and initiatives for this premised on the idea that the greatest potential for long-term economic prosperity lies with green activities and industries?

MR BARR: No, Mr Speaker.

Employment—underemployment

MR HANSON: Minister, what is the extent of underemployment in the ACT?

MR BARR: This data is published by the Australian Bureau of Statistics. The member would be able to find this information on the ABS website. For his information, the catalogue reference is 6202, labour force Australia.

MR SPEAKER: Mr Hanson, a supplementary question.

MR HANSON: Minister, what strategies do you have for reducing the extent of underemployment in the ACT?

MR BARR: Delivering a strong economy, Mr Speaker, and I do note that that data series has shown significant decline over the last two years.

Economy—business failures

MR COE: Minister, Dun and Bradstreet has just reported that Australia recorded a significant increase in the level of business failures in the June quarter 2010-11. Minister, what is the recent history of business failures in the ACT?

MR BARR: Insolvencies fell by 10.2 per cent in 2010-11 compared to 2009-10. They have fallen by 22 per cent against the 2008-09 levels. So based on ASIC statistics the number of insolvencies in the territory has been trending down since 2008-09 but we

do note, of course, that business exits happen for a number of reasons including insolvency but also the sale of businesses.

MR SPEAKER: Mr Coe, a supplementary question.

MR COE: Minister, what action are you taking to ensure that businesses in the ACT are positioned to withstand the likelihood of failure, including insolvency?

MR BARR: Maintaining a strong economic policy, Mr Speaker, and sound fiscal management.

Business—action plan

MR DOSZPOT: Minister, in August 2008 your government released a document called *Capital Development*. This document said that a number of action plans would be developed. Minister, when will the business and industry action plan be released by your government?

MR BARR: In April 2012 in conjunction with the clean economy strategy.

MR SPEAKER: A supplementary, Mr Doszpot.

MR DOSZPOT: Minister, why has it taken three years without any evidence of the business and industry action plan being promulgated up until now?

MR BARR: It hasn't, Mr Speaker.

MR SPEAKER: Are there any matters arising from question time?

MRS DUNNE: Mr Speaker, I just wanted to clarify questions that Mr Coe and I asked about the old Ginninderra police station. I wanted to clarify for the information of the minister that we were not seeking documents from Galilee. We were seeking documents that were lodged with Housing ACT—sorry, Barnardos. We were not seeking NGO documents. We were seeking documents from Housing ACT.

Answers to questions on notice

Questions Nos 1712 and 1713

MR HANSON: Under standing order 118A I ask the Minister for Health to provide an answer as to why we have not received questions on notice asked—question No 1711, which related to the national action plan on mental health, and No 1713 regarding the capital asset development plan.

MS GALLAGHER: Those arrived in my office this morning. I have not had time to read them but they will be with you shortly. My apologies.

Question No 1704

MR SESELJA: Under the same standing order, I seek explanation of the Treasurer in relation to unanswered question No 1704.

MR BARR: That question required the compilation of a large amount of data, Mr Speaker. It has now been provided and I believe it is on its way to the Leader of the Opposition's office.

Papers

Mr Speaker presented the following papers:

Standing order 191—Amendments to:

ACT Teacher Quality Institute Amendment Bill 2011, dated 31 August 2011.

Food (Nutritional Information) Amendment Bill 2011, dated 31 August 2011.

Statute Law Amendment Bill 2011, dated 29 and 30 August 2011.

Executive contracts
Papers 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 papers:

Public Sector Management Act, pursuant to sections 31A and 79—Copies of executive contracts or instruments—

Long-term contracts:

Andrew Whale.

Anita Hargreaves, dated April 2009.

Bronwen Overton-Clarke, dated 9 March 2011.

Christine Nolan, dated 31 January 2011.

David Roulston.

Francis Duggan, dated 26 February 2011.

Geoffrey Rutledge, dated 20 April 2009.

Gregory Hammond, dated 9 August 2011.

Ian Wood-Bradley.

Kate Starick.

Natalie Howson, dated 11 February 2011.

Paul Wyles.

Penelope Farnsworth, dated 7 November 2009.

Sandra Jill Divorty.

Veronica Croome, dated 17 December 2008.

Short-term contracts:

Alan Traves, dated 14 July 2011.

Brian Wilson, dated 22 June 2011.

Brook Dixon, dated 8 August 2011.

Christopher Cole, dated 25 July 2011.

Christopher Norman, dated 17 June 2011.

Daniel Roberto Iglesias, dated 26 August 2011.

Daniel Stewart, dated 31 July 2011.

David Collett, dated 17 August 2011.

David Dutton, dated 30 March and 22 July 2011.

Denise Lamb, dated 21 and 26 July 2011.

Derise Cubin, dated 14 July 2011.

Douglas Gillespie, dated 22 July 2011.

Fiona Barbaro, dated 4 August 2011.

Gordon Elliott, dated 20 and 22 June 2011.

Ian Primrose, dated 12 August 2011.

Ian Thompson, dated 8 August 2011.

Jan Swanepoel, dated 4 August 2011.

Jenny Priest, dated 25 July 2011.

John Woollard, dated 12 July 2011.

Kim Salisbury, dated 4 August 2011.

Liliana Hays, dated 25 August 2011.

Megan Brighton, dated 13 July 2011.

Natalie Wise, dated 28 July 2011.

Penelope Farnsworth, dated 21 June 2011.

Rachel Jackson, dated 5 September 2011.

Robert Gotts, dated 24 August 2011.

Rosemary Kennedy, dated 27 July and 1 August 2011.

Susan Lebish, dated 28 June.

Sushila Sharma, dated 11 and 12 August 2011.

Thomas William Gordon, dated 8 June 2011.

Contract variations:

Alyn Doig, dated 5 September 2011.

Andrew Kefford, dated 4 August 2011.

Ann Goleby, dated 5 and 8 August 2011.

Brook Dixon, dated 9 September 2011.

Daniel Stewart, dated 17 August 2011.

David Read, dated 12 August 2011.

Glenn Lacey, dated 17 June 2011.

Heather Tomlinson, dated 14 July 2011.

Ian Cox, dated 17 August 2011.

Ian Hubbard, dated 14 July 2011.

Jenny Dodd, dated 1 September 2011.

John George Lundy, dated 5 September 2011.

Leanne Power, dated 16 August 2011.

Liz Beattie, dated 16 August 2011.

Mark Collis, dated 27 July 2011.

Michael Chisnall, dated 1 September 2011.

Paul Lewis, dated 25 August 2011.

Paul Wyles, dated 14 July 2011.

Philip Ghirardello, dated 29 July 2011.

Rebecca Kelley, dated 15 August 2011.

Robert Hyland, dated 28 June 2011.

Robert Neil, dated 14 July 2011.

Sara Burns, dated 8 August 2011.

Simonne Shepherd, dated 17 and 19 August 2011.

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

Leave not granted.

Annual and financial reports 2009-2010
Standing committee reports—government responses

MS GALLAGHER (Molonglo—Chief Minister, Minister for Health and Minister for Industrial Relations) (3.20): For the information of members, I present government responses to the following committee reports relating to annual and financial reports 2009-2010:

Climate Change, Environment and Water—Standing Committee—Report 5—*Report on Annual and Financial Reports 2009-2010*.

Education, Training and Youth Affairs—Standing Committee—Report 6—*Report on Annual and Financial Reports 2009-2010.*

Health, Community and Social Services—Standing Committee—Report 6—*Report on Annual and Financial Reports 2009-2010*.

Justice and Community Safety—Standing Committee—Report 6—*Report on Annual and Financial Reports 2009-2010*.

Planning, Public Works and Territory and Municipal Services—Standing Committee—Report 10—*Report on Annual and Financial Reports 2009-2010.*

Public Accounts—Standing Committee—Report 16—*Report on Annual and Financial Reports 2009-2010.*

I move:

> That the Assembly takes note of the papers.

I am pleased to present the government's responses to all six Assembly standing committee reports on the 2009-10 annual and financial reports of ACT government agencies. In keeping with past practice, I am tabling the responses to all six standing committee reports together. This is because the standing committee reports generally cover more than one minister and more than one portfolio and, in some cases, issues raised in the reports apply across directorates.

Annual and financial reports are prepared by directorates in accordance with the Annual Reports Act 2004, the Financial Management Act 1996 and the Chief Minister's Department annual report directions. In this regard, the government seeks to ensure that annual and financial reports are continually updated to reflect best practice and full accountability.

The standing committees made 90 recommendations. The government has agreed in full, in principle or in part to 48 recommendations. We have noted 33 recommendations and not agreed with nine recommendations. I commend the response to the Assembly.

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

Financial Management Act—instrument
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) (3.22): For the information of members, I present the following paper:

> Financial Management Act, pursuant to section 14—Instrument directing a transfer of funds from the Economic Development Directorate to the Community Services Directorate, including a statement of reasons, dated 8 and 12 September 2011.

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

Leave not granted.

Paper

Mr Barr presented the following paper:

> Exhibition Park Corporation—Rejuvenation Program.

Mr Corbell presented the following papers:

Pursuant to a resolution of the Assembly of 24 August 2011, papers relating to Parkwood Road Recycling Estate fire inspection dates, fire advice and risk management plans.

Estimates 2011-2012—Select Committee
Report—government responses

MR CORBELL (Molonglo—Attorney-General, Minister for the Environment and Sustainable Development, Minister for Territory and Municipal Services and Minister for Police and Emergency Services) (3.23): I seek leave of the Assembly to make a brief statement in relation to the government's response to recommendation 158 of the report of the Select Committee on Estimates on the inquiry into the Appropriation Bill 2011-2012.

Leave not granted.

MR CORBELL (Molonglo—Attorney-General, Minister for the Environment and Sustainable Development, Minister for Territory and Municipal Services and Minister for Police and Emergency Services) (3.24): I seek leave to make a brief statement in relation to the response to Recommendation 185 of the report of the Select Committee on Estimates on the inquiry into the Appropriation Bill 2011-2012.

Leave not granted.

Papers

Mr Corbell presented the following papers:

Subordinate legislation (including explanatory statements unless otherwise stated)

Legislation Act, pursuant to section 64—

Civil Law (Wrongs) Act—Civil Law (Wrongs) Australian Computer Society Limited Liability (NSW) Scheme Amendment 2011 (No 1)—Disallowable Instrument DI2011-238 (LR, 22 August 2011).

Corrections Management Act—Corrections Management (Official Visitor) Appointment 2011—Disallowable Instrument DI2011-218 (LR, 18 August 2011).

Crimes (Sentence Administration) Act—

Crimes (Sentence Administration) (Sentence Administration Board) Appointment 2011 (No 3)—Disallowable Instrument DI2011-212 (LR, 18 August 2011).

Crimes (Sentence Administration) (Sentence Administration Board) Appointment 2011 (No 4)—Disallowable Instrument DI2011-245 (LR, 29 August 2011).

Gene Technology Act—Gene Technology Amendment Regulation 2011 (No 1)—Subordinate Law SL2011-26 (LR, 31 August 2011).

Health Act—

Health (Local Hospital Network Council—Chair) Appointment 2011 (No 1)—Disallowable Instrument DI2011-227 (LR, 18 August 2011).

Health (Local Hospital Network Council—Member) Appointment 2011 (No 1)—Disallowable Instrument DI2011-228 (LR, 18 August 2011).

Health (Local Hospital Network Council—Member) Appointment 2011 (No 2)—Disallowable Instrument DI2011-229 (LR, 18 August 2011).

Health (Local Hospital Network Council—Member) Appointment 2011 (No 3)—Disallowable Instrument DI2011-231 (LR, 18 August 2011).

Health (Local Hospital Network Council—Member) Appointment 2011 (No 4)—Disallowable Instrument DI2011-232 (LR, 18 August 2011).

Health (Local Hospital Network Council—Member) Appointment 2011 (No 5)—Disallowable Instrument DI2011-233 (LR, 18 August 2011).

Health (Local Hospital Network Council—Member) Appointment 2011 (No 6)—Disallowable Instrument DI2011-234 (LR, 18 August 2011).

Health (Local Hospital Network Council—Member) Appointment 2011 (No 7)—Disallowable Instrument DI2011-235 (LR, 18 August 2011).

Health (Local Hospital Network Council—Member) Appointment 2011 (No 8)—Disallowable Instrument DI2011-236 (LR, 18 August 2011).

Health (Local Hospital Network Council—Member) Appointment 2011 (No 9)—Disallowable Instrument DI2011-237 (LR, 18 August 2011).

Planning and Development Act and Financial Management Act—Planning and Development (Land Agency Board) Appointment 2011 (No 1)—Disallowable Instrument DI2011-241 (LR, 22 August 2011).

Public Health Act—Public Health (Fees) Determination 2011 (No 1)—Disallowable Instrument DI2011-242 (LR, 25 August 2011).

Public Place Names Act—Public Place Names (Crace) Determination 2011 (No 2)—Disallowable Instrument DI2011-240 (LR, 22 August 2011).

Race and Sports Bookmaking Act—Race and Sports Bookmaking (Sports Bookmaking Venues) Determination 2011 (No 2)—Disallowable Instrument DI2011-230 (LR, 18 August 2011).

Remuneration Tribunal Act—Remuneration Tribunal (Fees and Allowances of Members) Determination 2011 (No 1)—Disallowable Instrument DI2011-204 (LR, 22 August 2011).

Road Transport (General) Act—

Road Transport (General) Application of Road Transport Legislation Declaration 2011 (No 4)—Disallowable Instrument DI2011-239 (LR, 18 August 2011).

Road Transport (General) Application of Road Transport Legislation Declaration 2011 (No 5)—Disallowable Instrument DI2011-244 (LR, 25 August 2011).

University of Canberra Act—

University of Canberra (Granting of Status) Revocation Statute 2011—Disallowable Instrument DI2011-226 (LR, 25 August 2011).

University of Canberra (Liquor) Statute 2011—Disallowable Instrument DI2011-243 (LR, 25 August 2011).

Victims of Crime Act—Victims of Crime Amendment Regulation 2011 (No 1)—Subordinate Law SL2011-25 (LR, 22 August 2011).

Workers Compensation Act—Workers Compensation Amendment Regulation 2011 (No 1)—Subordinate Law SL2011-27 (LR, 1 September 2011).

Environment—ecological footprint
Discussion of matter of public importance

MR ASSISTANT SPEAKER (Mr Hargreaves): Mr Speaker has received letters from Dr Bourke, Ms Bresnan, Mr Coe, Mr Doszpot, Mr Hanson, Mr Hargreaves, Ms Hunter, Ms Le Couteur, 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 ecological footprint and the ACT.

MS BRESNAN (Brindabella) (3.25): Thank you for the opportunity to speak on this vital matter of public importance; namely, the ecological footprint and the ACT. I want to look at whether the ACT government is truly ready and willing to respond to reducing our footprint here in the ACT. Indeed, I am going to draw on the government's own submission to the inquiry into the ecological carrying capacity of the ACT and region, where they claim that they have a wealth of current and planned initiatives in the ACT designed to reduce the environmental impact of human activity. The Greens believe this is a laudable aspiration on behalf of the government. However, we need more than words and rhetoric.

Last sitting we had an MPI about the cost of living, typically couched in terms of dollars spent to support an average Canberran's lifestyle. However, if you pause for a moment and think about what "cost of living" really means, where short and long-term social and ecological costs are also factored in, it starts to take a very different meaning. The Greens have been pushing for a triple bottom line approach which takes these other costs, with the analysis of ecological footprint being one such approach.

