Debates

WEEKLY HANSARD

SEVENTH ASSEMBLY

Legislative Assembly for the ACT

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Tuesday, 5 June 2012

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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.

Minister for Community Services
Motion of want of confidence

MRS DUNNE (Ginninderra) (10.02), by leave: I move:

That this Assembly:

(1) notes:

(a) the 2004 report on the Review of the Safety of Children in Care in the ACT and of ACT Child Protection Management by the then Commissioner for Public Administration, titled *The Territory as Parent*;

(b) the Vardon Report "shows there are consequences for children from a statutory system which has been failing, staff with workloads that simply could not be met, adversarial attitudes between people meant to be working together for children and high staff turnover at all levels";

(c) the interim report of the ACT Public Advocate of her Review of the Emergency Response Strategy for Children in Crisis in the ACT released in October 2011;

(d) the interim report recommends "organisational and systemic changes in response to the managerial deficiencies, poor communication and inadequate executive briefing that allowed the breaching of legislation and policies and procedures, that have had a serious and detrimental impact on children for whom the Director General has parental responsibility";

(e) the final report of the ACT Public Advocate of her Review of the Emergency Response Strategy for Children in Crisis in the ACT, titled *Who is looking out for the Territory's children?* released in May 2012;

(f) the final report's commentary on matters such as "systemic problems", "reactive culture", "defensive environment and workplace" and elements of the 2004 Vardon Report remaining "relevant today";

(g) the seven recommendations made in the report;

(h) the consistent findings of successive high-level reports between 2004 and 2012;

(i) the ACT Government has failed children and young people engaged in the care and protection system for at least the last eight years; and

(j) the abject failure of the Minister for Community Services to remedy these matters;

(2) expresses a want of confidence in the Minister for Community Services; and

(3) calls on the Chief Minister to establish immediately an inquiry under the *Inquiries Act 1991* to inquire into the child care and protection service under the following terms of reference:

(a) in relation to the findings and recommendations of the 2004 Vardon Report, review:

(i) the Government's response; and

(ii) the progress made to implement the recommendations, including but not limited to:

(A) what funding and other resources were allocated in response; and

(B) how efficiently and effectively those funds and resources were used to deliver outcomes that benefit children and young people in the care and protection system;

(b) in relation to the findings and recommendations of the interim report of the ACT Public Advocate, released in October 2011 and the final report, released in May 2012, review:

(i) the Government's responses to both reports; and

(ii) the progress made to implement the recommendations of both reports, including but not limited to:

(A) what funding and other resources were allocated in response; and

(B) how efficiently and effectively those funds and resources were used to deliver outcomes that benefit children and young people in the care and protection system;

(c) investigate the policies, procedures and practices of the Community Services Directorate to identify:

(i) where those policies, procedures and practices fail to fulfil the statutory obligations of the *Children and Young People Act 2008*;

(ii) whether overall budgetary funding and resources provided since 2004 have been and are an adequate foundation for the efficient and effective operation of those policies, procedures and practices so as to deliver outcomes that benefit children and young people engaged in the care and protection system; and

> (iii) whether funding and resources promised for 2012-2013 and beyond, together with the associated service delivery strategies are likely to result in outcomes that benefit children and young people engaged in the care and protection system;
>
> (d) consider any other matters relating to the care and protection of children and young people in the ACT; and
>
> (e) make findings and recommendations in relation to the above and develop an implementation plan, including an indicative timeline.

Mr Speaker, this is a most serious motion that we bring here today. In 2004 the then Commissioner for Public Administration, Cheryl Vardon, delivered to the government the report on her review of the safety of children in care in the ACT and of ACT child protection management. The report was entitled *The territory as parent*. It was a damning report running to over 200 pages. The report showed:

> … there are consequences for children from a statutory system which has been failing, staff with workloads that simply could not be met, adversarial attitudes between people meant to be working together for children and high staff turnover …

In its response the government agreed to all of the 47 recommendations made in the Vardon report. A few of these were in-principle agreement; only one recommendation drew part agreement. The then Chief Minister's tabling statement noted that the report:

> … provides greater detail and clarity about children and young people in care in the ACT, particularly indigenous children and young people, than previously known.

The Chief Minister went on to say:

> It is evident there have been systemic and administrative problems. Contributing factors include growing workloads, mandatory reporting, new legislation, changes to service arrangements and staff changes.

The Chief Minister gave us reassuring words in his response. He talked about new funding; review teams; reform; a new office of children, youth and family support; and a new commitment. Indeed, in the two-page tabling statement the word "commitment" was used no less than five times. In commending the Vardon report to the Assembly, the Chief Minister concluded:

> The way forward is challenging. The government accepts and embraces these challenges. Our commitment to reform will focus on the needs of children and young people at risk in our community.

Unfortunately, in the eight years since the Vardon report was delivered to government, these words of the Chief Minster have proven to be empty.

Let me take just one example of that emptiness, Mr Speaker. A major element of recommendation 6.2 of the Vardon report was to establish a child death review program. Quite some work had already been done in this area but more was needed. In its response the government made a number of commitments to review, report, analyse, consider and recommend.

One element of the recommendation was to embark on a project to research and create a registry of past child deaths, to analyse the deaths and to identify any emerging trends. The government responded:

> The scope and methodology of the project will be carefully drafted in the coming months.

Mr Speaker, that response was nothing more than public service jargon for "we'll put it in the bottom drawer and forget about it". Nonetheless, six years later, in 2010, a bill was introduced to establish a child death review team. But it was not the government's bill. It was a bill that was introduced by the Greens, and the bill that finally passed was the work of the Greens.

When this bill was introduced, there was an extraordinary and bizarre chain of events. The government wriggled, squirmed, lobbied, amended, negotiated and pleaded until finally the legislation was passed. During the many meetings to discuss this bill, it was revealed that there would be quite some initial work required to gather and analyse past data. Thus it underscored the public service jargon I mentioned earlier.