I note that the ACT government has also made a strong commitment to this approach in the people, place, prosperity document, a new triple bottom line section in the annual reporting process and the online report card measuring our progress. However, we are concerned that many of the deemed undesirable trends are not being reversed, as I will elaborate on later.

The definition of ecological footprint from the carrying capacity inquiry is:

> … measure of the area of land needed to support the lifestyles of urban residents; it includes raw materials for food, building, energy and so on, as well as the area

> required to absorb the carbon dioxide emitted from the consumption of resources.

This definition has an urban focus. This is understandable, given that it is typically urban residents who have larger ecological footprints. Canberra has a predominantly urban population, so this definition is appropriate for our ACT setting. However, it is important to highlight that urban and rural alike have an ecological footprint and, in the case of Australians, it is typically very large. The ecological footprint is typically measured in terms of how many hectares of biological production, as an average production measure across the globe, it takes to support one person's or a community's lifestyle.

The ecological footprint concept was first developed by William Rees and Mathis Wackernagel in Canada. The concept has been applied in many situations around Australia. For example, besides the ACT, the Randwick City Council has an ecological footprint program applied across three councils.

Some might not be aware that the ACT's ecological footprint is the highest in Australia. Moreover, it is also high by global standards. According to 2007 data from the global footprint network, Australia is ranked ninth in the world, with the USA being ranked sixth and the United Arab Emirates ranked first. To quote from the ACT government's submission to the carrying capacity inquiry:

> Between 1998-99 and 2003-04, the ACT's ecological footprint increased by 15 per cent from 7.4 to 8.5 global hectares per capita, which is 17 per cent higher than the Australian average. To place this in context, in 2006, the average biologically productive area per person worldwide was about 1.8 global hectares per capita, while the global average footprint was 2.6 hectares.

When this per capita impact is multiplied by the ACT's current population of 357,673, this gives an ecological footprint for the ACT of over three million global hectares or almost 13 times the area of the ACT. This result emphasises that the impacts of the ACT's consumption extend beyond its borders and that the ACT relies on significant productive areas in other parts of Australia and the world. These statistics are significant.

Moreover, two-thirds of the ACT is currently in nature reserves, meaning that the effective footprint of the ACT is significantly greater than 13 times the area. So this makes our footprint even worse than first quoted. These statistics call for immediate action by the government. The ACT is very well positioned to do something meaningful about reducing this footprint, and the Greens are in the business of making sure this occurs.

Before I go on to what might be done to reduce this footprint, I would briefly like to go over the reasons why the ACT's and many other jurisdictions' and countries' ecological footprints are as large as they are. It boils down to a list of usual suspects, being high incomes, population growth, consumerism, inequity, peak oil, forest clearance, biodiversity loss, water pollution, climate change and their interactions and consequences. It could easily continue, as the list is long and complicated, but these are a start. All of these factors are vexed issues in their own right as well as when taken collectively.

The ACT has its own particular characteristics that tend to exacerbate our footprint. Firstly, Canberrans are the most affluent people in the country, having the highest mean household income of all Australian states. According to 2009 ABS data, it was 28 per cent higher than the Australian average. Moreover, in the last 10 years this trend has seen major increases. I note that the inquiry into ecological carrying capacity discussion paper notes that in the ACT there is a strong correlation between increasing wealth and increasing greenhouse pollution and water use.

In relation to climate change and energy-based emissions, the ACT has the highest per capita emissions of all Australian states and territories for non-residential energy use and, along with Victoria, it also has the highest per capita emissions for residential energy use.

Another important issue to raise is international inequity. This is a major and vexed issue. The continuing and growing divide between the rich and the poor is insidious and pervasive. I do not think I need to go into how inequity both drives and is a consequence of so many of the previously listed issues such as climate change, population growth, forest clearance, to name a few.

It is not just the Greens talking about the imperative to reduce our ecological footprint but others are too. Indeed, the ACT government's measuringourprogress website shows the ecological footprint is worsening. I note that Regional Development Australia are also calling for this, as noted in their very recently released ACT strategic regional plan 2011-12 where climate change, peak oil, population growth and demographic change are all noted as posing planning stresses.

So the question is: how can the ACT reduce its footprint? The ACT government has said that it is committed to sustainability as a philosophy underpinning all of its work and is taking a broad and comprehensive approach. The government's approach uses the triple bottom line that takes into account economic, environmental and social aspects. This is a highly laudable aspiration but what has been put in place?

On a positive note, the government has delivered legislation to reduce greenhouse gas emissions, with a 40 per cent target for 2020, 80 per cent by 2050, and carbon neutral by 2060. On a less positive note, we are still waiting for the government's sustainable energy policy, the weathering the change action plan 2, the sustainable waste strategy and the sustainable transport action plan. It is incredible that the government has thus far passed such momentous legislation yet government operations, policies, programs and spending continue as business as usual.

The ACT Greens have proposed a large number of initiatives which, if implemented, will significantly reduce the ACT's ecological footprint. We hope that the government will take more notice of our proposals in light of the arguments we make here today concerning the ACT's ecological footprint and, in doing so, make a real commitment towards a footprint reduction. And to put the policies in context, they strongly resonate with what the government has had to say in the submission on carrying capacity about reducing the ACT's footprint. For example, the government said in its submission:

> The majority of the ACT's footprint (58 per cent) is due to energy needs, and the electricity component of this represents 13 per cent of the total footprint. Forestry products also form a significant aggregate in the overall footprint, at 18 per cent. At a more detailed level, the highest ranking components of the footprint are electricity use, residential building construction, retail trade, hospitality, petrol use and aviation.
>
> The ACT can significantly reduce its ecological footprint by increasing electricity use efficiency and by sourcing electricity from renewable sources, and choosing goods and services with low embodied ecological footprints.

I do not have enough time to cover all of the proposals the Greens have put forward in this term of the Assembly that relate to what the government has said in its submission, but I will touch on transport, and my colleagues Mr Rattenbury and Ms Le Couteur will elaborate on other areas.

Transport is a massive weekly cost for families across Canberra. The Greens have a comprehensive and integrated transport plan that includes the provision of more public transport services as well as encouraging active transport. We are determined to make public transport a cheap, sustainable, fast and reliable way of getting about Canberra, as outlined in our transport plan, *A better transport solution for Gungahlin and wider Canberra*.

Studies conducted by transport researchers at the Queensland University of Technology have shown that the highest levels of car dependency are strongly correlated with high levels of mortgage stress; that is, it is usually the case that the families whose mortgage bills are the highest proportion of their income often have the highest bills associated with transport. There is a nexus we need to break, and the provision of public transport has some way to go. If we can make the second family car a choice, not an obligation, we will be lifting a heavy financial burden off Canberra families everywhere.

Furthermore, developing our public transport network is not just a tool for reducing current financial burdens on families. It is a responsible investment for the future. Fossil fuel based energy supplies are limited and demand will only increase for the foreseeable future. Peak oil is a reality and we need to take real action quickly to reduce our reliance on oil and towards other forms of transport.

I want to highlight that a transition away from growing an even bigger footprint does not come at the expense of prosperity. The Greens firmly believe in forging a green as well as a prosperous ACT.

In that spirit, we would like to highlight some of the co-benefits of reducing our footprint. For example, leaving aside peak oil and climate change concerns, traffic congestion in itself in the ACT is reaching a critical point. Anyone who needs to use Northbourne Avenue as a regular commuting route would know that waits in traffic of up to 15 to 20 minutes are typical in peak periods along the Watson to city stretch.

I think that we can all agree in this place how important it is to start taking serious steps towards reducing the ecological footprint of the ACT. We need a

multidisciplinary, multiparty, community and business response which is timely and effective. The ACT Greens believe it is vital to pursue this issue collaboratively and are confident that other parties will also rise to the challenge. While we do need people nationally and internationally to come on board, the ACT can take the lead. We can make a start by setting a goal to go from the worst in Australia to the best.

MR CORBELL (Molonglo—Attorney-General, Minister for the Environment and Sustainable Development, Minister for Territory and Municipal Services and Minister for Police and Emergency Services) (3.37): I thank Ms Bresnan for proposing this matter of public importance today. In December 2010 the ACT Commissioner for Sustainability and the Environment published the results of the most recent assessment of the ecological footprint of the ACT. This work was carried out by the University of Sydney and it is the third assessment made using the same criteria.

An ecological footprint is the calculation of the amount of land and water required to support our use of resources and disposal of wastes. The ecological footprint is expressed in global hectares, where one hectare of biologically productive space with world average productivity is equal to one unit. The average world ecological footprint in 2003 was 2.2 global hectares per person. The ecological footprint is used by the Commissioner for Sustainability and the Environment in the state of the environment reporting as a tool to communicate to the community about the impact of human activity. The footprint shows the impact of the decisions and lifestyles of the average Canberran on the environment.

The key findings of the commissioner's most recent assessment, in December 2010, were that this footprint had increased by eight per cent in five years and by nearly 25 per cent in 10. The per capita average ecological footprint for ACT residents was 9.2 global hectares in 2008-09, and there has been a steady increase in the footprint in each assessment period; that is, in 1998-99, 2003-04 and 2008-09.

The major contributors to our footprint are food, goods and services and domestic and transport energy use. Looking at these contributors separately reveals a trend downwards in food, with steady rises in housing, mobility and goods with energy use. The ACT used 14 times the land area of the ACT to support our lifestyles. If everyone on the earth adopted a similar approach, we would need five earths to support our lifestyles. The increasing size of Canberra's houses, coupled with the decrease in our average household size and the increasing numbers of single-person households, clearly has implications for our ecological footprint.

The environment provides us with clean air, water, food and other resources that support our ongoing survival and wellbeing. Environmental sustainability is important because we need to leave the environment in as good a condition as we have ourselves, or better.

As the natural environment has limits to its capacity to meet our increasing needs and wants, it is essential to manage our resources in a sustainable manner. We need to be conscious of how much we consume, how much waste we create and how we can be more self-sufficient.

The government recognises the need to reduce our footprint, and is working strongly to address a range of sustainability issues, such as greenhouse gas emissions and energy use, water consumption and waste management. Significant progress is being made in these areas.

Before I turn to the government's initiatives in these areas, it is worth reflecting on some of the things that are perhaps more difficult to manage in terms of an ecological footprint. For example, highly complex consumer goods are not produced here in the ACT. Our televisions and computers, radios and other electronic equipment are not manufactured in the ACT. Equally, fridges, washing machines and other highly evolved consumer goods are not manufactured in the ACT. Yet these do contribute to our ecological footprint. They are all used by us, purchased by us, consumed by us and ultimately disposed of by us, but often they come from a very long way away, and they have an impact in terms of energy use as they are imported into the nation. The same is the case with motor vehicles. These types of highly evolved consumer goods are goods that contribute to our ecological footprint, but it is difficult for the territory to have complete control over their purchase and, indeed, their use.

That said, there are a range of areas where we do have control. These particularly relate to greenhouse gas emissions and energy use. The challenge for all of us is to reduce our greenhouse gas emissions. The ACT's greenhouse gas inventory tracks greenhouse gas emissions by emissions sector—for example, stationary energy, transport and waste.

To ensure that the ACT takes full responsibility for the greenhouse gas emissions it causes, the government includes emissions from electricity generated outside the territory, largely from coal-fired power generation, used by Canberrans. The 2008 inventory estimates our emissions at 4.182 million tonnes of CO_2 equivalent. Emissions are dominated by the burning of fossil fuels for electricity at 62 per cent, transport at 23 per cent and heating at nine per cent.

The government has established a framework for reducing our emissions. The climate change and greenhouse gas reduction target was passed by the Assembly in October last year and established targets for zero net greenhouse gas emissions by 2060; peaking per capita emissions by 2013; 40 per cent of 1990 levels by 2020; and 80 per cent of 1990 levels by 2050. Weathering the change action plan 2 will build on the government's achievements in action plan 1 and will outline a comprehensive suite of measures to reduce our greenhouse gas emissions. Action plan 2 is expected to be released for public consultation later this year and will complement the pending release of the finalised sustainable energy policy for the ACT. The sustainable energy policy will play a pivotal role in meeting the target of zero net emissions by providing a comprehensive policy framework around issues such as energy efficiency, design and cleaner generation.

Ms Bresnan mentioned the purchase of green power. The purchase of green power is an important measure available to the government and the broader community to reduce the territory's greenhouse gas emissions. The national green power scheme allows electricity consumers to support the development of renewable energy capacity

above and beyond the national renewable energy target. The scheme underpins an electricity customer's ability to contribute to the clean energy challenge.

The ACT was the first jurisdiction to pass legislation to require electricity retailers to make a renewable energy offer to their customers. From 1 April 2009, electricity suppliers in the ACT were required to offer an accredited green power renewable energy product to all or new reconnecting electricity customers before any other product.

The first offer scheme increases consumer awareness of green energy and makes it much easier for people to make that choice. With support from the first offer scheme, the government has embraced green power. The ACT is the highest per capita user of green power in the country, accounting for nearly six per cent of national green power sales.

The ACT's electricity feed-in tariff, which was introduced in March 2009, pays householders and businesses a premium price for clean energy generated at their premises. The scheme has fulfilled its 30-megawatt cap. By the time all installations are complete, it is expected that there will be approximately 10,000 installations generating renewable energy across the ACT.

The government is also aiming for its own operations to be carbon neutral. The challenge for the ACT is that it has both local government and state government functions, including schools, hospitals, public transport and emergency services. Currently, 32 per cent of all ACT government operations are powered through the green power scheme, the highest percentage of any state, territory or federal government in the country.

The government has further committed to increasing its use of renewable energy in the coming years. This forms part of our commitment to achieving carbon neutrality in the government's own operations by 2020 and thereby demonstrating leadership on climate change mitigation through our own actions.

I turn to the use of water. The government has a good environmental history when it comes to the management and consumption of water and the treatment of waste water in the territory. Since peaking in 1997-98 at 214 kilolitres per person, the region's annual water consumption has decreased over time to a low of 100 kilolitres per person in 2010-11. Our suburban stormwater system continues to reflect best environmental engineering practice. These outcomes are attributable to the government's think water, act water strategy, which is aimed at using water efficiently, and the government's water efficiency programs. Think water, act water is currently under review by the territory to ensure that it remains at the cutting edge of water management practices.

Another important element of policy setting is in relation to waste. Waste management is vital in achieving a more sustainable territory. Since the introduction of the ACT no waste strategy in 1995-96, there has been a substantial decrease in the per capita tonnes of waste sent to landfill. This strategy has been significant in reducing material that would otherwise have been disposed of at landfill and has

resulted in a resource recovery rate of over 70 per cent in 2008-09, a major increase from 42 per cent in 1995-96.

While the ACT achieves the highest rate of resource recovery in the country, more can be done, and achieving further reductions in waste to landfill remains a key priority. Last year the government released its draft sustainable waste strategy, which is now very close to finalisation. The strategy will set the ACT on a path to further waste reduction and ensure that we remain leaders in this key aspect of sustainability, with targets to achieve over 90 per cent resource recovery.

This is just a brief summary of some of the measures being undertaken by the government. I have not mentioned transport or energy efficiency in buildings to any significant degree, but these also remain key elements of the government's strategies to achieve a more sustainable city.