This example also goes to the central theme of the Vardon report—that is, the culture of government. Before any reform can bring tangible outcomes and benefits for children and young people in care, there needs to be a change in the culture of the government and the minister, and how the minister inspires and leads the bureaucracy responsible for that change. But the culture was not entrenched, and so the problems highlighted in 2004 persist today.

During the course of the Seventh Assembly we have seen story after story of this government's failure to care for and protect vulnerable children and young people in our community. It started with the government's failure to deliver its 2008 election promise to grandparents and kinship carers. We have seen, at two successive estimates hearings, representatives of kindred and foster carers describe the work of care and protection services as institutionalised abuse of them and the children that they care for.

And we have seen the horrifying case of children in the care and protection program being put with an organisation not approved by the directorate as a suitable entity and that entity being told to take children to a house where there was no electricity, heating, hot water or bedding and where there was broken glass on the floor in the middle of winter. That, Mr Speaker, is the most serious indictment of all of this government.

And with this serious indictment of the government it puts this most important and urgent problem in the bottom drawer and forgets about it. It is a most serious

indictment of a minister who is so incompetent as to allow this to continually be put in the bottom drawer, so that when we had the Public Advocate's interim report last October we had the startling revelation that we had 24 breaches—24 potential breaches—of the law.

What was the government's response to that? The government's response to that was to bring out the attack dogs, to have the Government Solicitor put forward a legal opinion to say that when the Public Advocate said that she believed the law had been breached 24 times—to have a contrary opinion put out and then have this minister savage the Public Advocate to a point where people came to me and expressed to me the concern that this government was bullying the Public Advocate into submission. The feedback that I have received second-hand from the Public Advocate is that she felt bullied. She would never be so unprofessional as to say this directly to anyone, but I know from people who are close to her that she felt bullied by this.

The reassurance that we saw last week, when the Public Advocate brought down her second report, *Who is looking out for the territory's children?*, was that people in the care and protection system said that even though Minister Burch used the Government Solicitor to go after the Public Advocate, they were pleased that she had not been cowed. They were pleased that she had the courage to stand up for the failings in the emergency system, the emergency response to children in care.

We have to come now and look at the final report, the report brought down by the Public Advocate last week. Just a few snippets from this report highlight to you, Mr Speaker, and to members of the Assembly, just how incompetent this minister is, just how strong the failings are over eight years.

This is the minister who for two years—more than two years now—has been the responsible minister for the care and protection system. After all that time—after eight years, after commitments from Jon Stanhope, after commitments from Katy Gallagher, after the ministerial supervision of Andrew Barr and after the current tutelage from Joy Burch—we still hear this, from page 17 of the report:

> … this Review unfortunately found that elements of the Vardon Report remain relevant today.

And from page 7:

> It is disappointing to have to report that this Review of the authorities and arrangements for children coming into the Care and Protection Service (C&PS) over the past three years … were not an aberration.

The Public Advocate looked at 100 emergency responses over three years. What she found was appalling. She found that in many cases—30, 40, 50 per cent of cases—there was not appropriate record keeping. Only 65 per cent of those sampled contained information pertaining to the consequences of the risk and harm recorded. When you read the Public Advocate's report, some of it sounds like teaching grandma how to suck eggs. There are comments in there about how meeting reports should be written up and what sort of headings should be in it. "A meeting between Mary Smith and Joe Jones and Mary O'Flahoola in relation to Jimmy Brown, date of birth such

and such, foster carer such and such." These are the things that the Public Advocate is saying they do not do. They do not keep the records, and there is no way of keeping records because simple things, like basic information about who was at the meeting, why they were meeting and who they were talking about, are not contained in meeting notes—simple things.

If this minister cannot get the simple things right, like the record keeping, how can she possibly look after our most vulnerable children, children who come from complex and quite disrupted backgrounds? This minister, who cannot oversee an organisation that can get the note-taking right, cannot possibly see, cannot possibly look after, the complex needs of these children.

This minister has been told—she was told in the interim report from the Public Advocate in October last year—that the system was broken. She has been told again that the system is broken. And the response from the minister is really to just sort of gloss over it as much as possible.

About two weeks ago the minister put out a press release called "Progress made on care and protection reforms". I said at the time that this was a minister trying to butter the community up, because we knew that something bad was coming in the final report that was due just a fortnight later. The progress is stunning. The minister is saying, "We are doing all these wonderful things." But most of the wonderful things that she talked about doing had happened the week before—first meetings of groups and committees that happened in the week or fortnight before this report came down. This minister has been sitting on her hands while vulnerable children across the ACT are put at risk.

Mr Speaker, this report, brought down last week, is a searing indictment of this minister. It shows that she is incompetent. We have all known that for some time; even, I think, the members of the crossbench know just how incompetent she is. She is an incompetent minister. She has failed at every turn on this. She has not shown leadership. She has been supine and allowed the department to do what they want.

It was reported to me on the weekend that on Friday the Community Services Directorate provided a briefing on the government response to the Public Advocate's report to a range of community groups. I spoke to a number of people who were at that briefing. The briefing, Mr Speaker and members, was a briefing where officials of the Community Services Directorate spoke to the government response. They went through and highlighted the spin things—the little pull-out boxes that say, "We need to do better"—oh, der—"and within this response, have set out the key areas where improvement will occur."

At the end of that briefing, as people were leaving, they were given a copy of the Public Advocate's report that came out the day before. They were not briefed on the Public Advocate's report; they were briefed on the government's response to the Public Advocate's report. The people who attended that meeting left that meeting and went home and read it for the first time—had the first opportunity to read the Public Advocate's report.

The emails, the phone calls and the text messages I received when people around this community started to read the Public Advocate's report are very enlightening. One person said to me, "Everything that we have been saying for the past two years about what is wrong with the care and protection system is vindicated in this report." This person said to me, "Everything that you"—Vicki Dunne—"have been saying is vindicated in this report."

One person said to me, "This is very sad." Then she sent me another text message and said, "No, it is not sad; it is"—expletive deleted—"depressing and it is a shame on this government." She said to me, "Vicki, I know that you could do better." But quite frankly, that is damning with faint praise, because just about anybody could do better in this portfolio than this minister has.

This minister has been a disgrace, she has been a shame and she has done nothing—nothing—except try and spin her way out of this. There has been nothing but spin since the Public Advocate's report came down. Instead of admitting the fact that we have got a serious problem when the Public Advocate says that we breached the law 24 times, we tried to come up with a justification about how we did not really. If you squint and look sideways, perhaps we did not break the law. Rather than facing up to the fact that they had a problem, they tried to come up with an excuse.

Mr Speaker, this minister deserves to be condemned. This Assembly should show that they no longer have confidence in her as a minister.

We need to draw a line under this. We need to protect the children of the ACT and we need to have a proper inquiry. The inquiries that we have seen from the Public Advocate, while they are good, look at a very narrow aspect of the care and protection system. This is the emergency response. If the emergency response is so wanting, where else are there gaping errors? This community and the children that we are responsible for looking after need a proper inquiry where we look at all aspects of the care and protection system so that we can make it better.

I commend this motion to the Assembly. It is very important. This is an incompetent minister who should not maintain her position. But in addition to that, we need to really know what has been going on in the care and protection system under the administration of Joy Burch.

MS BURCH (Brindabella—Minister for Community Services, Minister for the Arts, Minister for Multicultural Affairs, Minister for Ageing, Minister for Women and Minister for Gaming and Racing) (10.19): It is fairly predictable that Mrs Dunne would bring a motion like this on today to create some level of distraction. Needless to say, I will not be supporting Mrs Dunne's motion.

Members interjecting—

MR SPEAKER: Order! Stop the clocks thank you. Members, the minister has been on her feet for only 20 seconds and I cannot hear her over five of you interjecting at once. It is a poor start. Minister, you have the floor.

MRS BURCH: Mr Speaker, I have been very willing to discuss care and protection with any member of the community or, indeed, any member of this place. As the Assembly knows, the Public Advocate handed down her *Review of the emergency response strategy for children in crisis in the ACT*. I absolutely want to thank the Public Advocate for her work and for the report she has produced. She has made a number of recommendations that I believe will improve the statutory care and protection services in the ACT and indeed how we as a government and as a community can help our most vulnerable children and families. As a result I am pleased to say that the government has agreed to all seven of the recommendations, with one being agreed in part.

This most current Public Advocate's report and the interim report released last October came as the result of my request for an independent review of arrangements for children who required emergency placements. I made this request because I was deeply concerned about the quality of care for these children. I did not shy away from the issue. I acted promptly and had an immediate review done, and then went on to the second part of that review, for which the report was tabled last week.

Mrs Dunne feels that I have shied away or have tried not to be forthcoming in accepting the Public Advocate's findings, and she could not be more wrong. The Public Advocate has found some serious issues in relation to the processes surrounding emergency responses for children at risk and for those children who have been placed in out-of-home care.

Her findings and recommendations present a challenge to government to do it better and we recognise and are ready to meet that challenge. Already the government has progressed some significant reforms and the interim report is having a positive impact. Indeed I am pleased to say that the Public Advocate has acknowledged that progress has been made since the interim report. She said to the *Canberra Times* on 26 April:

> Over the past six months I have been most impressed with the improvements to the system that have been put in place by the community services directorate.

It is important to remember that the most current report looks at practices before those changes were implemented, so that it does not reflect the progress that has been made and the work that is underway. Indeed as Joe Tucci of the Australian Childhood Foundation noted:

> The conclusions and recommendations—

of the Public Advocate's report—

> also need to be understood in the context of what has been achieved already by the ACT government. It is the only jurisdiction in the country that has managed to fill all of its front line job vacancies. It has an effective recruitment and retention program for its workforce. It has begun the long investment required to build early intervention support services for vulnerable families. It is offering more therapeutic support to foster carers and kinship carers.

However, the government acknowledges that the current system must be strengthened, and we accept the recommendations of the Public Advocate. We need to do better for our kids and to work on how we listen to and plan to meet the needs of children and young people whose families are unable to provide them with the care they need.

The government response to the Public Advocate's report sets out the actions that will be undertaken to implement the recommendations. To this end, the government has committed an additional $21.25 million over the next four years to implement the following initiatives and to support the recommendations. $15-plus million has been committed to increase the number of out-of-home care placements, including residential, kinship and foster care. The government has also committed $5.3 million for additional care and protection staff to support the delivery of quality services. The investment will enable development of a comprehensive, evidence-based case worker toolkit which will support improved outcomes for families, children and young people. The government has committed to this initiative.

In addition, and in recognition of the shared risk factors for children in care and protection and in youth justice, the government has committed almost $5½ million over the coming four years to better support youth justice services, with a focus on community-based projects such as specialised therapeutic services and a mobile intensive support service. These additional resources will bolster the capacity of care and protection to continue the reforms that are already underway.

However, we should not expect that change will come quickly or easily. As the Public Advocate's report itself notes, this is an incredibly complex environment. Care and protection is a human service, probably the hardest, most complex human service that any government can deliver and one that deals with people at their most vulnerable. The workers are continually confronted with extraordinary situations, may be exposed to traumatic events and are required to make extremely difficult decisions in order to ensure the safety of the child or young person. This is not easy work, Mr Speaker.