MR SESELJA (Molonglo—Leader of the Opposition) (3.48): I welcome the opportunity to speak about this issue today. When we hear the Greens talk about the ecological footprint we need to consider the Greens' position on it, not the actual issue itself. When it comes to the Greens' position on the ecological footprint, it is not just about saying, "We need to be sustainable and we need to look after the environment." There is a distinct antidevelopment agenda at work here, and we have seen that in recent times.

The Greens have managed to take a city, Canberra—I think a city that is objectively better than virtually any other city in Australia in terms of open space, although that has not been as good in recent years. Overall in Canberra, allowing for the amount of open space we have and the amount of green space we have, we do better than most. The Greens are not satisfied with that. We see that in relation to the arguments around Throsby that have been raised recently in this place. I want to address those.

It is one thing to be in favour of ecologically sustainable development; it is another thing to be completely against any type of development that could impact on the environment. That is where the Greens seem to be tending when it comes to Throsby. It is not my words that say this; it is the Greens' spokesman's own words. The last time we were in this place looking at the issue of Throsby, we had this situation where Mr Rattenbury set out the position. The position was this:

> Throsby is the perfect case in point of the kind of area for which we should perhaps just put aside all notion of development.

The Greens' view is that Throsby may well be a complete no-go zone. This is the real danger we face with the position the Greens are going to—the position that they are being encouraged to go to by the Labor Party, and that they are being supported in by the Labor Party.

Throsby should not be a development like Fraser. I am prepared to say, on behalf of the Canberra Liberals, that we believe that houses should be developed in Throsby and we believe a Catholic high school should be developed in Throsby. Will this be done taking into account the environment? Of course it will. It always is. Has it been

done in that area? The two nature reserves in the immediate vicinity give evidence of the fact that these things are always considered, have always been considered and will be considered. But there is a big difference between saying "let's do sustainable development" and the Greens' position, which is "let's not do any development at all". That is the dilemma being faced now as the Greens get more influence in our federal parliament and, at the moment, the ACT parliament.

I go and hear from parents in Throsby and talk to them about their desire to see a Catholic school built there, which has now been delayed—potentially for at least a year. The school community is now having to make alternative arrangements, extending other temporary accommodation, because there is a delay in getting access to the site that they believed they would have access to. For the parents who are in that area of Throsby and in the surrounds of Gungahlin, right across Gungahlin, who are waiting on that Catholic high school, there is a legitimate concern about the position.

When we talk about ecology and when we talk about the ecological footprint, we can all agree that developments should be sustainable, but it is a big leap from there to say that Throsby should be a development no-go zone.

That is the problem. When these things are pointed out to the Greens, they claim that they never said them. When it was put by me on radio, Ms Hunter claimed that these words had never been said. She claimed that it was not their position. Mr Rattenbury set out crystal clear that it should be a complete development no-go zone.

Next time when we hear the Greens when they are saying that they support affordable housing, we should note that they should also be honest enough to say that they are not prepared to allow the development to take place that would assist there to be more affordable housing. When young families come to them and say, "We can't afford to buy because the Labor Government has done such a terrible job with housing affordability," the Greens should be honest enough to say, "We made that situation worse, and we want to make it even worse by wiping out a whole development front in Throsby"—a large projected suburb, a suburb that has been long planned for.

As I have pointed out in this place before, one of the reasons that the Greens have identified Throsby and said that it should be a development no-go zone is that it was planned long ago. Long ago it was seen as a development front. That land was reserved for that purpose. As a result, we did not see the kind of intensive farming that we would otherwise have seen, because of the short-term leases that were granted.

We now have this circular logic where, if you do the planning work—if you identify the areas that you are going to preserve—they are likely to have a little more value, a little more ecological value. Therefore, you turn around and say, "We can't develop them." That throws our whole planning system into disarray. It throws the future planning of Canberra into disarray.

I am sure that in every suburb, every greenfield site and every greenfield development that we look to, there will be someone saying, "There is a golden sun moth here, there is this species here and this has wonderful values." We heard that when the Gungahlin

Drive extension was being built and being proposed. If you believed what was being said when the Gungahlin Drive extension was being built, you would think that this was some sort of ecological paradise where they were trying to build this road. You would think that it was some sort of untouched rainforest, when clearly that was not the case. This had been used and used again previously in the life of Canberra, yet we have these arguments.

Unfortunately, what do we do instead of agreeing to a position that we can all agree to, which is that when we develop as a city we should do so sustainably, we should reserve open space and we should recognise ecological values. That is why we have vast tracks of nature reserve. All Canberrans support that. They support that concept. But to take that a step further and to say, "No go; no-go zone," has serious implications.

Those implications are now being felt. They are being felt by people who want to send their kid to the local Catholic high school in Gungahlin. They are concerned that this delay will not just be a year: it may never get off the ground. And those who are looking to get into the housing market will see that the restriction of another area of development potentially will make it even more expensive and just that little bit tougher for young Canberra families to buy into the Canberra market.

This kind of policy that the Greens are proposing and are putting forward has implications. It is well and good for us all to accept that we should develop the city sustainably; we all accept that. But the Greens have gone much further than that now. They are putting housing affordability at risk; they are putting the provision of local facilities in Gungahlin at risk. That is a cause of great concern to the community, and they need to be honest about that. They need to be honest about that when people come and see them about housing affordability. When they come and see them about the provision of facilities in their area, they should say, "We blocked it." They should be honest enough to say that.

These policy extremes have implications. They have ramifications for the community. We can talk about motherhood all we like. We can talk about the fact that we all support the environment, because we all do. But we are always looking to balance the environment with the needs of the community, with the needs of family in Canberra. We are going to continue to fight so that that balance is restored to a reasonable one that allows those houses to be built, that allows that high school to be built and that allows Gungahlin to continue to grow.

MS LE COUTEUR (Molonglo) (3.58): I thank Mr Corbell and Ms Bresnan for their appreciation of the realities of life on this planet. The realities of life on this planet are that we only in fact have one planet; therefore, we must live our life in a way that we can—all of us—coexist on this planet. Unfortunately, Mr Seselja seems to have not grasped this basic ecological context. Resources are finite and we do only have one planet. As the people of the ACT are using more, as both Mr Corbell and Ms Bresnan pointed out, than it would be feasible for all of the people on this planet to use, we have an issue that we need to address in the ACT. It is not simply a question, as Mr Seselja is trying to say, of asking: do we want to develop one part of Canberra or another part? That is a relevant part of the equation; it is not the whole part of the equation.

We must look at whether what we are doing is sustainable in the short term and the long term. We must also look at whether it is equitable in any way for the people of Western countries and Canberra in particular to consume at a rate which is vastly higher than that of people in other parts of the world. I very much regret that the Liberal Party has refrained from engaging on the actual issues—that we have a limited, finite world and we must live in it.

In terms of the limited, finite world, the Greens have often raised the point of peak oil and peak phosphorus. They are major issues. Our finite stocks of cheap oil and rock phosphorus are declining, and the world is dependent on both of those. Rock phosphate is particularly important. I believe we have got between 30 and 70 years left of it. Without phosphorus, agriculture in Australia is going to very much slow down, if not grind to a halt. We have already spoken at length on peak oil, so I will not speak at length on it right now. Water resources are another key concern. I am glad that Mr Corbell spoke on this. With a decade or more of protracted drought, it is a big issue.

Food miles are something which the ACT community is becoming more aware of. The ACT imports a very large percentage of its food, with anecdotal evidence presented in the Canberra Environment Sustainability Resource Centre's submission to the ecological carrying capacity inquiry estimating that more than 90 per cent of Canberra's food is produced outside the ACT region. The distances used to source our foods are increasing as good local food production declines or is displaced by development. This points to the need for a "grow and buy locally, naturally" campaign to be launched in the ACT. When I was a child growing up in Canberra we all grew our own vegies. There was no choice. What you could get from anywhere else was very poor quality and very expensive.

Looking at it from a wider, global viewpoint, the wholesale conversion of our forests for agriculture and then the loss of agricultural land to urban development is a matter of serious concern. It contributes to a reduction in ecosystem services provided from forests, such as biodiversity, air and water regulation, natural pest control, habitat and gene pool.

Another thing I will touch on is the need for more sustainable transport. The Greens have been pushing for an active living approach to be built into our transport for a long time. This is encapsulated in our active transport plan released in May 2010. There are many social and health benefits of cycling and walking as a means of transport. Encouraging more people to get on a bike has economic benefits, as people save on fuel, parking and health costs. In the longer term, you can save $5,000 to $10,000 a year per household, which over a lifetime, as people have said, is in the order of half a million dollars of superannuation savings. This is very relevant to our ecological footprint.

Another one is waste. Mr Corbell touched on waste and said that the long overdue waste strategy will be released in December this year. In the waste strategy, one of the most significant issues, which it does not appear we are taking up, is the opportunity to recycle organic waste. Currently, organic waste makes up about 40 or 50 per cent

of household sector waste and about 10 to 20 per cent of commercial waste, which means that organic waste is about 25 per cent of the total annual landfill figure. This was about 214,000 tonnes at the last audit in 2008-09.

If we can address this, it will radically reduce the amount of material going to landfill and reduce the associated methane gas emissions. Possibly even more importantly, if the organics are collected and processed properly, they are a very valuable tool for improving soils and sequestering carbon. This will reduce our footprint by allowing local sustainable food production. Without food, there is no life. Improving organic waste recycling is part of the ALP-Greens parliamentary agreement and it is something that we have been pushing for for a very long time.

One of the more important issues is household consumption. Members may remember that earlier this year I introduced a motion which sought to measure the energy consumption of a whole house, rather than simply an energy rating which is a per square metre measurement. Unfortunately, neither the Liberals nor the Labor Party supported that. It is very important that we construct houses with as low an ecological footprint as possible, that the appliances in them do not use excessive energy and that they are not bigger than needed. One of the most problematic issues with larger houses is that we all tend to fill space up with stuff. I am guilty of this. I have two sheds which are filled with stuff. In terms of reducing consumption, one of the things we can do is ensure that we only have what we need, not what might be wanted to fill up large, empty spaces, which will then become large amounts of waste that have to be disposed of.

In the interests of time, because I am aware that there are three other people who wish to speak, I will not continue. I will just finish with what I think we should all be thinking about in this context. It is a quote from, probably, back in the 1970s: "Live simply, so that all may simply live." This is what we are saying in the context of ecological footprints. We need to live in a way so that we all can live.

DR BOURKE (Ginninderra) (4.06): The ACT Commissioner for Sustainability and the Environment commented in the 2007-08 state of the environment report:

> We are consuming natural resources at an unsustainable rate and, while efforts are being made to address this, more needs to be done as a matter of urgency, particularly given the correlation between consumption of resources and climate change.

The recent assessment of the ACT's ecological footprint for 2008-09, published by the commissioner, reports a continuing increase in the footprint. This increase is driven by consumption of food, goods and services and household and transport energy. The government is committed to sustainability as a philosophy that underpins all its work. In 2009 the government released its updated version of "People, place, prosperity". This is the government's key sustainability document which guides the implementation of specific policy commitments in the Canberra plan.

The government uses its "measuring our progress" indicators and reporting framework for monitoring progress towards our long-term goals. The Measuring our

Progress website has an online report card on life in Canberra and keeps the community informed of our progress towards sustainability. The 28 key indicators of the ACT's progress reported on this website provide comprehensive information. The government considers accurate and available information as a critical contributor to sustainability.

The government is also progressing triple bottom line agency reporting, which takes into account economic, environmental and social aspects. In this regard, the government is currently trialling a triple bottom line assessment tool to guide agencies in assessing the full benefits and impacts of government initiatives.

An ecological footprint is a calculation of the amount of land and water required to support our resource use and waste disposal. With a population of over 350,000, the ACT must source the majority of its food and most goods and services from outside its borders. The ecological footprint measures confirm this and challenge us to source goods and services with low embodied ecological footprints. In reducing our ecological footprint of consumption we also need to care for our important land and water resources. We need to keep the resources of the ACT in good order and to manage the direct impact we have on our urban environment.

The location and shape of the territory are a product of the establishment of the ACT as the national capital, where water security was a key determining factor. This has left a legacy of relatively intact water catchments, with most of the land above 750 metres protected and managed with the conservation reserve system. The ACT also benefits from the vision of Walter Burley Griffin, with relatively large and well-connected lowland and riparian vegetation remnants, and it is a stronghold for many nationally threatened species and communities.

The challenge remains to continue to conserve our natural resources while accommodating our growing population. The significant reservations of grasslands and lowland grassy woodlands are evidence of the commitment to achieving a sustainable balance between nature conservation and use of land for urban development. In managing how our city grows, the government will conserve and protect areas of significance where possible.

The government is also working to mitigate the impacts of urban development on adjacent natural areas. Initiatives such as cat containment, enhanced investment in weed and pest control, animal management and support for community-based park care groups are all playing a part in building a more resilient landscape. The creation of "bush on the boundary" groups in Gungahlin, Molonglo and, more recently, at the Jerrabomberra wetlands-Kingston foreshores area are also a positive step to addressing the practical and detailed issues around urban development and its impact on neighbouring natural areas.

These groups have been formed by the community with support from the ACT government. They provide a forum where community members, local catchment and landcare groups, government land managers, private sector estate developers and planners can meet, share information and agree on common actions. The government also supports the operation of the Conservation Council in the ACT, the Canberra

environment centre and SEE-Change. These organisations work with the government to raise awareness and promote dialogue about sustainability issues as well as develop practical initiatives. The government is committed to developing a sustainable city. It is committed to reducing the land and water consumption that underpins our lifestyles and to looking after our wonderful environment.

MRS DUNNE (Ginninderra) (4.12): The notion of any community's carbon footprint is a very important issue. The consideration that we put around this at a high level needs to inform our policy at a high level. I am concerned that in debate—and especially the things that were said by Ms Bresnan—we sort of miss the point here. In this place and in government we are making high level policy, but how do we translate that into things which are effective and meaningful in our community?

I was a little alarmed when listening to Ms Bresnan. I was thinking, "How would Mr and Mrs Waramanga or Mr and Mrs Theodore take what she said and put it into practical application in their lives if they wanted to?" First of all, we have a job of work ahead of us in encouraging members of the community to take practical environmental steps—steps to reduce our carbon footprint, steps to reduce our energy consumption and steps to look at issues like where we get our food from and how it is grown.

But if we talk about it in abstract terms in the way that Ms Bresnan does I think there is a risk that we never actually get practical application on the ground. Without practical application or activity in every person's life, wherever they live and wherever they are making decisions about how they spend their resources, we will never get a better situation in relation to our carbon footprint, our ecological footprint and the way we use or conserve energy.

The Canberra Liberals have always addressed these issues in a way that we hope will create practical action on the ground and give good results, which is why for a long time we have been critical, for instance, of the now essentially defunct feed-in tariff, because it was an expensive way to cut greenhouse gas emissions. The calculations that were done when the legislation was introduced were that it was about $500 per tonne for every tonne of CO_2 mitigated. There were lots of ways to do it for less and there were lots of ways that would actually return a positive economic benefit to the people who participated.

These are real, significant issues. If you are going to get the community to participate in a program it has to be practical. It has to have a kick-on effect rather than just giving a warm, fuzzy feeling inside. It has to be something that people can do easily in their own workplace, in their own office and in their own neighbourhood, which is why the Canberra Liberals over the years have approached this in a practical way to look at ways of reducing energy use.

Energy efficiency, as all of the experts will tell us, is the thing that we should be concentrating on first when we are looking at each individual's carbon footprint and ecological footprint, with things like the appropriate use of insulation. The appropriate way in which we build our houses will provide much more bang for our buck than almost anything else that we can do, and insulation is one of the most important things we can do.