Case workers are confronted daily with some of the worst of human behaviour. They have to knock on the doors and talk to people about concerns that have been raised about their children. Sometimes they have to physically remove those children to a place of safety. While these decisions to protect children may be clear, we should not for a moment believe that this is easy or uncomplicated. Indeed, Dr Sue Packer noted:

> I guess these reports are something which are going to continue to happen at intervals because the system is never going to be perfect.

We will not really be succeeding until we as ordinary citizens, as neighbours, as uncles and aunties and grandparents, do more as individuals to ensure that families in communities are not overlooked. That is in no way saying that this government will not step up to the plate and do what it needs to do to look after our most vulnerable, to look after those staff that work in the area or, indeed, to look after the carers that support these children.

After taking the difficult but necessary action, these workers must go back to the office and make sure that all the paperwork is done and ready for the court hearing within 48 hours. When demand is high and staffing levels are low, it is the record keeping that often suffers, not the critical work of working with children and young people at risk. I say this not as an excuse or to diminish the importance of record keeping; it is absolutely vital, and of course the government is deeply committed to ensuring that best practice is implemented.

Care and protection services across Australia are facing severe staffing issues, in part due to the challenges and demands of the type of work. There has also been for us a significant increase in demand, with the number of notifications received by care and protection more than doubling, from 5,300 in 2003-04 to 11,700 in 2010-11. Despite these difficulties staff have remained focused and committed to ensuring the safety of children.

For the period January to April of this year, every single report that required same-day attention was attended to. For those requiring action within 24 hours, the figure is 99 per cent. These performance outcomes set the benchmark across Australia. Thanks to a sustained recruitment activity both in Australia and overseas, we now have 99.5 per cent of all front-line positions filled. This will allow staff the space and time to reflect on their practice and to improve their skills and training.

What we must do now is provide improved work practice systems, training, supervision and incentives to ensure that a high proportion of these staff will stay with care and protection for more than just one or two years, and the reforms that are underway will contribute to this.

I will now turn briefly to the recommendations. The first recommendation is that we develop a three-year plan around practice procedures and tools. The government has agreed to this recommendation. A considerable program of work to strengthen the focus on the needs of children, young people and families has commenced in recent months under the banner of "refreshing the service culture" and, in particular, the development of a CPS integrated management system.

The work to revise and improve policies, procedures and practice tools that will form a case worker toolkit has commenced and will be completed with the injection of the additional funding in this budget. A further recommendation is to develop a staff training and development regime. The government agrees, and it will reinvigorate both the training and supervision requirements of care and protection staff.

Under the new training system in Community Services, it is a requirement that all staff have individual performance plans. A database system will track staff attendance at training and allow managers to ensure that staff have undertaken mandatory training. But it is also important to ensure time and space for front-line staff to have adequate support and supervision by their managers, and this will also be a focus.

The Public Advocate noted a number of deficiencies in record keeping. We have agreed and will develop a business case for an enhanced system. We have continued

to work in supporting families. We now have three child and family centres, which are hubs for early intervention services. This capacity will increase with the addition of community-based child protection workers, who will link families with support services to prevent additional statutory involvement. One element of this is the intensive family support service, working with care and protection to prevent children from entering care and, if in care, to support the restoration of children back to their families as soon as possible.

Another part of the government's response is the development of a whole-of-government responsibility. I am especially pleased that the government's strategic board has embraced this obligation and is establishing a directors-general vulnerable families coordinating committee. This committee will put into effect the one ACT public service objective to coordinate one government response with regard to these most vulnerable families.

In 2011 the published data figures indicated that care and protection services received 13,000 notifications of alleged abuse, of which 826 were substantiated. The number of emergency actions taken was 117. So for the vast majority of children, alternative interventions are indeed put in place.

An aspect of responding to individual needs of children is to ensure that the child's cultural heritage is included in their individual care plan. The Public Advocate has included a specific recommendation that this element of the service needs to be improved. Again, the government has agreed to the recommendation and can report that substantial progress has been made. The directorate has been reviewing services to Aboriginal and Torres Strait Islanders across all of its functions. A new service delivery model will be implemented in the second half of this year, and will include the improved integration of Aboriginal and Torres Strait Islander staff with care and protection services.

Finally, the Public Advocate recommends that an ongoing review mechanism to monitor performance on an ongoing basis be put in place. The government agrees that ongoing scrutiny of this important work should be maintained.

To bolster the internal capacity for review, the office has established an independent decision-making panel, and that panel is up and operating. We will also be establishing an external review panel to monitor progress. This panel will be chaired by the Chair of the Children and Youth Services Council, Narelle Hargreaves. The Public Advocate will be invited to join the panel, as well as a person from an independent office.

This plan and our response have received the positive endorsement of the Public Advocate, who told ABC radio that it was brilliant. On 2CC she elaborated by saying that "the minister has come out today with a response with money, with strategies, with plans, and most importantly I think is a monitoring mechanism that we are going to be involved in, and we're not going to let any of this go through any more".

I agree with the Public Advocate, and under my ministry we will not let any of this go through. With these major reforms, I am committed 100 per cent to making sure that

these changes that we put in place are on the right track. I certainly believe they are on the right track. We will have a quarterly milestones review in place. I note that Ms Hunter has tabled an amendment to this motion. The government will be supporting this amendment. I agree with that and I certainly have no hesitation in making publicly available the milestones review. I am so committed to making sure that these changes are effective and are put in place without further delay that I am more than happy to have them publicly released and for us to be held accountable as we move forward in this area of serious reform of what is probably one of the most complex and challenging human services that a government can deliver.

MS HUNTER (Ginninderra—Parliamentary Leader, ACT Greens) (10.34): I do not think there is any doubt that there have been some significant failures on the part of the Community Services Directorate. This was the finding of the Public Advocate in 2011 and again last week and it is something that the Greens and, of course, this Assembly are required to take very seriously.

The latest Public Advocate's report says that, without significant reform of the systemic structure, staff within care and protection services will perpetuate the current reactive culture and the work undertaken will mirror the chaotic and complex nature of the families who come into contact with the statutory system. Therefore, we need to ensure that beyond the motion today we have review mechanisms in place to monitor and evaluate the change that is so desperately needed in this area.

However, from the government response to the Public Advocate's second stage report, there do seem to be efforts being made to implement change within care and protection services. We are still awaiting the report from the Auditor-General which will also provide information and direction to the Community Services Directorate about how to guide and make sure that change is effective and meaningful for those on the ground who are part of this system.

In the meantime, we have received a response from the government about the work which is underway. The Greens are proposing an amendment today, as we cannot support the no-confidence motion. We cannot do this because the no-confidence call does not meet the tests that we apply to make this sort of judgement. This motion is based on the information received from the second part of the Public Advocate's report. Whilst the information continues to be alarming, I do not believe that there is any new information contained within this report that points to the minister being grossly negligent or corrupt in her behaviours around these issues.

While at times I certainly believe that the minister should have more information supplied to her about issues occurring within the directorate that she is ultimately responsible for, I do not believe that she has, since calling for the first and second Public Advocate reviews, behaved in a manner that would justify this call for no confidence.

The time line of this event is very clearly documented. In September 2011 there was a motion calling for the Public Advocate to conduct an investigation about the placements of several children with non-approved providers. At that time we decided it was best to allow the Public Advocate to conduct an investigation that followed the

terms of reference, which included reviewing the emergency residential placement of children with Northern Bridging Support Services, the engagement and subsequent suspension of the agency, compliance with the Children and Young People Act 2008 in relation to the above matters and a review of the authorities and arrangements of children and young people currently in out-of-home care and for whom the director-general has parental responsibility—and that the Auditor-General should also conduct an investigation.

There was discussion with the Public Advocate who, in fact, increased those terms of reference. There was a further discussion between the Public Advocate and the Auditor-General. It was agreed that the Public Advocate would do this review and the Auditor-General would also conduct a performance review. Following the release of the interim report, the Public Advocate was then given the task of randomly selecting 100 children and young people who were placed in out-of-home care following statutory intervention by way of an emergency response and had experienced an unplanned change to an out-of-home care placement. The findings of this second stage report last week were indeed disappointing. However, they confirmed what we already knew about the system's failings.

The Public Advocate has acknowledged that change is being made within care and protection services and comments that there were positive findings. There were no further instances found where children had been placed with an agency that was not considered a suitable entity. Of the files reviewed, there was no evidence that any child or young person is lost in the out-of-home care system. Every child and young person had a file and a children and young person's service record. The foster care agency files focused on the child and provided a real picture of what was happening for that child. There was also real evidence of contact between the child and their family and parents. The child protection case conference process is working well, with evidence of case planning. There was evidence of good casework in parts. It said that this was at times inconsistent and, of course, there needed to be further improvement.

The Greens want real change in this area. It is not enough to raise this in the parliament and through the media. There has to be real and ongoing monitoring and questioning along the way that ensures real change is occurring and that better outcomes are being achieved for our vulnerable children. This is a critical area of government and we need significant change in parts of the approach we have to this area. For instance, the Public Advocate report clearly says that we need to have significant improvements in the way we train and support workers. We need to make sure that basic elements like supervision are provided to all workers on a regular and ongoing basis.

We also need to have significant changes to the way we interact with carers, children, families and parents. These changes need to be conducted with the best interests of the child as the paramount consideration. This means that there must be a system in place to ensure that children in need of emergency care, which is not a rare occurrence, can be cared for as well as we possibly can. We do not want to be here again in 12 months or two years time talking about these concerns. The Greens are pleased that there will

be ongoing reviews. Those reviews, which will come at three, six and 12 months, will publicly update how the changes are progressing and what areas are in need of more attention.

This is one of the critical differences to the processes that have previously occurred in this area of work. The Greens will continue to monitor and scrutinise the progress of the implementation of these recommendations. We will do this by talking to the advocates in the area, the carers, the families, the young people and children—all of those who continue to work so hard to make positive change.

The amendment I propose to move to this motion today calls on the government to urgently act on all of the recommendations of the final report of the ACT Public Advocate in her review of the emergency response strategy for children in crisis in the ACT entitled *Who is looking out for the territory's children?* and also to publicly release the milestone reviews. This is going to be incredibly important. I am pleased that the minister has agreed that she will be publicly releasing those milestone reviews. This is where we can ensure that the momentum that has started to build does not stop and that we see real changes.

We have to acknowledge that this is really hard work, incredibly hard work, and therefore we need to support the workers far better than the system has been supporting them. We need debriefing, we need supervision and we need policies and procedures so everybody understands how they roll out. I do not want to see in all of this work an updated policies and procedures manual but no plan of how you are going to get everybody up to speed so they understand how those policies and procedures need to roll out.

There is talk in the Public Advocate's report about professional development and training. If we are to have an ongoing improvement in practice, we need to ensure that workers have the capacity to step outside their jobs and attend training and that they can sit and talk about practice and what is found to be the best in certain situations. We also need to do far better as far as our Aboriginal and Torres Strait Islander children and young people are concerned. We know that there is an overrepresentation in the care and protection system. The Children and Young People Act very clearly sets out the principles that should be applied to children from an Aboriginal or Torres Strait Islander background. This needs far more focus than has occurred in recent times.

The Public Advocate talks about a reactive and defensive environment within care and protection and within the directorate. We need to change this culture. That is incredibly important. I believe that having an inquiry into the system under the Inquiries Act is not the right way to go at the moment. We have had reviews done by the Public Advocate. We have an investigation currently underway by the Auditor-General. We need to be looking at these and putting the recommendations in place. The system is already under a lot of pressure and workers obviously have felt that pressure.