It is a great shame that insulation programs in this country now have such a bad name because of the mismanagement of the Rudd-Gillard government and Peter Garrett in particular. Rather than having what should be a practical, decentralised series of programs which are run by municipalities, local environment groups and the like—we have seen lots of experience in other countries where these have been very effective—we tried the big brother approach here in the ACT. In Australia we did not take an approach of subsidiarity, getting local communities to roll out energy efficiency programs in the form of insulation in their own communities; we decided to impose it from on high.

When other communities around the world were making great inroads into energy efficiency through the installation of household pink batts and the like, we in Australia were failing. We were causing house fires and the deaths of people. Instead of having an appropriate approach, a local approach, where there was bang for people's buck and people saw the benefits of it, we in Australia had the wrong approach.

I spent time, just after the failure of the pink batts scheme, in the United States. I remember having conversations with people at a local level who were rolling out these programs. They were talking about the clear benefits of it. Everyone understands the benefits of it. They could not believe that in Australia we did this at a national level rather than at a very decentralised and local level, where in country after country it has proved to be successful.

Much of the rhetoric that we heard from Ms Bresnan would be lost on our constituents. If we want our constituents to participate actively in reducing their ecological footprint and in reducing their carbon emissions—all of these sorts of things—we need to find practical, everyday solutions. It is about draught proofing, insulating, water efficient taps, water efficient appliances and all of those sorts of things. That is not being done systematically by this government. It takes a piecemeal approach—a little bit here, a little bit there.

One of the most significant improvements that this government could have made—and it has had 10 years to do it—to our water efficiency and to cut down the cost of hot water would be to have implemented a similar sort of tune-up system to that seen in Queanbeyan. But this government, through successive water ministers, has steadfastly refused to take up that initiative. That initiative in Queanbeyan has reduced water consumption and people's reliance on hot water. It has reduced people's use of hot water and the consequential use of energy.

What we need to see when we are addressing our ecological footprint and our carbon footprint are practical measures spoken about clearly and simply in a way that encourages the average person, the people in our electorates, to get onboard. Very little of the debate that we have heard here today would do that. It is all too high level, too highfalutin, and the people of the ACT miss out.

MR RATTENBURY (Molonglo) (4.19): I am very pleased to be able to speak to this matter of public importance on the ACT's ecological footprint, and I thank Ms Bresnan for raising it.

I was disappointed, but perhaps not surprised, by Mr Seselja's contribution where he focused on the Greens and not the issue. I am not sure whether that was because he does not understand the issue or whether he does not care about the issue. Beyond that, I am not even sure which is worse—that he does not care or that he does not understand. But it is a shame that he could not actually engage on the topic that was on the table and instead just took the opportunity to make it a political point-scoring exercise.

It is important to consider these issues, firstly because close to home we need to consider the impact of our own lives on our local environment as well as looking at that in the context of what impact our consumption might be having on other parts of Australia as well as other parts of the world. An ecological footprint assessment attempts to take a broader perspective than just electricity consumption or water consumption; it factors in the resource use that is built into our consumption of goods and services, travel, shelter and food. This is important because it is clear that, while we can be responsible in looking after our own backyard, we also need to be cognisant that the national and international trading economy effectively means that every time we buy something at a shop the resources embedded in the production of that item come from somewhere outside the ACT, and often somewhere outside Australia.

Our governance of course does not stretch that far, so that is why we need to be mindful of how the products are generated. What we can think about here is what products we bring in, how we might do it more efficiently and what as a personal contribution we want to do about it.

The ACT's footprint, when we stop and look at it, is really quite large. In 2009 the University of Sydney study commissioned by the environment commissioner estimated the ACT's footprint to be 9.2 global hectares. That is 3½ times the global average of around 2.7 global hectares. If you can imagine the scale of our impact, it translates to an area around 14 times bigger than the ACT. The average ACT resident has a footprint some 13 per cent bigger than even our fellow Australians, so we really are boxing above our weight in terms of our resource consumption.

There is a message about equity in this for us if we choose to hear it. This same imbalance in the use of resources is represented in the climate change debate, where the wealthiest Western countries continue to grow their emissions, and low income countries, while experiencing substantial growths in population, have seen relatively little increase in their emissions over the past 25 to 30 years.

As I said, the ACT's ecological footprint is large and it is also still increasing in spite of the growing awareness of sustainability issues. In fact, it has increased from 7.4 global hectares in 1998-99 to 8.5 global hectares in 2003-04 and is now up at 9.2 global hectares. So we still have a long way to go.

Of course the amount we consume per capita is not the only thing that is going to affect our impact on the environment or our need to access more resources. The elephant in the room in these conversations is always population. It is not rocket

science that the more people we have the bigger our impact will be, particularly if we continue to grow or even stabilise our consumption. According to the ABS, the ACT population is increasing at a rate of about 1.8 per cent per annum, the third highest jurisdiction in Australia. Australia's population growth sits at around 2.2 per cent, which is surprisingly high for a developed country.

ACT government figures indicate that our population is likely to increase to 409,000 by 2020 and nearly half a million by 2040. That is quite an increase for any city and there are obvious issues associated with such a growth rate. But, aside from that, it does pose a very challenging question for us: how do we reduce our impact on this part of the planet if we continue to see such substantial population growth?

To be honest, the same question applies to Australia and perhaps every country on this planet, and that is something that is a much bigger question than we can contemplate today.

An interesting consideration for the ongoing increases in population is the burden this places on the requirement for new infrastructure. According to Dr Jane Sullivan from the University of Queensland, around two per cent of infrastructure needs replacing each year. And of course with a two per cent increase in population we start to see a need to invest in even more infrastructure and the impact that that has on our city. Dr Sullivan has raised the concern that in fact our tax base struggles to cope with such a demand for infrastructure, perhaps best demonstrated in the underinvestment in south-east Queensland and in the outer suburbs of Sydney and Melbourne. So I think there are challenges for government in that regard here in the ACT.

Overall, there are very significant issues linked into this. I think the ecological footprint provides a useful tool for us to assess and to consider where our policies are going to go in the future. I think I am getting the wind-up look from Madam Assistant Speaker, so I will have to leave it there.

MADAM ASSISTANT SPEAKER (Ms Le Couteur): Thank you, Mr Rattenbury. The time for the discussion has now concluded.

Mitchell—chemical fire
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) (4.25): I table the following paper:

> Mitchell chemical fire—Statement.

I move:

> That the Assembly takes note of the paper.

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

Privileges 2011—Select Committee
Membership

MADAM ASSISTANT SPEAKER (Ms Le Couteur): Mr Speaker has been notified in writing of the following nominations for membership of the Select Committee on Privileges: Ms Bresnan, Mr Corbell and Mr Seselja.

Motion (by **Mr Corbell**) agreed to:

> That the Members so nominated be appointed as members of the Select Committee on Privileges 2011.

Work Health and Safety Bill 2011
Detail stage

Clause 172.

Debate resumed.

MS GALLAGHER (Molonglo—Chief Minister, Minister for Health and Minister for Industrial Relations) (4.28): The government will not be supporting Mrs Dunne's opposition to this clause, which would remove the ability of the regulator to abrogate the privilege against self-incrimination.

The right to silence and the privilege against self-incrimination are important individual rights, as Mrs Dunne has explained in her speech on this matter. However, the government believes that these rights are not absolute; they must be balanced against the public interest. In the field of regulation, particularly in the regulation of workplace safety, which is a matter of major public importance, one crucial public interest is securing effective compliance or prosecution.

It is well established that the abrogation of individual rights may be justified if the information to be compelled concerns an issue of major public importance that has a significant impact on the community in general or a section of the community. Safety in the workplace is such an issue of major public importance.

Abrogation of the right to silence and the privilege against self-incrimination may also be justified where there is an immediate need for information to avoid risk, such as danger to human life, serious personal injury or damage to human health, or where there is compelling argument that the information is necessary to prevent further harm from occurring.

The Work Health and Safety Bill seeks to ensure that the strongest powers to compel the provision of information are available for securing ongoing work health and safety. This means abrogating the right to silence and the privilege against self-incrimination. However, the bill balances the loss of a person's right to silence by limiting both the direct and indirect use of forced disclosure against the person required to provide the information.

This means that an individual will be compelled to provide information when asked but that that information and any information obtained as a result of the forced disclosure cannot be used to prosecute the individual. The government believes these safeguards are adequate in this circumstance.

MS BRESNAN (Brindabella) (4.30): The Greens will not be supporting Mrs Dunne's proposed amendment. Removal of the right against self-incrimination involves a weighing up of the impact of the rights of the individual with the need to bring to light breaches of the act, particularly those that could seriously impact on the safety of workers. A similar right exists already in our Dangerous Substances Act. The Greens have given consideration to that section as well as to the broader context of worker safety, the safety of the community and the national harmonisation review that considered in detail the best way to balance issues such as individual rights and work health and safety outcomes.

I am satisfied that the abrogation of the right is in this instance justified. I will note the important rider to clause 172 which says that any document, information or thing obtained directly or indirectly through these enforcement powers cannot be admissible against a person in any civil or criminal penalty other than those under the work health and safety act.

I can understand why this power exists in this bill. The bill is about managing issues that cause risks or dangers to workers or other people. It is important to ensure that these risks can be addressed up front rather than let them continue while a person under suspicion withholds information. Imagine the circumstance, for example, where there is a toxic material in a workplace. The person with knowledge about this should be compelled to give it at the time, to save the health of the many people who could be exposed.

Recent events in Australia give some context to this power. Last week we had a fire in Canberra that caused great concern because of the potential for toxic chemicals to cause harm to people and the environment. In another example in August this year a carcinogenic cloud of hexavalent chromium was released from a chemical plant in Newcastle and drifted across the Hunter River to the residential suburb of Stockton. In these situations it is extremely important that authorities can get information about the risks and dangers to people. It is not sufficient to let a person with knowledge exercise a right against self-incrimination and thereby not reveal critical information to protecting lives.

It should be noted that this power is held by inspectors and the regulator only and that there are considerable safeguards surrounding the authority of inspectors. The functions and powers of inspectors are set out in clause 160 of the bill. They only have the power to investigate compliance with the bill; that is, issues around work health and safety. Inspectors are only appointed by the regulator and inspectors are always subject to the directions of the regulator.

In the context of the bill and its goals ensuring we have strong laws to protect workers, I am satisfied that this is a reasonable use of power and a proportionate limitation to the Human Rights Act.

Question put:

That clause 172 be agreed to.

The Assembly voted—

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

Question so resolved in the affirmative.

Clause 172 agreed to.

Clause 10.

MRS DUNNE (Ginninderra) (4.37): I will not be moving amendment 1 or amendments 6, 7, 13 and 18 to 33. They have all lapsed because the principal amendment, No 10, failed.

MADAM ASSISTANT SPEAKER (Ms Le Couteur): We may have to do some amending as we go through the script.

MRS DUNNE: What I will do is not rise to move those but I just wanted to give you notice that that was what was happening. I have a few others later on.

Clause 10 agreed to.

Clauses 11 to 30, by leave, taken together and agreed to.

Clauses 31 to 33, by leave, taken together.

MRS DUNNE (Ginninderra) (4.38), by leave: I move amendments 2 to 4 circulated in my name together *[see schedule 1 at page 4125]*.

These are important provisions that need to be addressed in this bill. The Canberra Liberals have significant problems with the penalty provisions in this bill and the main reason that we have significant problems is that this is a radical departure from the drafting style of legislation in the ACT. I think it was in about 1996 that we introduced the notion of penalty units and since 1996 all legislation in the ACT has been drafted with penalty units inside them. I think that there was a time when we slipped behind when there was not a regular updating of our penalty units but we recently updated them all. A penalty unit now stands at $110 for an individual and $550 or five times the amount for a corporation.

There has been considerable discussion about why we do not have penalty units, why we have monetary amounts in these provisions, and again we got the answer, "It is a national scheme and we had to roll over." I do ask the question: why do we bother to have this legislature if we give up our sovereignty on all sorts of things? In this case, we are giving up our sovereignty on the way we draft our legislation.

The government has said that we need to have a uniform scheme—and I agree that there is a lot to be said in favour of a uniform scheme—but from time to time we may decide that we need to depart in a small way or a large way from that uniform scheme. Western Australia has departed in a small way from the uniform scheme, as too has New South Wales. There is the scope for us to have a uniform scheme so that someone who has experience in New South Wales and who comes across the border knows that if they commit an offence in New South Wales or they commit an offence in the ACT, it will be treated in the same way. That means that they will know that to act in a particular way, irrespective of which side of the border you are on, would be an offence and there would be a penalty attached to it. Whether that penalty is a monetary unit or a penalty unit does not have any impact upon whether or not this is a uniform scheme.

The Canberra Liberals considered whether or not we should convert all these measures back to penalty units but, seeing that there was no heart in this place to have consistency within our own statute book, we decided not to do that. But I put on record that, when we come to government in 2012, we will be reviewing these measures because we think that it is an inappropriate departure from our statute book.

There is another important issue which relates to the three amendments that I have moved here today. These three amendments amend clauses 31, 32 and 33, which are the ones where there are substantial fines and an even more substantial departure from the way we deal with penalties in the ACT. As I alluded to before, in the ACT the penalties are dealt with like this: if an individual commits an offence, they get a fine which is punishable by penalty units. The penalty unit is $110. If a corporation commits the same offence, the penalty unit is five times that amount, $550.

These three provisions, clauses 31, 32 and 33, do two things which are a departure from our penalty regime. Firstly, they institute a notion of an individual business holder being different from an individual so that an employer and an employee under this legislation are treated differently. If he is a business operator and an individual, the penalty rate is twice the penalty for any other individual. This is a departure from our statute book and the way we treat individuals. We do not discriminate against someone on the basis of whether or not they are the runner of a business, except in this piece of legislation.

In addition to this, we have a situation where the penalty for a corporation is not five times the penalty for an individual but 10 times. What we have done here is essentially double the penalties for corporations compared to the normal course of events in the ACT statute book.

The Canberra Liberals believe that these are two unwarranted departures from the way we draft legislation in the ACT. There has been no justification for creating a

whole new category of offenders, that being individuals who run businesses, and there has been no justification why there has been a departure from the normal practice of providing a penalty against a corporation being five times the rate. As you go through the legislation, you will find in other places that corporations are penalised at five times the rate of individuals. But here they are not, and these are things that we in the Canberra Liberals do not agree with and will not support.

We believe that there is a longstanding practice that goes back at least to 1996 of having penalty units, and that is understood and well understood in the ACT. We do not believe that there should be a departure from penalty units and we do not believe there should be a departure from the principles that underline those penalty units. I therefore commend to you these three amendments, 2, 3 and 4, which amend clauses 32, 33 and 34, to put some order back into the statute book and the way that we deal with penalties in the ACT.

MS GALLAGHER (Molonglo—Chief Minister, Minister for Health and Minister for Industrial Relations) (4.45): The government will not be supporting these amendments. As Mrs Dunne has pointed out, the work we are trying to do here—and indeed it is being done by governments around the country—is to harmonise our occupational health and safety laws. Principally behind that—and this has been supported by both Liberal and Labor governments around the country—is the acknowledgement that there can be improvements to workers' safety and improvements for business in understanding the regulatory regime within which they operate if there is a standardised approach across the country.

Indeed, there are parts of this bill which require us to move away from either specific legislation that we have in place or indeed ways in which we outline the penalties and the penalties that are attached to particular offences, but I think if you spend the time to read the regulatory impact statement, which has been released, you can see the significant savings and potential improvements to workers' safety that will come from simply harmonising this area of regulation.

Mrs Dunne's amendments before us would not only halve the maximum penalty which may apply to a body corporate in each of these clauses but would also reduce the penalty for other businesses to the same penalty set out for a worker who commits an offence. This is work that has been consulted on and developed in consultation with unions, industry and government. It has been a very thorough process. Agreement has not always been reached on every aspect, but issues such as these have been thoroughly agitated and I think we do at some point have to accept the advice of experts in this field. The national review panel recommended, and workplace relations ministers agreed, that there should be a range of options available when a person is found to be in breach of their safety duty.

It is important to consider the regime in its entirety. There is provision for a range of different sentencing options, from imprisonment to fines, to adverse publicity orders, to orders for restoration, to work, health and safety undertakings for lesser offences. The review considered all of the penalty regimes across Australia in occupational health and safety and decided on the model that is in this bill. The increases in penalties will reinforce the deterrent effect of the bill and, importantly, will allow the

courts to respond meaningfully and proportionately to the worst breaches by the small minority of duty holders for whom the existing range of fines may have little punitive effect.

This is not about minor speeding fines. This is not about minor offences. This is about dealing with those people who are in the minority, as we know, but who are willing to risk the lives and welfare of workers simply because of a deadline, because they are too lazy to check what is happening or because they do not care enough to ensure that workers are safe. While I might be able to accept that someone might occasionally make a mistake and exceed the speed limit, I cannot accept that someone would put their workers' lives at risk, and those who do should face the consequences. The proposed amendments from Mrs Dunne would seriously undermine this and would signal to the rest of Australia that we here in the ACT value the lives of our workers less than other jurisdictions do.

MS BRESNAN (Brindabella) (4.49): The Greens do not agree with Mrs Dunne's proposed amendments to the penalty provisions in this bill. We accept that there is a good reason for the changes to penalties through this harmonised legislation. There are advantages to having penalties in the ACT that are consistent with those in other jurisdictions. In particular, by passing this bill and the revised penalty provisions it contains, we will make ACT penalties consistent with New South Wales penalties. This is particularly advantageous due to the fact that many businesses work between New South Wales and the ACT; so harmonisation is sensible. As I said before, the Liberal Party has strongly advocated for harmonisation between the jurisdictions on other issues; so I see no reason to stray from that now.

I am of the opinion that strong penalties are appropriate for laws that are designed to protect workers. While this bill would involve a reduction in the maximum jail term from seven years to five years, it does involve a significant increase in the available financial penalties. I am satisfied that this maintains a suitable range of penalty options. I would point out that there has been some dissatisfaction in jurisdictions around Australia with the low level of fines applied to employers for serious workplace breaches, and I can understand why nationally we are moving towards the availability of higher maximum fines. We also need to ensure that penalties are sufficient to both deter and penalise the biggest national and multinational companies and to deter and penalise breaches that can have very serious impacts on individuals and the community.

I referred earlier to the company Orica, formerly ICI, which reportedly leaked carcinogenic hexavalent chromium in Newcastle. The chemical is cancer causing and is toxic to marine life. Orica is a large multinational company. The Australian arm of the company has apparently had 265 reported breaches in 10 years of its pollution licences in its two New South Wales plants alone. There is considerable consternation in New South Wales at the moment about whether there are sufficient enforcement options to prevent these kinds of problems.

These kinds of large companies operate in the ACT as well. Members may have read about asbestos problems currently occurring in Fyshwick at a plant run by Boral. Boral is a multinational building and construction company. We need penalties that

are appropriate to protect workers and the community in an environment that can be run by very big players.

The issue of fines was reviewed as part of the national review into model OH&S laws. The review report recommended significant increases in fines, taking into account the highest offence, comparative penalty levels in different jurisdictions and submissions received during a national consultation process. Given this, I think that the penalties proposed are probably some of the most appropriate and finely tuned penalties we have.

On the issue of strict liability, I would point out that the bill does contain various safeguards. For example, the strict liability for category 3 offences is not really strict liability at all. It contains a reasonable excuse defence and a recklessness test. While the Greens will continue to be very careful about agreeing to strict liability offences, I think that in this instance the government has made the case and justified the offences.

The government response to the scrutiny of bills committee provides good justifications for the offences. I am not persuaded by the issue that Mrs Dunne has raised about the penalties being listed in dollar form rather than as penalty units. Given this is harmonised legislation, it makes sense that the amounts are listed as dollars. It keeps jurisdictions consistent. Otherwise, if any jurisdiction changed the penalty unit then the fines would no longer be harmonised.

Question put:

> That **Mrs Dunne's** amendments Nos 2 to 4 be agreed to.

The Assembly voted—

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

Question so resolved in the negative.

Amendments negatived.

Clauses 31 to 33 agreed to.

Clause 34.

MRS DUNNE (Ginninderra) (4.57): I move amendment No 5 circulated in my name *[see schedule 1 at page4125]*.

This is an amendment that deals with volunteers and there have been a range of issues that have been raised by volunteer organisations about the impact that this legislation

might have on people who work for volunteer organisations. I have had, and members have had, specific representations from both the University of the Third Age, which is an entirely volunteer-run organisation, and an organisation called VISE, Volunteers for Isolated Students Education, which provides volunteer retired teachers who go to remote areas to help with the education of children in remote areas. And there are concerns that the implications that this legislation not only locally but nationally will have on organisations such as this.

This amendment deletes from clause 35 the responsibilities under section 28 for volunteers to perform the duties of workers. But it still requires them to uphold the duties of other persons at the workplace. What it does is essentially say quite clearly that volunteers are not workers. Volunteers sometimes do work that appears to be the same or similar to that done by workers. We say that volunteers have responsibilities in a workplace and those responsibilities should be set out in section 29 where it talks about the responsibilities of non-workers, any member of the public, in a workplace. Those responsibilities are clear and are quite comprehensive in that place.

The concern that the Canberra Liberals have, and the volunteer organisations we have dealt with have, is that the proposal to impose the duties of a worker on a volunteer is onerous. It will have cost implications for the volunteer organisation which already has a range of responsibilities under its public risk liability insurance. We think that it is unnecessary. It seems to me that governments, not just this government but governments generally, do not understand the difference between working for a wage and volunteering in a sector.

I think that, given the amount of time that is spent by the people on the other side on how much they stand up for volunteers, when it comes to the crunch, in this legislation it is shown that they have not been prepared to listen to the concerns of volunteers. Only the Canberra Liberals have been prepared to listen and act on the concerns of volunteers. I commend the amendment to the Assembly.

MS GALLAGHER: (Molonglo—Chief Minister, Minister for Health and Minister for Industrial Relations) (5.00): The government will not be supporting this amendment. The amendment proposed by Mrs Dunne would undermine the effective protection of all workers by reducing what is required of volunteers who may well work side by side with them every day and, indeed, who often work in areas where you would want to ensure that their health and safety were being actively managed and monitored by their volunteer organisation.

The government do not believe the duties of workers set out in section 28 of the bill are onerous. Indeed, we think the opposite. They simply require workers, whether they are paid or not, to take reasonable care for themselves and others and to help the person or business they work for to comply with the act. This is no harder for volunteers than it is for any worker. Mrs Dunne's amendment would still require volunteers to meet the duties that apply to persons at the workplace that are not workers in section 29 of the bill. The maximum penalties for failing to comply with sections 28 and 29 of the bill are the same.

As I have said in this place, the government do value the role of volunteers and their organisations. We have no intention of hindering either. Indeed, obligations on

volunteer organisations exist at this point in time. I think there has been some confusion about what the current legislation requires of volunteer organisations. Whilst this may place some small additional responsibilities on volunteer organisations, we believe they can be managed. The government believes that all workers must be protected. That requires provisions which will ensure all workers play their part in ensuring safety at work and compliance with the bill.

In addition, I should say that the government stands ready to work with volunteer organisations in the next stage of this, once this bill passes, to ensure that we are providing appropriate education and assistance around the movement to the new regime.

MS BRESNAN (Brindabella) (5.02): The Greens will not be supporting Mrs Dunne's proposed amendments. Volunteers have a duty to care for themselves and others when they are in a worker-like situation. Mrs Dunne's changes would roll back the existing situation in the ACT where these organisations are subject to the duty. Volunteers are already protected as workers in the existing Work Safety Act provided that the volunteer is carrying out work in relation to a business or undertaking.

It is appropriate that our laws place reasonable obligations on associations to protect people who are effectively undertaking work in employment-type settings under a mutual arrangement. This bill does this, and it distinguishes between these kinds of volunteers and other more ad hoc volunteers, such as those who might volunteer for a Clean Up Australia Day. The former would engage the obligations while the latter would not. I think this is a sensible balance between work health safety protections and the freedom needed to encourage volunteers.

Again, I emphasise that the same rules already exist in the ACT which put volunteer organisations under the same obligations. I do not think Mrs Dunne could argue that the ACT volunteer has suffered because of them. I have met with the volunteer organisations about these provisions, as Mrs Dunne and the government have. A key point is that any organisation that has been acquitting its obligations for the past three years should also be doing the same under this legislation. While I am aware that some volunteer organisations have recently become more aware of their work health and safety obligations due to this bill, I am not aware of any volunteer organisations that have not already been acquitting their obligations under the existing law. This should not change.

I also note that, because this is a harmonised process, all states and territories will have this provision. As I understand it, when teachers, for example, are sent by their organisations to other states, whatever states the teachers travel to will be covered by this legislation, so I think that is a point to remember.

It is important to note that duty holders are subject to the reasonable, practical qualifier. Of course a volunteer body or any other duty holder cannot know about and eliminate every single risk. This bill takes account of that. The act does not make them responsible for everything, merely what they could have reasonably known about and reasonably addressed.

Question put:

That **Mrs Dunne's** amendment No 5 be agreed to.

The Assembly voted—

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

Question so resolved in the negative.

Amendment negatived.

Clause 34 agreed to.

Clauses 35 to 70, by leave, taken together and agreed to.

Clause 71 agreed to.

Clauses 72 to 103, by leave, taken together and agreed to.

Clause 104.

MS BRESNAN (Brindabella) (5.09): I move amendment No 1 circulated in my name *[see schedule 2 at page 4125]*. At this point I will speak to amendments 1 to 4. Similarly to Mrs Dunne, these all relate to the same issue. It would have been preferable to move these amendments together, but the particular procedure for this bill makes that difficult, but I will talk to them together.

Amendments 1 to 4 will remove the substantial dominant reason test from the discrimination provisions in part 6 of the bill. These provisions are included in the bill to prevent various types of discriminatory conduct against people in workplaces—for example, preventing someone discriminating against a health and safety representative by dismissing them or treating them less favourably because they are doing their health and safety duties—but the bill places a limitation on this.

Currently, to access the discrimination provision in this bill, the prohibited reason needs to be the dominant or substantial reason for the discrimination. To give a practical example, if a health and safety representative is dismissed, the fact that they were a health and safety representative would need to be the dominant or substantial reason for the dismissal to be considered discrimination under this bill. If the fact that they were a health and safety representative was one of the reasons but not the dominant reason or a substantial reason, then that conduct would not be discriminatory.

My amendment would ensure that the illegitimate reason merely has to have played some role in the conduct. It does not have to have been the dominant reason or a substantial reason; it just has to have been a reason. This change will strengthen the protections against discrimination, and it is very important, of course, that these anti-discrimination provisions are practical and effective. The changes will make sense. An illegitimate discriminatory reason should not play any part in the mind of a decision maker. It should not have to be the dominant reason or a substantial reason.

In its submission on the bill the Australian Council of Trade Unions explained that employers often act with mixed motives. It said:

> We are concerned about the case where an employee makes a safety complaint; six months later the employer selects them for redundancy. The redundancy is overwhelmingly motivated by legitimate business objectives, but a small factor in the decision (say 10%) is the desire to punish the complainant. Under the model Bill, the employer will not be liable for a civil penalty if they can prove that the illegitimate reason was not a 'substantial' reason for the decision. However, we think that the Parliament should penalise decisions in which the illegitimate motive plays any real role … The parliament should not tolerate employers bringing illegitimate reasons to bear in making decisions affecting workers.

A further example can be found in our own anti-discrimination legislation. Section 4A of the ACT Discrimination Act says the following:

> In this Act, a reference to doing an act because of a particular matter includes a reference to doing an act because of 2 or more matters that include the particular matter, whether or not the particular matter is the dominant or substantial reason for doing the act.

Our Discrimination Act explicitly ensures that illegitimate reasons such as sex, race, disability or age only had to be one reason for a discriminatory act; they do not have to be the dominant or substantial reason, yet this new harmonised law imposes a dominant or substantial reason test on discrimination against health and safety representatives.

My amendment is also supported by the federal Senate's Education, Employment and Workplace Relations Committee. I am sure members will have seen the committee's report on the legislation. The first recommendation of that committee is to remove the substantial and dominant reason tests from the bill. The committee said that such an amendment would ensure consistency with the Fair Work Act and ensure appropriate protections are in place for health and safety representatives. I point out that this recommendation was made by the Labor and Greens majority of the Senate committee. The chair of the committee is a Labor senator.

Lastly, I note the argument that a dominant purpose test is needed because it applies to a criminal offence and there is a difference between criminal and civil offences. It may also be argued that a person facing discrimination could resort to the Fair Work Act, which does not have a dominant or substantial purpose test. I have one or two

problems with this. Firstly, it would have been appropriate to collect the differing standards of discrimination into the one bill. Splitting them can be confusing and could diminish their deterrent effect. Secondly, I point out that our existing Work Safety Act already has a discrimination provision that can result in criminal penalties, but it has a more relaxed test than the one proposed in the Work Health Safety Bill. Agreeing to this provision would be an erosion of existing rights we have in the ACT. As I said before, the Greens do not believe there should be lowering of ACT standards through harmonisation processes.

On a process matter, I need to mention that some of Mrs Dunne's amendments go to the same sections that I am seeking to amend. Our amendments seek to remove the dominant and substantial reason tests. To do this, my four amendments must be accepted as a whole. Mrs Dunne's amendments seek to remove the reverse onus of proof for those tests. It is important to note that if the dominant and substantial reason test remains in the bill, then the Greens want the reverse onus of proof to also be retained.

To try and keep this amendment process simple, I will speak at this point about why the Greens do not agree with removing the reverse onus of proof in discrimination. The section in question is designed to protect health and safety representatives or other people assisting health and safety representatives from being discriminated against because they are raising health and safety concerns or otherwise fulfilling the purposes of the Work Health and Safety Act. This is an important section that gives legitimacy to the act and ensures it can operate. It will be ineffective if health and safety representatives cannot do their jobs due to fear of discrimination.

I note that the national review into the model OHS laws recommended that a person alleged to have engaged in discriminatory conduct should bear the onus of proving on the balance of probabilities that the reason alleged was not the dominant reason for their actions. For example, in the case of a termination, the employer should be able to show that the employer was not terminated for a discriminatory reason.

On this issue I agree with the conclusions of the national review. In its report it stated that it would be very difficult if not impossible for a prosecutor to prove the reasons for the conduct. That is why discrimination laws around Australia under OHS acts and under discrimination legislation specifically impose on the person allegedly engaging in the conduct burden of proving that it was not a proscribed reason. If a person engaged in the conduct for a proper reason, the person should be able to demonstrate it. I agree with the national review that there is not any unfairness in requiring them to do so.