Issues around the care and protection system have been raised in the Assembly a number of times. We need to be mindful of the front-line workers and the impact on

front-line workers. We want to ensure that there is going to be proper supervision and there is going to be the opportunity for professional development and training. These things are going to make a real difference to the way they do their work and, therefore, a real difference to the children that come into the out-of-home care system.

We also need to have a greater focus on support for carers and families and also the voice of children. This is incredibly important. The Children and Young People Act really puts children at the heart of everything. We need to see that children's wishes and opinions are taken into account. We need to see a respectful relationship from the directorate to carers and to family because, at the end of the day, this is about improving our systems. We need to see greater early intervention when a family comes on the radar. We need to look at the strengths of the family, where the family needs to be strengthened and what we can put in place to help. We know that it is better, if possible, to strengthen the family and to keep children in the family environment.

These things are going to have to be put in place. We need to see real change in the way that things operate. I know that there has been a new senior position—someone who has extensive experience in this area. I would like to see strong leadership. I would like to see all levels of the department committed to making these changes. Where we are going to be able to see this is in the interim reports, the milestone reports, that will be coming out. Some things have been put in place already. We have seen the reception centre put in place. We have seen additional foster placements put in place as well. But through these interim reports, these milestone reports or reviews, we need to see that things are moving along. I wait with interest to see the Auditor-General's report that will be coming down in the next few months. I would think that the Auditor-General is looking at things like reports and the systems that are in place to take reports.

Again, the Public Advocate goes to this area and says that we have the chip system and paper-based systems and that record keeping needs to improve. We need to get a handle on this one. I have been in this area for many years. I know how many millions of dollars have been poured into the chip system, yet here in 2012 there are still obviously real issues with that system and the way that it takes on information. The Public Advocate talked about chips, saying the system was difficult to navigate and did not provide a streamlined overview of the casework or information recorded and that it may be better to have some sort of case management system in place.

This is an area of work that needs to be done. Of course, the front-line work is important, but it needs to be backed up with good records. Remember also that children who go through the system will be coming back in later years, in their adult years, and they will want to know their history. It is important that we have accurate records. It is also important that we have accurate records that show that good consideration has been put into decisions, particularly decisions to remove children from their families. I move the amendment circulated in my name:

> Omit all words after "notes", substitute:

"(a) the 2004 report on the Review of the Safety of Children in Care in the ACT and of ACT Child Protection Management by the then Commissioner for Public Administration, titled *The Territory as Parent*;

(b) the ACT Public Advocate in her review of the emergency response strategy for children in crisis in the ACT released in October 2011 made significant criticisms and recommended organisational and systemic changes;

(c) that, subsequent to this report, the Minister for Community Services was censured by the Assembly;

(d) the final report of the ACT Public Advocate of her Review of the Emergency Response Strategy for Children in Crisis in the ACT, titled *Who is looking out for the Territory's children?* was released in May 2012 and made seven recommendations for systemic reform;

(e) the seven recommendations made in the report were agreed to, or agreed to in part by the Government, including recommendation 4, that will create a review panel which will provide milestone reviews;

(f) the consistent findings of successive high-level reports into care and protection between 2004 and 2012; and

(g) the Auditor-General's Performance Report on Care and Protection Services is underway, and consideration of the need for an Office of the Children's Guardian will be considered at the end of this process; and

(2) calls on:

(a) the Government to urgently act on all of the recommendations of the final report of the ACT Public Advocate in her Review of the Emergency Response Strategy for Children in Crisis in the ACT, titled *Who is looking out for the Territory's children?*; and

(b) to publicly release the milestone reviews.".

I hope that I get support for the amendment put forward today. It clearly states that there are some issues within the system. There have been significant criticisms and recommended organisational and systemic changes. The amendment talks about the reports and reviews that are underway, calls on the government to ensure that the recommendations are implemented and publicly release the milestone reviews.

MR SMYTH (Brindabella) (10.50): The ACT Liberals will not be supporting the sell-out of the kids at risk in the ACT that Ms Hunter's amendment is, because that is simply what it is. This amendment sells out the kids most at risk in the ACT. It protects the government. It keeps the government secure, and one can only assume that it is to secure a place for the minister after the election later this year, because this is not standing up for the children most at risk.

What did Anita Phillips say when she was quizzed by Ross Solly on the ABC? Ross Solly said, "Please tell me, Anita Phillips, that the most vulnerable, the most at-risk youth and children, in the ACT are better cared for now than they were in 2004." And what was the answer? "I don't know that that is particularly the case." And it is not the case. We know that it is not the case. And we know that every report that we see highlights the fact that after 11 years of Labor, eight years since the Vardon report and two years of this minister, the children most at risk in the ACT are no better off. And the Greens are voting for that to remain the case.

What did Anita Phillips say on the ABC? She was asked, "Are they better cared for than they were in 2004?" and she said: "I don't know that that is particularly the case. What I was looking at was the whole situation of children coming into care. I was only looking at that particular aspect of the response that triggered children coming into care, and I found serious inadequacies with that. There was a lack of guidelines that led people to make decisions about young people and children coming into care, so that led to a reactive culture which meant that the only children that came into care, in the 100 cases that I looked at, all of the children came in as an emergency action, which means it got to the desperate stage."

It is good that we are looking after kids when they are at the desperate stage, but isn't it a shame that they have got to get there? She went on: "You don't want to bring children into care before it gets to that stage, but also on average, those families had been visited up to 10 times before this final decision was made, and nothing was done in that time. These are the kinds of things that I'm concerned about, that we start asking questions about." And so are the Canberra Liberals.

The Greens will abrogate their responsibility. The Greens will say, "Government, go on your merry way." The Greens will not hold the minister to account. But we will. When you find that in these 100 cases these people had been visited up to 10 times and nothing happened, there is a serious lack of leadership, and leadership starts with the minister.

Of course Ms Hunter immediately throws out the distracter, "Well, we are affecting the front-line workers." Well, the front-line workers are affected. Look at the staff turnover. The front-line workers are affected because they are only able to cope at the crisis stage instead of getting into early intervention, and that is why this motion should be supported today.

How many reports do there have to be, how many reviews do there have to be, how many debates do there have to be, before this place holds this minister accountable for her failure of leadership? There is an old saying: fish rot from the head. And if the rot is in the head then of course the system will never be fixed, because those who work in the system are battling what they encounter when they make their visits to these families, but they are also battling the leadership which starts with the minister that lets them down. So, Meredith Hunter, stand up today for the front-line workers. That will be a novel change for the Greens, because you never do it.

We heard Ms Hunter start by saying there are significant failures. Okay. What does a litany of significant failures deserve as a response from this place? It deserves action. It deserves something concrete. And it deserves a minister to be held accountable, because that is what we do in here. The parliament holds the ministry, the executive, to account. But there is no accountability when we simply say, "We accept you have accepted the seven recommendations and we are sure that things will get better." Ms Hunter went on to say that a vote of no confidence is not required because it does not meet the test. Well, what is the test? How dramatic does it have to get? How bad does the situation have to deteriorate? How many kids need to be taken into care, after, as Anita Phillips says, up to 10 visits by the staff, before the Greens will hold the government to account? I think is it is a Greens' positioning about what might happen after the election rather than care for kids.

We had the opening line from the minister—fairly predictable—that child protection is some sort of distraction. Child protection is not a distraction. Child protection is at the essence of what good governments do; they look after the most vulnerable—and there are none more vulnerable in our society than the children in our care, the children of our society. If you think this is a distraction, you go and look those kids in the eye and say, "Sorry, it was a waste of time talking about your future, talking about your vulnerability, talking about your security—because I'm the minister and I've got far more important things to do than honestly answer the report from Anita Phillips and honestly answer why, eight years after Vardon, Anita Phillips in her position cannot say that you are better off." She cannot say it because the kids are not better off. So this is not a distraction. This should never be a distraction, and you should never say that. You should apologise for saying that this is just a distraction from other important issues.

I cannot think of a single more important issue that this place should discuss than the care and protection of children. I cannot think of a single more important service of a good local government—indeed, you aspire to be the best local government in the country—than the services that it provides to protect children. But, according to the Labor Party, supported by the Greens, it is simply a distraction. Well, you are damned by your own words, and I will make sure everyone I know knows that Joy Burch thinks that debating the care and protection of our children is simply a distraction.

Ms Burch said, "But it was my request that Anita Phillips do this inquiry." Yes—after the Canberra Liberals had written, after the Canberra Liberals had exposed what was going on, after the Canberra Liberals had made public the 24 breaches of law, after the Canberra Liberals had done the work that you, minister, failed to do and continue to fail to do. She said, "I wrote and requested a review." But you were late to the start and you are late to the finish, because you are not particularly interested in what is happening in your portfolio, or you are not capable of understanding what is in your portfolio.

The minister read out the litany of all of the things that the government purports to have done: "Look, we've thrown more money at the problem. We've had more reviews. We've done more paperwork." And you still have not fixed the problem, so you should do those kids a courtesy and just simply resign, because, if you think that

answers the question that is exposed in the report by the advocate, you are just fooling. What you have not done is fix the problem, and what you cannot do is fix the problem, because you will not acknowledge that it takes leadership, and you lack that ability to lead. You lack the ability to say to the head of the department: "Back up the workers who are doing the hard work. Put in place the systems to allow them to do their jobs, and, for goodness sake, protect the children."

But you stood here, said what you said and then said, "Oh, yes, well, I agree quite hurriedly and urgently with what Ms Hunter is going to propose as an amendment." And Ms Hunter said, "We know these things have been done." Well, the things have not made a difference. When the advocate on public radio says that the kids were at risk in 2004 and "I don't know that they're any better off today" that shows that for eight years, under successive ministers in a string of Labor governments, you have failed the most vulnerable in our community, the kids at risk. And it will not change until this Assembly stands up to the government, in particular the executive, and especially to a minister with a two-year record of failure, and says: "Enough is enough. For the sake of the kids, you must go." And that is what Mrs Dunne's motion says today: for the sake of the children, Minister Burch, you must go.

I would urge members to support this motion. It highlights the abject failure of the government, it highlights the abject failure of the minister, and it really does warrant an expression of want of confidence in a minister that has failed the most vulnerable in our community.

MS GALLAGHER: (Molonglo—Chief Minister, Minister for Health and Minister for Industrial Relations) (11.00): I must say that it is a little bit difficult to listen to Mr Smyth and Mrs Dunne this morning with their usual holier-than-thou approach to care and protection. Mrs Dunne and Mr Smyth actually have been here long enough to understand the history behind child protection in this place and, indeed, the very unfortunate set of circumstances that led up to the Vardon report. If there are two people in this place that contributed to the crisis in care and protection originally, which led to the Vardon report, it is those two sitting over there right now. It was as clear as it was written in the Vardon report where it actually says—

Mrs Dunne interjecting—

MADAM DEPUTY SPEAKER : Mrs Dunne!

Mrs Dunne interjecting—

MADAM DEPUTY SPEAKER : Mrs Dunne!

MS GALLAGHER: This is a quote that you will not hear from Mrs Dunne or Mr Smyth who sat in the cabinet and made decisions not to resource child protection—

Mr Smyth interjecting—

MADAM DEPUTY SPEAKER : Mr Smyth!