To conclude, I urge members to consider all these points, especially a need for ACT workers to have the strongest protections against discrimination, and to support my amendment.

MS GALLAGHER (Molonglo—Chief Minister, Minister for Health and Minister for Industrial Relations) (5.16): The government will not be supporting this amendment. Ms Bresnan's amendment would remove the dominant reason test from the offence of engaging in the discriminatory conduct set out at section 104(1) of the bill. This

amendment seeks to rely on the provision with general protections against discrimination set out in the Fair Work Act. While both laws address similar behaviour, they will both apply to protect territory workers and operate very differently.

Under this bill discriminatory conduct is a criminal offence with a very significant maximum penalty—$100,000 for an individual or $500,000 for a body corporate. The Fair Work Act provides for civil remedies which are only $6,600 for an individual. Breaching this bill would also result in a criminal conviction being recorded. In imposing criminal liability, it is appropriate that a prohibited reason be the dominant or sole reason for discriminatory conduct. This test is applied because it is a serious offence, and significant penalties apply if a person is convicted.

MRS DUNNE (Ginninderra) (5.18): The Canberra Liberals are not able to support the amendment for the same reason as the government. The proposition put forward by the Greens would be an unreasonable constraint upon businesses going about their business. The example Ms Bresnan gave in her speech shows just what an imposition this would be upon business. Quite frankly, the fact that a business would be constrained from putting someone off, irrespective of the business's economic circumstances, once that person became a work safety officer is just not supportable, and the Canberra Liberals will not be supporting it.

Amendment negatived.

Clause 104 agreed to.

Clause 105 agreed to.

Clause 106 agreed to.

Clauses 107 to 109, by leave, taken together and agreed to.

Clause 110.

MRS DUNNE (Ginninderra) (5.20): The Canberra Liberals oppose this clause because in this section the provisions in relation to discrimination require a reverse onus of proof. This is another rights issue about which I touched on earlier this morning. This is an issue which is, again, a departure from the general practice in relation to rights.

This morning the Chief Minister said that we had to depart from individual rights to protect workers at large on issues of public safety. That could be a tenable argument, but, on this occasion, this is a rights issue which does not do anything to protect public safety. There is absolutely no justification for creating the reverse onus of proof in this clause. As I have said very strongly for, this is a violation of the rights of people in this space and it is not a violation that the Canberra Liberals are prepared to support.

There is a longstanding tradition in common law countries that people are innocent until proven guilty, and, irrespective of a proclivity to have national template

legislation and to have it uniform all across the board, we do not believe we should legislate away people's rights. A fundamental right to be presumed innocent until proven guilty is a millennia-old provision and right. The Canberra Liberals are not prepared to legislate that away and will therefore oppose this clause.

MS GALLAGHER (Molonglo—Chief Minister, Minister for Health and Minister for Industrial Relations) (5.22): The government will not be supporting Mrs Dunne's opposition of this clause. It is an important part of the discrimination framework, and opposing this clause would make it practically impossible to enforce the protections against discrimination as set out in part 6 of the bill by altering the onus of proof provisions. It is very important that this act provides surety for any person who wishes to raise a safety issue at a workplace and that they are able to do so without fear of retribution.

The provisions in respect of discrimination need to be read in their entirety and not broken down so they are taken out of context. By way of example, the act requires that a person in control of a business or undertaking provide evidence that the dominant reason why they took action, such as dismissing a worker after the worker raised or indicated that they intended to raise a work health and safety issue, was not because the worker raised or intended to raise that matter. In these circumstances, the only person who knows the reason for their action is the person in control of the business or undertaking, and it is appropriate that they provide that evidence. This is an important element of the work health and safety framework. The Work Safety Act has similar provisions to this, and that was passed in 2008 by this place.

MS BRESNAN (Brindabella) (5.23): As I explained when speaking to my first amendment, the Greens sought to remove the dominant substantial reason test, but to do this the four amendments needed to be accepted as a whole. Given that the Liberal Party and the government voted to retain the dominant reason test, as I stated, it will no longer be necessary to move my amendment 2. However, in this case, the Greens want the reverse onus of proof to stay in place, and the Greens will, therefore, vote to retain clause 110 in its current form.

Clause 110 agreed to.

Clause 111 agreed to.

Clause 112 agreed to.

Clause 113 agreed to.

Clauses 114 and 115, by leave, taken together and agreed to.

Clauses 152 to 154, by leave, taken together and agreed to.

Clause 155 agreed to.

Clauses 156 to 159, by leave, taken together and agreed to.

Clause 160 agreed to.

Clauses 161 to 170, by leave, taken together and agreed to.

Clause 171 agreed to.

Clause 173 agreed to.

Clauses 174 to 222, by leave, taken together and agreed to.

Clause 223 agreed to.

Clauses 224 to 229, by leave, taken together and agreed to.

Clause 230.

MS BRESNAN (Brindabella) (5.27): I move amendment No 5 circulated in my name *[see schedule 2 at page 4126]*.

The amendment I am proposing would reinstate the statutory right for unions and employer organisations to bring prosecutions for work health and safety offences in the ACT. One of the consequences of this proposed harmonisation is the loss of this right. The Greens believe it is an important right and one that should stay.

The right was originally introduced into the ACT law in 2008 through the government's Work Safety Act. At the time, the government said that the act introduced a modern set of work safety laws that reflects the realities of working and doing business in the territory. The government said that the new act addressed the deficiencies in the current act and presented a modern regime intent on securing work safety for all workers while not hampering business.

The statutory right for union prosecutions was a part of that modern regime. Unfortunately, the proposal is now to remove the statutory right for unions and employer organisations to bring prosecutions for work health and safety offences. We think that is a step backwards. I have talked in the Assembly before about the importance of the private prosecution right. I pointed out that on average in Australia one worker is killed a week in the construction industry. Making prosecutions harder is likely to result in less prosecution and less pressure on employers to deliver safe workplaces.

I also gave the example of the union prosecutions being effective in New South Wales. There, the Finance Sector Union took successful court action which forced the major banks to invest approximately $100 million in improving safety standards. The result has been a dramatic fall in armed robberies—from 102 in 2002 to just four last year. I want to quote Mr Fetter from the Australian Council of Trade Unions, who told the federal Senate committee why this right should be retained. He said:

> There is always the concern that that body—

he was referring to the regulatory body—

> will fail to prosecute, for reasons that are not in the public interest. It may lack the resources or the energies, or in some cases it has become captured by those that it regulates. There is concern in those cases that justice will not be done. We think it is vital that an organisation has some oversight over the right to prosecute and can as a last resort, if the main prosecutor is not doing its job, step in.

Mr Fetter went on to say:

> It was the practice in at least two jurisdictions that unions had the right to prosecute, and in our assessment that was both appropriate and effective to make sure that, although it was rarely used, the regulator knew that it was being watched by a body that had a strong interest in seeing that prosecutions were laid where appropriate. We think that that lifted the efficacy of the regulator just by the knowledge that it was being watched.

I think these are valid arguments. The retention of the statutory right to prosecute has wider support than just unions. In New South Wales the parliament amended the harmonised legislation to retain the right to union prosecutions. This was achieved by the Labor Party, the Greens and the Shooters Party. In the recent Senate inquiry on the harmonised legislation, Master Builders Australia said that it would be very concerned if the bill removed the union right to prosecute because it wanted a regulatory framework that is fair and reasonable for the industry.

I want to address the argument that there will be nothing lost under this bill because the ACT will retain the common law right for private prosecutions. Yes, the common law right is better than nothing, but the Greens believe that there are problems with relying on the common law right to prosecute. It is weak and unwieldy compared to what we currently have in our legislation. Unions will be left with a more cumbersome, more expensive, less clear option for prosecutions. They will not be able to use the machinery of the statute, which is much easier. The CFMEU tells us, for example, that the common law alternative is likely to be beyond the means of many union affiliates or union members.

The common law right is also weaker. Under the common law right, citizens can commence private prosecutions for summary offences and take them to trial. But for indictable offences they can only do so during the committal stage. If the matter is referred to trial, the DPP must elect to take over; otherwise the matter is discontinued. The right was defined in the statute for a reason. It makes it practical, accessible and goes further than common law. This will be taken away by the bill that the government has proposed.

Of course, taking away the statutory right to prosecute also makes a statement of principle on behalf of the government. It is a statement that union involvement in prosecutions should not be recognised in the government's statute. That is a statement the Greens do not support. I would also just note that I understand the CFMEU is in the process of taking a third party prosecution against Boral, which I think proves quite strongly that it is a right that we should be retaining.

MS GALLAGHER (Molonglo—Chief Minister, Minister for Health and Minister for Industrial Relations) (5.32): The government will not be supporting this amendment and I have to say that this is a difficult position for the government to be in, as we were the originators of third party prosecutions in the Work Safety Act in 2008.

However, we have agitated very strongly through the Workplace Relations Ministers Council around this matter. We sought support from our colleagues—indeed, our Labor colleagues—around the country. Then, when there were changes of government, although I think there might have been one Liberal state government at the time the final decision was taken, we could not garner any support for third party prosecutions around the table where the harmonised laws were being discussed.

This is a difficult one for the government. It is tied to reward payments in the order of $3 million to $4 million from the seamless national economy standardisation process. These are the things governments have to consider. Are we prepared to not implement the harmonised laws and be at risk of losing those payments? We did take the decision around the table that harmonisation was the way to go.

I have to say that at the last Workplace Relations Ministers Council I attended about two months ago there were a number of discussions about how this was balancing the legislative frameworks that exist in all jurisdictions to try and come out with a harmonised model. Indeed, a number of ministers, including me, outlined that there were areas where we were accepting less than what we had now.

In many ways I think we have managed to hold on to what we have been able to through this process. That has been industrial manslaughter, for example, which is not welcomed around the country as additional legislation on top of this, and, indeed, our asbestos regulation framework and the laws we have surrounding asbestos. So we have negotiated where we can to try and protect some of those areas where we differ from the rest of the country but third party prosecutions were not part of that.

It is with some regret that I oppose this amendment that Ms Bresnan has brought here today. But I will also put on the record in speaking to this what the bill does provide for. The national review panel recommended, and workplace relations ministers agreed, that the power to initiate a statutory prosecution for a breach of the act should only be vested in an official acting in the course of their official duty and not in a third party such as a union official or an official of an employer organisation.

It is important to note, however, that the bill provides for the ability of any person to seek a review of a decision by the regulator not to prosecute a category 1 or category 2 offence, being the most serious, and that request for review must be considered by the DPP. If that request is made, the Director of Public Prosecutions must provide advice to the regulator on whether or not he or she believes that a prosecution should be brought.

In addition, the bill, as we have spoken about in this place, does not alter the right of any citizen to bring a common law prosecution should the person be able to gain standing before a court. This has been a longstanding tenet in the law. A citizen is

able to prosecute a summary offence which is an offence punishable by imprisonment for one year or less until completion. However, a citizen may only prosecute an indictable offence during the committal stage and, if the matter is referred to trial, the Director of Public Prosecutions must elect to take over or the matter is discontinued.

The statutory right of prosecution currently provided under the Work Safety Act generally reflects the common law position. However, the statutory right only applies to division 3.2 of that act, the safety duty offences. Also, the statutory right does not impose the common law limitation on taking a matter to trial. Under the Work Safety Act a union is entitled to prosecute an indictable offence at trial.

However, as with the common law, the Work Safety Act allows for the Director of Public Prosecutions to take over or intervene at any time. In practice, he or she would always take over a prosecution if the matter is referred to trial, given the public interest at stake. So in effect the operation of the statutory provision is the same as the common law.

Removing the statutory right to prosecute in the ACT and reverting to the common law does not represent any change in practice. The Greens' amendment would go further than the common law and the statutory right currently provided and it would do this in two ways. First, it would go beyond the statutory right by applying to all offences under the act and not just be limited to the safety duties. Second, the Greens' amendment does not draw on the DPP's right to intervene on proceedings. So, arguably, these important provisions contained in the DPP act that serve to protect the public interest may not apply. At the very least, this important protection should be expressly provided for.

There have been no prosecutions in the ACT by unions or employer groups. Whilst it is with some regret that we were not able to seek the resolution we wanted at a national level, I am satisfied that the provisions in the bill are sufficient to ensure that appropriate means of prosecution are available.

MRS DUNNE (Ginninderra) (5.38): The Canberra Liberals will not be supporting Ms Bresnan's amendment. Unlike the Chief Minister, it does not give us any pain at all.

Question put:

> That **Ms Bresnan's** amendment No 5 be agreed to.

The Assembly voted—

Ayes 4		Noes 11	
Ms Bresnan	Mr Rattenbury	Mr Barr	Ms Gallagher
Ms Hunter		Dr Bourke	Mr Hanson
Ms Le Couteur		Ms Burch	Mr Hargreaves
		Mr Coe	Mr Seselja
		Mr Corbell	Mr Smyth
		Mrs Dunne	

Question so resolved in the negative.

Clause 230 agreed to.

Remainder of bill, by leave, taken as a whole and agreed to.

MR SPEAKER: The question now is that this bill, as amended, be agreed to.

MS GALLAGHER: (Molonglo—Chief Minister, Minister for Health and Minister for Industrial Relations) (5.43): I will not take up any more time. I would just like to put on the record my thanks to the staff of the Office of Industrial Relations who have been working on this for a couple of years now. Thank you very much for all your work that you have done, including the briefings that you have provided to members in this place. Also, I extend my thanks to Garrett Purtill in my office, who has lived and breathed this bill from an early stage as well.

I would also like to thank Assembly members. Whilst we have not always agreed, we have passed some good legislation, I think, that will protect workers and make doing business—

Mrs Dunne: We haven't passed it yet.

MS GALLAGHER: Well, we are about to pass some legislation which will protect workers but also make doing business in this area just that little bit easier. So I do thank members for their contributions today.

Question put.

> That this bill be agreed to.

The Assembly voted—

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

Question so resolved in the affirmative.

Bill, as amended, agreed to.

Terrorism (Extraordinary Temporary Powers) Amendment Bill 2011

Debate resumed from 30 June 2011, on motion by **Mr Corbell**:

> That this bill be agreed to in principle.

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

Coroners Amendment Bill 2011

Debate resumed from 23 June 2011, on motion by **Mr Corbell**:

> That this bill be agreed to in principle.

MRS DUNNE (Ginninderra) (5.48): The Canberra Liberals will support this bill, which seeks to reform the coronial system in the ACT. In doing so, the bill adds an objects clause and guidance for meeting the objects. This is a useful and important element for legislative drafting, because it provides an overview of the intentions of the legislature.

Importantly, the objects of this bill establish that the Corner's Court takes an inquisitorial and not an adversarial approach to inquests and inquiries. They also elevate the importance of the public having an understanding of the functions of the Coroner's Court.

The bill also clarifies the criteria for appointment of counsel assisting, ensuring that counsel are suitably qualified and do not have an actual or perceived conflict of interest. The act already requires a coroner to appoint counsel assisting for inquests involving deaths in custody. The bill gives the coroner the option when it comes to other matters of inquest or inquiry.

Another amendment creates new procedures for a coroner, including power to give directions as to practice or procedures not otherwise set down in the law or by the Chief Coroner for inquests, inquiries and hearings and reporting to the Attorney-General. It is worth noting that the Attorney-General will be required to table such reports, along with the government's response, in the Assembly within six months.

A significant amendment that this bill introduces is to allow inquests and inquiries to proceed to a finding of "basic facts"—for example, establishing the cause of death of a person, the person's identity and the date and place of death. This is so even when, in the process, the coroner finds indictable offence evidence not directly connected with the coronial process.

Whilst the drafting is somewhat convoluted, and probably necessary so because this is a complex issue, this will help expedite things for the family of the deceased rather than stringing out the coronial inquest until a criminal matter has run its course. It is important to note, however, that a stay of inquest will continue to arise if the indictable offence that is found in the course of the inquest relates directly to the death that is the subject of the inquest.

Finally, the bill creates procedures for keeping informed the family of deceased persons whose death is the subject of an inquest. This again is an important amendment. It goes back to one of the new objects introduced in the bill and ensures that families, while they go through a particularly traumatic time, are kept informed as to the progress of the inquest into the death of a loved one.

A paper called *Reform of the ACT coronial system* informed the development of this bill. It appears that this paper and its proposals have come from extensive consultation processes, and I commend the minister for this. Indeed, the government and even the minister himself could learn from this example because it has resulted in legislation that is thoughtful, is measured and that has broad support. Many of the proposals articulated in the paper have been picked up in the bill.

One that was not picked up was to appoint a dedicated coroner rather than require the Chief Magistrate to carry out the role of the Chief Coroner. I note from the attorney's presentation speech that, rather than make a dedicated appointment, the current structure will remain for now. In the meantime the coroner's office will review and refine the case management system in order to make the system function more efficiently. The attorney has committed to a review of this structure in two years time.

These reforms are important because they engage families and the public more closely in the coronial process. They make the processes more open and accountable. They ensure that the process is inquisitorial rather than adversarial and they engage the government more closely in the reporting process. This means that the public will be better informed of matters that are important from a personal safety and security viewpoint. The Canberra Liberals will be supporting this bill.

MR RATTENBURY (Molonglo) (5.53): The Greens will be supporting this bill today. The catalyst for the bill was the 2003 firestorm that burnt Canberra and the subsequent coronial report in 2006. The coroner issued an extensive report on the fire itself but also made recommendations for reform of the Coroners Act. Those recommendations led to a series of discussion papers with stakeholder groups, which in turn led to the bill we are debating today.

So the process has been a long one, stretching over a number of years. However, the Greens are pleased to be debating the bill, because it takes on board some important learnings from 2003. One of the fears that many people have about something like the 2003 event is that for the next couple of years after the event everyone is on high alert but then, as the memories fade over time, people become more relaxed or complacent and any lessons learnt are forgotten. This bill today ensures that some of those lessons learnt are enshrined in law, and that is certainly a good step.

It is important to note that not all recommendations raised during the consultation have been acted on by government. But where they have not been acted on, the government have been transparent as to the fact that they are not and the reasons for that decision. I welcome that approach that the government have taken there; it is a good and positive example.

One of the key recommendations that were not adopted is for a full-time dedicated Chief Coroner to be established. Instead of adopting that recommendation, the government has made a series of legislative and administrative changes designed to improve case management, which will improve the ability to progress and conclude matters. The government is of the view that these case management changes will achieve the same result as appointing a dedicated coroner. The Greens can see the

rationale behind the government's decision and understand that this is an issue the government will continue to monitor. That is an appropriate way to respond to the issue at this point in time. If the changes have not had the desired impact by the end of two years, we will need to revisit that decision.

The coronial process is potentially a very emotive one. It is a process that deals with death and disasters. Perhaps because of this, there is a divergence of views about what the precise role of the coroner should be. One perspective is that the role of the coroner is a narrow one, to focus on finding the manner and cause of death. Under this perspective there is no determining of guilt or innocence. The matter is purely a factual question of what caused the death or disaster in question. This role of the coroner is accepted by all stakeholders and is beyond dispute.

The alternative perspective is that the coroner should have an additional function, to look more broadly and make far-reaching recommendations about criminal charges that should be laid, compensation that should be paid, and reforms that should be made in order to prevent the situation arising again. This role of the coroner is disputed amongst stakeholders. Some argue strongly in favour and some are concerned that extending the role in such a way undermines the central role of the coroner to determine facts.

In the ACT the focus has always been on the first perspective, with the legislation requiring coroners to find the factual cause and manner of death. There has always been the ability for coroners to make recommendations about how the death could have been avoided, but the legislation has not been entirely clear about when and where those recommendations can or should be made.

One important amendment the bill proposes today is to require coroners to determine if recommendations for community safety should be considered in the inquiry. Where recommendations should be made, the amendment will require the coroner to publicly state what those recommendations are. Of course, you cannot dictate that the coroner must make recommendations, because there will simply be some deaths that nothing could have prevented.

The Greens believe that at least requiring the coroner to turn their mind to the issue is a positive step. It is a delicate balancing act to retain the accepted role for coroners to find facts and also to provide flexibility for broader public safety recommendations to be made if the circumstances of the case warrant it. This recommendation-making role for the coroner is important, and I believe that the general community would want our coroners to consider whether there is a public safety issue at play.

Coroners are in a unique position to look at deaths in the ACT. They are independent from the government of the day. Any findings they make have a certain weight and gravity that is undoubtedly unique. The amendment today strengthens that recommendation-making role for coroners in a way that is appropriately balanced.

There are a range of other important amendments made by the bill which the attorney has explained in some detail in his presentation speech. They can broadly be categorised as removing ambiguities in the existing act and empowering coroners to run inquiries and inquests in a smoother and more consistent manner.

Two important amendments are the insertion of the objects section, which will set the overarching purpose for how the act should operate, and some clarification about the role of counsel assisting the coroner. The Greens support these amendments because, as I touched on earlier, coronial hearings are potentially highly emotive.

Clearer legislation and a better articulation of the roles of the coroner and counsel assisting are in the interests of the families involved. Any confusion during a coronial hearing must be avoided wherever possible, and the amendments made today will go some way towards making the coronial process a smoother one.

In conclusion, let me say that the Greens support the bill and support the government commitment to assess again in two years whether a dedicated coroner is required in the ACT.

MS BRESNAN (Brindabella) (5.59): I will just speak briefly. As my colleague Mr Rattenbury has outlined, the coroners bill makes some good advances which the Greens support. I personally welcome the elevated status of the deceased family in the coronial process, the requirement that a coroner consider if recommendations should be made and the need for the Attorney-General to table recommendations in the chamber.

There are additional items, however, that have not been addressed through the bill today but do concern me as the Greens' spokesperson for health and disability. Those concerns relate to deaths involving a suicide or a person with disabilities. My office contacted a wide range of health and disability community groups when forming our response to this bill, but we did not receive comments. This appears to be because of the community sector's limited resources and the fact that they need to focus on what they consider to be core business.

While I do support what is proposed in the bill today, I also believe there are reforms—

At 6 pm, in accordance with standing order 34, the debate was interrupted. The motion for the adjournment of the Assembly having been put and negatived, the debate was resumed.

MS BRESNAN: While I do support what is proposed in this bill, I also believe there are reforms needed regarding mental illness and disability. For example, if a person with disability starves while in a group home or respite, the coroner is only required to look at the case if it meets a very strict list of tests, as outlined in clause 13 of the act. The most relevant test for this kind of situation is if the person with disability has died under suspicious circumstances.

In reality, if a person with disability dies while in care and there is a suspicion they were not being cared for properly, it would require either a passionate parent or the Public Advocate to lobby the coroner to regard the death as being under suspicious circumstances and therefore worthy of investigation. Requiring the parent to push for such an inquiry creates an added burden, given the grief they would be going through.

There is not an easy solution available as yet, but I do hope that we can find a better way to ensure that suspicious deaths in group homes or respite will be investigated by a coroner without the need for parents to lobby.

Another point that was raised with my office by a bereaved partner is whether all cases of suicide should require coronial investigation. At the moment, the Coroners Act stipulates that any person who dies while being cared for in a mental health facility or while under an involuntary order would require a coronial investigation. The question is: should this go further, given that almost all deaths by suicide are preventable? In considering this request, we also examined the historical nature of the coroner and the coroner's need to maintain a clear mission in determining cause of death.

ACT Health's quality assurance committee investigates matters involving suicide and examines how ACT Health followed policies and procedures when treating a patient. There are some concerns from carers that this system does not allow an open discussion with partners or family on how policies could be changed. Perhaps what is needed is a mechanism such as the child death review committee for people who die by suicide to consider where policies failed a client and propose improvements. Given the number of people who die by suicide each year in the ACT, this is a proposal that the Greens believe warrants further investigation and discussion.

SupportLink's submission on the first discussion paper on the Coroners Act proposes that the ACT government fund a coronial support service to provide support and counselling to families. I appreciate that the bill does intend to promote greater support for families and friends by the Coroners Court, but it does not go to the extent of providing counselling. SupportLink's proposal is best addressed through government budgets rather than the legislation, but there is good reason for it to be included in the next budget.

SupportLink's submission highlights that the ACT did once have a coronial support service, but that service was withdrawn. The ACT is now the only Australian jurisdiction not to have a coronial support service. The government does provide support to families where a death involves a crime, but such deaths account for a limited number of cases through the Coroners Court. SupportLink currently has a contract with the AFP, which allows the AFP to refer people to SupportLink in order to access support services, but the contract does not cover coronial matters. Despite this, last year the AFP referred 159 clients to SupportLink for matters regarding the coronial court. SupportLink also attended 43 suicides and 16 motor vehicle fatalities. I would reiterate that there should be funding allocated in the next budget for a coronial support service.

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) (6.04), in reply: I thank members for their support of this bill. This bill is an important incremental reform of the coronial system and has been the subject of detailed consultation amongst all key stakeholders. I note members' comments, particularly in relation to a coronial support service. The government is currently considering the establishment of a coronial support service, but this is of course subject to a detailed budget bid.

In relation to the development of this legislation overall, I think it is worth making the point that the greatest beneficiaries of this legislation are not the legal community or judicial officers; they are the families of people who have passed away. An effective Coroners Act is vital to providing them with the support and the information they need to understand why the coronial process is being conducted and what answers they will get from it.

I thank members for their support of the bill and I commend it to the Assembly.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

Paper

Mr Corbell tabled the following papers:

> Estimates 2011-2012—Select Committee—Report—Appropriation Bill 2011-2012—Government response—Additional information—
>
> > Recommendation 158—Level of funding for services under taken by the RSPCA.
> >
> > Recommendation 185—Final estimate for completion of the North Weston pond work.

Adjournment

Motion by (**Mr Corbell**) proposed:

> That the Assembly do now adjourn.

Dr Peter Sharp AM

MS GALLAGHER (Molonglo—Chief Minister, Minister for Health and Minister for Industrial Relations) (6.06): It is with regret that I rise tonight to recognise the passing of Dr Peter Sharp from Winnunga Nimmityjah Aboriginal Health Service. Dr Sharp passed away on Sunday after a relatively short battle with cancer. As many in this place would know, Dr Sharp has been a stalwart at Winnunga Nimmityjah Aboriginal Health Service, where he has been the longest serving employee, I understand—where he has worked for 22 years—initially travelling from Sydney every weekend to run clinics for the ACT Aboriginal community.

He also, of course, ran clinics at regional correctional facilities treating Aboriginal inmates, training local doctors in Indigenous health and working with older residents

on alcohol and substance abuse programs. Before the establishment of the Alexander Maconochie Centre he regularly travelled to jails in Sydney and Goulburn to provide a very friendly face to residents of the ACT who were serving their time outside our jurisdictional borders.

Dr Sharp has been a board member of the ACT branch of the Australian Medical Association for many years, where he was an active member—again encouraging local doctors to help him with his work on tackling Aboriginal health issue causes and treatment. I know that the staff at Winnunga Nimmityjah are absolutely devastated not only by the passing of Dr Sharp—Dr Pete, as they called him—but by the suddenness of his illness; and the support they have been providing him and his partner, Carolyn, has been incredible.

The Winnunga staff are a family, and I think that is clear for any of us who go and visit that service. As Julie Tongs, the Chief Executive Officer of Winnunga Nimmityjah, said yesterday:

> Dr Pete was a legend in the whole ACT community and a finer man did not walk the earth … The clients, staff and Board of Winnunga are absolutely devastated at Dr Pete's passing. Our sincere condolences go out to Pete's partner, Carolyn and his family.

I think all of us will endorse those comments from Julie Tongs.

I should also say that Dr Sharp has been recognised with an Order of Australia and, indeed, I think he was the ACT Local Hero of the Year a couple of years ago. So we have thankfully been able to recognise his work before his passing. I know that ATODA, the peak drug and alcohol council, have in the last month announced a scholarship program linked with his name; he was able to be involved in that. I think that is very good. The government is also looking at ways to recognise—we will talk with his family and with Winnunga Nimmityjah—the very, very significant contribution he made to the lives of many Canberrans, including those most marginalised and disadvantaged across our community.

It is incredibly sad to see such a fine and good man leave us. But what we do know is that the work he did is ongoing, that he always offered hope for the future around us improving our services and meeting the needs of Indigenous Canberrans and their families. The legacy that he leaves at Winnunga is long lasting, and I am sure that all of us will work hard to protect that legacy into the future.

ACT Greens—policies

MR RATTENBURY (Molonglo) (6.10): I rise to come back to a discussion that came up earlier today in the course of the matter of public importance where, as I noted earlier, Mr Seselja declined the opportunity to actually discuss the issue at hand and instead sought to talk about the Greens' apparent position on Throsby. The fact that he has brought that up is an excellent opportunity for me to have a chance to clarify the record, because I think that Mr Seselja has been undertaking a wilful distortion of both my position and the Greens' position. And I take the opportunity this evening to clarify what we actually said.

It is worth going back to the debate actually in the chamber when I moved the motion on behalf of the Greens some weeks ago. At the time I was talking about why we were concerned about Throsby. What I actually said at the time, the relevant sentence in a context of talking about why we were concerned and what some of the threats were at Throsby, was:

> Throsby is the perfect case in point of the kind of area for which we should perhaps just put aside all notion of development. Whilst our motion today does not call for this specifically to happen as the work has not been finished that will determine this final decision, the Greens' view is that Throsby may well be a complete no-go zone.

I then went on to talk about some of the issues that arise in Throsby. I think it is quite clear to anybody who listens to the actual use of language that there are a number of caveats in there. I have talked about "perhaps", "put aside" and that we "may well" have to consider that. But clearly there are some conditions in that and they are based on the assessments that we were calling for.

But of course, Mr Seselja, in his casual relationship with the truth, the next morning on 666 said, "The Greens want the whole suburb of Throsby not to go ahead." He said: "Well, that is not what Shane Rattenbury said. He said, 'The whole of Throsby should be considered a no-go zone.'"

Mr Hanson: Mr Assistant Speaker—

MR ASSISTANT SPEAKER (Mr Hargreaves): Mr Rattenbury, hold the phone, please. Stop the clock, please. Mr Hanson.

MR HANSON: Mr Rattenbury, in his comments about Mr Seselja, stated that Mr Seselja has a casual relationship with the truth. I would ask whether you would rule on whether that is unparliamentary and, if so, ask him to withdraw.

MR ASSISTANT SPEAKER: I think Mr Hanson has a point, Mr Rattenbury, and I would invite you to withdraw that comment.

MR RATTENBURY: I withdraw. Mr Seselja went on to say on radio, talking about me: "Shane Rattenbury said, 'The whole of Throsby should be considered a no-go zone for development.'" So he was not telling the truth in the Assembly and he should correct the record. But that is the Greens' policy. That is what is being put forward by their spokesperson."

So what has happened here is that Mr Seselja has listened to the actual debate and then he has gone out and wilfully reinterpreted it to suit his own ends when he has appeared on 666. I think that is a very unfortunate position for a member of this place to be taking. Mr Seselja is a lawyer. He knows you are supposed to read the whole sentence, not pick out the bits that you like and then go and use them in a way to suit your own purposes.

Of course the irony here is that I used those conditional words like "perhaps" and "may" because I was talking in a contextual way. Mr Seselja is the one who is out

there saying, and he said it again in the chamber today, "Throsby should be developed." He is not interested in the environmental assessments. He is not interested in waiting for the commonwealth referral to be put through. He wants to develop it now, concrete straight over the woodland before we have even got the environmental assessment.

Perhaps another of the ironies here is, of course, that that referral is taking place under the commonwealth Environment Protection and Biodiversity Conservation Act. I do not know whether you have heard of it, Mr Hanson, but that is Howard government legislation that this referral is being done under. But Mr Seselja does not want to have a bar of it. He just wants to concrete straight over the woodland before the assessment is even done under John Howard's own legislation.

When it comes to the proposed high school in Throsby, I think it is quite clear—and Ms Hunter has been clear about this and the Greens have been clear about it—that we have no problem with the high school going ahead. We of course do need to do the assessments. The assessment for the high school has been in the pipeline for some while. My motion the other week was actually about the suburb of Throsby.

What is interesting is that my motion flushed out the fact that the government had not referred the high school site for assessment under the EPBC and in fact that has been delayed. Fortunately, because my motion came into this place it flushed out the fact that that ball had been dropped and that, I understand, is now proceeding. And my understanding, from our conversations with the Catholic Education Office, is that they are actually quite pleased that that oversight has now been flushed out and the process is moving ahead.

So I am tempted to suggest that Mr Seselja apologise for wilfully twisting and distorting my position but I am not that much of an optimist. Perhaps the best I could hope for is that in future there might be an accurate representation of both my position and that of the Greens, because I think Mr Seselja does understand the difference even if he does not choose to recognise that and instead misrepresents our position in the way that he has.

Australian peacekeeping memorial

MR HANSON (Molonglo) (6.15): I rise tonight to speak about an event that I attended—Australia's 64th anniversary of peacekeeping involvement—a ceremony that occurred on Wednesday, 14 September at the Australian peacekeeping memorial site on Anzac Parade, Canberra. It was a beautiful day and a beautiful ceremony. This is all part of a project to have an Australian peacekeeping memorial at that site on Anzac Parade. I would like to speak about that proposal and I will quote extensively from the website of the Australian peacekeeping memorial project:

> Australia has been actively involved and continually involved in peace operations for over sixty years, although our military and police contributions have increased significantly over the last decade. Our involvement has covered the complete spectrum of peace operations and personnel from a number of government agencies have participated in these peace initiatives. In 1947 four Australian ADF officers were the world's first ever peacekeepers when deployed

> to the Dutch East Indies under the UN Commission in Indonesia … Over the last few years a proposal has been developing that a Peacekeeping Memorial should be built in the national capital Canberra to honour all those who have and will continue to serve on peacekeeping operations. This includes those from the Australian Defence Force, the Federal, State and Territory Police Forces, and Government Agencies who have served and died on peacekeeping operations commanded or authorised by the United Nations or sanctioned by the Government of Australia.

This proposal has now been developed into the Australian peacekeeping memorial project and a committee has been formed to develop the proposal. The vision is to create a national memorial that will appropriately honour the sacrifice of Australian peacekeepers in the service of international peace and security and recognise the courage and professionalism of Australian peacekeepers in the face of the particular challenges of their operations. The memorial will be the focus for recognising the continuing significant contribution by Australians to international peacekeeping.

The objectives of the peacekeeping memorial project include erecting a memorial in Canberra by Australian Peacekeepers Day on 14 September 2012 that appropriately recognises the sacrifice and continuing contribution of Australians to international peacekeeping, and to develop appropriate design criteria and guidelines that meet the requirement of the Canberra National Memorials Committee and fittingly represent the Australian past and present peacekeeping role in the world.

I would like to commend the committee for their work and their effort. The patron and ambassador of the committee is her Excellency Ms Quentin Bryce, Governor-General of the Commonwealth of Australia. The patrons are John Sanderson, an ex-Chief of Army, Geraldine Doogue and Tony Negus from the Australian Federal Police. Matina Jewell is an ambassador. The committee chairman is Major General Tim Ford and the vice- chairman is Major General Ian Gordon. Ian Gordon was the MC on the day; he did a splendid job as the MC on 14 September. Other members of the committee are Philip Southam, Cleon Walters, Warren Lewis, David Wilkinson, Fred McArdle, David Vinen, Bob Craine, Alison Creagh, who is the ADF representative, Frank Prendergast, Graham Rayner, Paul Copeland, Denis Percy, Ron Walker and Gary Brodie.

I congratulate the committee on organising a great function and a great ceremony on 14 September. I wish them well with their endeavours in establishing a peacekeeping memorial by the peacekeeping day on 14 September 2012.

Dr Peter Sharp AM
September 11 commemoration
Lanyon high school restaurant

MS BRESNAN (Brindabella) (6.20): I would like to echo the words of the Chief Minister about Dr Peter Sharp. He was a truly wonderful man and he made a significant and immense contribution to the ACT community. I dare say he would be worthy of a condolence motion here in the Assembly; that might be something worth considering—obviously, in consultation with his family.

I would like to speak of an event I went to in commemoration of September 11, on Sunday, 11 September. I note that Mr Doszpot was also there. It was a program for a peace and harmony interfaith gathering hosted by the Canberra Interfaith Forum. It was very much about representing all religious groups and having them speak. There were some very salient words from the speakers on working towards peace and not allowing vengeance to take hold in that process.

The faiths represented and the people who spoke were the Baha'i faith, Mr Foad Khorsandi; Brahma Kumaris, Robyn Horton; Buddhist, Ven Tenpa Bejanke and Ven Than Luong; Christian, Bishop Pat Power; Hindu, Pandit Pradeep Bhat; Islam, Mr Ahmed Youseff; Jewish, Alan Shroot; Pagan Awareness Network, David Garland; Quakers, Margaret Bearlin; Sathya Sai, Dr Pal Dhall; Sikh, Manjit Gilhotra; and Sukyo Mahikari, Kazuhiro Fukui. I would like to congratulate the Canberra Interfaith Forum again on putting together a wonderful event in their interfaith garden, which they launched a few months ago.

I would also like to briefly speak on something else. Last night, 19 September, I attended the Lanyon high restaurant. The food and hospitality 2 class is a vocational education training class that enables students at Lanyon high to work towards completing a statement of attainment in certificate 1 in hospitality. The qualifications that the students achieve in this class are recognised nationally throughout the hospitality industry. There are 19 students enrolled in the class this year. Part of their commitment to the class is to dedicate time outside their normal class hours in order to build on their practical time.

The restaurant will be open tonight—it might be a bit late for some people to go tonight—and tomorrow night, Wednesday the 21st. It will be open to patrons from 6.30 to 8.30. All food and service are carried out by hospitality students. All the money raised in the cafe and restaurant goes back into the hospitality department at the school to upgrade equipment and supplies for hospitality students.

I would like to congratulate the Lanyon high hospitality teacher, Cathy Wyatt, who has done a wonderful job in putting this together, and all the students involved. I have to say that they did a wonderful job with their cooking. I certainly could not have cooked like that at that age in high school. It is wonderful that they are doing this, that they are getting these qualifications. I wish them all the best with not just the restaurant but their future studies.

ACTTAB Tony Campbell memorial race day

MR COE (Ginninderra) (6.23): On Friday, 2 September I, along with a few of my Assembly colleagues and many members of the community, attended the sixth running of the ACTTAB Tony Campbell memorial race meeting at Thoroughbred Park. The Canberra racing community and friends have celebrated the life of Tony Campbell every year, at the race day in his name, since his untimely death in 2006. As we know, Tony Campbell was the race caller at Canberra for 26 years and was widely recognised as the voice of regional racing. ACTTAB has sponsored the memorial race day since the inaugural event and, along with the other sponsors of this year's event—

Sky Racing, the Carbine Club of the ACT, Peter Blackshaw Inner North and Rural, Cleanaway, the Mark Agency, Siren bar Gungahlin, and Nexus Accountants—ensure that the spirit of Tony Campbell's contribution to racing in the region continues.

The Canberra Racing Club premiership awards for season 2010-11 were made and the results were as follows: the overall jockeys were, first, Jeff Penza, then William Pearson, Annelise King, Brendan Ward, Scott Pollard, Matthew Cahill, Kevin Sweeney, Brad Clark, Patrick Murphy and Grant Buckley. The trainers were, first, Keith Dryden, then Matthew Dale, Terry Robinson, Barbara Joseph and Paul Jones, Patrick and Wayne Webster, Mark Wallace, Bronwyn Mackie, Mike Petrovic, Joe Cleary and Kerry Parker.

The apprentices were, first, Annelise King, then Kayla Nisbet, Lauri Wray, Yusuke Ichikawa, Tenneil Mitchell, Shaun Guymer, Ben Vassallo, Natasha Winton, Chad Schofield and John Kissick, and the horses of the year were I'm Mary Too, Maniago, Hustle, Ten of Hearts, Acta Non Verba, General Jay Dee, Gorgeous Amelia, Island Bel, Kanskje and Layable.

The event also saw the unveiling of the refurbished Silks Room and Rich Reward Room, which were in use for the first time at this event since completion of the renovations. They are great renovations and a great addition to Canberra and of course to the racetrack.

Of course we cannot forget to mention the finishing order for race 6, the ACTTAB Tony Campbell memorial cup. First place went to Trescorpioni from New Zealand, which was ridden by Brendan Ward and trained by Bernie Howlett. Second place went to Clever Hans, whose jockey was Jeff Penza and trainer Rado Boljun. Ten of Hearts, with Annelise King as jockey and Mike Petrovic as trainer, finished in third place. Fourth past the finishing post was Vilakazi Street ridden by Kevin Sweeney.

I encourage members to remember that Thoroughbred Park are now accepting bookings for other important race meets on the spring calendar, including the upcoming ACTTAB Melbourne Cup day. Members of this place are well aware that the racing industry in Canberra, and indeed across Australia, is undergoing major change, bringing with it a number of challenges. However, it is a credit to the strength and resilience of the local industry that it continues to thrive in the region despite these challenges.

The industry supports hundreds, if not thousands, of jobs and it makes a large contribution to our economy. I believe the industry was not given the respect it deserves by this government, but I am pleased that a solution, perhaps just a temporary one, has been reached. I urge all in this place to take the racing industry seriously, to meet with them, to find out what their concerns are and to ensure that we have a lively industry going into the future.

Dr Peter Sharp AM
Winnunga Nimmityjah Aboriginal Health Service

DR BOURKE: (Ginninderra) (6.27): Winnunga Nimmityjah Aboriginal Health Service is no ordinary health centre. It is an important community hub offering a

range of services in a culturally safe environment. Over its 23 years Winnunga has had some great staff, and one of the most loved and respected has been Dr Peter Sharp. Sadly, Dr Pete passed away last Sunday. Dr Pete worked at Winnunga for 22 years. At first he travelled from Sydney every weekend to run clinics for the ACT Aboriginal community. For the last 20 years he worked full time at Winnunga. Dr Pete ran clinics at regional correctional facilities treating Aboriginal inmates. He trained local doctors in Indigenous health and worked on alcohol and substance abuse programs.

The recent establishment of the Dr Peter Sharp Trust by the Alcohol Tobacco and Other Drug Association of the ACT has provided further recognition of the great work done by Dr Pete. This trust was launched and celebrated at the recent open day at Winnunga. I know that Indigenous people in the ACT and surrounding regions are now in deep mourning at Dr Pete's untimely death, and I send my condolences to his family, friends, colleagues and patients.

On Wednesday, 7 September I visited Winnunga Nimmityjah on its open day. The open day was an opportunity to inspect the new facilities and say hello to Julie Tongs, the CEO, Judy Harris, the board chair, and some of the other staff and clients. Over the last 23 years Winnunga has grown and responded to the needs of the Aboriginal and Torres Strait Islander community. Its services are now accessed by thousands of clients across the Canberra region. The key to this is that it has been managed and governed by Aboriginal and Torres Strait Islander people.

Long before the big medical centres arrived in Canberra, Winnunga led the way in providing comprehensive primary health care—medical, child and baby health, drug and alcohol, mental health and dental care. The ACT government is working in partnership with the commonwealth government on a range of initiatives to close the gap on Indigenous disadvantage, to tackle the social determinants of health. Better health outcomes for all Aboriginal and Torres Strait Islander people in the ACT are a key commitment of this work.

Last month the 2011 overcoming Indigenous disadvantage report was released. It shows that there is still a long way to go to overcome Aboriginal and Torres Strait Islander disadvantage. The report includes very little data on the ACT's progress in Indigenous health because of the relatively small Aboriginal and Torres Strait Islander population. However, the report did find that the rate of current Aboriginal and Torres Strait Islander daily smokers aged 18 or over was the lowest of all jurisdictions—approximately 30 per cent. This is lower than the national Indigenous average of 50 per cent.

Winnunga can take pride in the progress made to reduce smoking. The ACT government is pleased to have an agreement in place to provide funding support for Winnunga's tackling smoking program until 2013. I also want to acknowledge the generous funding support for the recent renovations at Winnunga that has been provided by the commonwealth Department of Health and Ageing. The improved facilities will benefit thousands of clients who access health services and support programs through Winnunga, as well as the dedicated staff who deliver them.

I want to congratulate Winnunga on the great work it has done and is continuing to do since it opened its doors at the Griffin Centre back in 1998 and to send my condolences again to everyone there on the loss of their friend and mentor, Dr Peter Sharp.

Question resolved in the affirmative.

The Assembly adjourned at 6.31 pm.

Schedules of amendments

Schedule 1

Work Health and Safety Bill 2011

Amendments moved by Mrs Dunne

2
Clause 31 (1), penalty
Page 28, line 9—

omit the penalty, substitute

Maximum penalty:

(a) in the case of an offence committed by an individual—$300 000, imprisonment for 5 years or both; or

(b) in the case of an offence committed by a body corporate—$1 500 000.

3
Clause 32, penalty
Page 29, line 3—

omit the penalty, substitute

Maximum penalty:

(a) in the case of an offence committed by an individual—$150 000; or

(b) in the case of an offence committed by a body corporate—$750 000.

4
Clause 33, penalty
Page 29, line 19—

omit the penalty, substitute

Maximum penalty:

(a) in the case of an offence committed by an individual—$50 000; or

(b) in the case of an offence committed by a body corporate—$250 000.

5
Clause 34 (1)
Page 30, line 4

omit

section 28 (Duties of workers) or

Schedule 2

Work Health and Safety Bill 2011

Amendments moved by Ms Bresnan

1
Clause 104 (2), except note

Page 79, line 11—

omit

5
Proposed new clause 230 (1) (c) and (d)
Page 162, line 8—

insert

(c) the secretary of a registered organisation established to represent the interests of workers; or

(d) the chief executive officer of a registered organisation established to represent the interests of employers.