MS GALLAGHER: Listening to Mr Smyth, there is no more important area than child protection. Let us go back and look at what actually was written in the Vardon report. It says that this system was:

> … already at risk because of chronic long-term under-resourcing resulting from the 1997 introduction of mandatory reporting of child abuse and neglect. There were not sufficient systems to cope with this responsibility. When, in late 1999 and early 2000 …

When Mr Smyth was sitting at the cabinet table, obviously making those decisions about care and protection, the report says that there were not enough resources provided and that:

> the intense demands of the new legislation, a new electronic database, outsourcing of out-of-home care, a lack of quality placement options, and the departure of senior staff all hit at once, the pressure on the system became acute.

Mr Smyth: So what has happened in the last eight years?

MS GALLAGHER: What I am saying, Mr Smyth, after listening to you in silence while you constantly interject across the chamber, is that you come into this place and lecture people about how seriously the opposition takes care and protection when you sat at a cabinet table and allowed a system to break down, and you did nothing about it. We know that. And that is what Vardon found.

When I became the minister for care and protection and this situation was brought to my attention—it is identified in Vardon that the minute it was the minister responded—the department could not even tell me where children were, whether they had sighted them, whether they had an accurate record of who they were placed with. We could not even find staff that worked for the agency. Some staff were found in the basement of a high school. These were not decisions of the government that I have been involved in, Mr Smyth. These are not decisions of a Labor government. They were decisions of a Liberal government. I am not trying to walk away—

Members interjecting–

MADAM DEPUTY SPEAKER: Stop the clock, please, Clerk. Mr Smyth was heard in silence. Ever since the minister has got to her feet, you have interjected constantly. The next person to interject across the chamber will be warned. You will hear the minister in silence. Ms Gallagher.

MS GALLAGHER: Thank you. The Vardon report says that there are three questions a territory parent should be able to answer immediately: How many children do you have? Where are they? How are they?

Whilst the Vardon report indicated that records could be found on the number of children in care, she also found that those second and third questions could not be answered immediately. So I stand here and tell you that the disgraceful care and protection system that this government inherited certainly did not indicate that Mr Smyth took it with the priority that he would now lecture us about.

And you, Mrs Dunne, advising the Chief Minister at the time, certainly did not take the matters that you now hold close to your heart as seriously as you do now, and the evidence is there. The evidence is clear. It was dysfunctional, it was under-resourced, it lacked attention. The minister, Bill Stefaniak, at the time—I do not even think he knew or was aware that he actually had responsibility for care and protection—

Mr Hanson: Well, you appointed him as a—

MADAM DEPUTY SPEAKER: Mr Hanson, you are warned.

MS GALLAGHER: because it was added on to the education portfolio as an add-on.

Mr Hanson: That's interesting, then.

MADAM DEPUTY SPEAKER: Mr Hanson, you are warned.

Mr Hanson: Pardon? I beg your pardon, Madam Deputy Speaker.

MS GALLAGHER: And then we go and have a look—

MADAM DEPUTY SPEAKER: I said, "You are warned."

Mr Hanson: Just on your warning, Madam Deputy Speaker, that is the first comment I have made in two hours of being in the chamber this morning.

MADAM DEPUTY SPEAKER: Mr Hanson—

MS GALLAGHER: That is not true.

Mr Hanson: It is true.

MS GALLAGHER: No, it's not.

MADAM DEPUTY SPEAKER: Mr Hanson, I said, "The next person to interject in the chamber will be warned," and you are. Thank you, Ms Gallagher.

Mr Seselja: Madam Deputy Speaker, just on your ruling, Ms Gallagher has interjected across the chamber. So would you apply the same standard to her as you did to Mr Hanson?

MADAM DEPUTY SPEAKER: I will apply the same standard across the chamber. You do not have to worry about that, Mr Seselja.

Mr Seselja: Okay, thank you. Then I draw your attention to, and seek your ruling on, the fact that Ms Gallagher did clearly interject across the chamber. Based on your ruling will you now warn her?

MADAM DEPUTY SPEAKER: Sorry, Mr Seselja, I was having difficulty hearing anything above Mr Hanson's talking back to me.

Mr Seselja: She clearly stated it.

Mr Hanson: On the point of order, Madam Deputy Speaker, as I was making my point of order, Katy Gallagher was clearly interjecting, saying, "You did, you did, you did," or words to that effect. I am at a loss to see how my one interjection warrants a warning, whereas the Chief Minister can interject while you are actually in conversation with me and that does not warrant a warning. It seems remarkably inconsistent.

MADAM DEPUTY SPEAKER: I asked all the members of the opposition and crossbenchers to hear the minister in silence and I ask that you continue to do that. Ms Gallagher.

MS GALLAGHER: I turn to Anita Phillips's report, *Who is looking out for the territory's children?* When I read the report on Thursday night I was drawn to the fact that the comments she made in her report showed a significant improvement in the system that I faced in 2004 when the Vardon report was commissioned.

I think any drawing of the line that nothing has changed since 2004 is simply incorrect or shows a lack of understanding or perhaps a lack of awareness about the care and protection system here. For one, we have about three times as many care and protection workers that are adequately paid, that are located in appropriate facilities.

We have improved record management systems. We have improved numbers of foster carers and out-of-home care alternatives. We have worked very closely with the community sector to build those relationships. This is no apology for the areas of failure which need to be improved, but I would be very surprised if any care and protection system in the country or, indeed, the world would have a report done into them where failures on some level were not found or were not identified.

That simply acknowledges the nature of the business that child protection is. It is crisis management because there are crises. The real crisis here, the real scandal here, is that we have twice as many children coming into the care of the territory than we have had in recent years, that families are breaking down, that parents are neglecting their children and the government is having to respond.

That is at the heart of a community's response to its children. That is the failure. The care and protection system then needs to respond and needs to manage those situations as they arise. Even based on a report where a number of failures were identified and good practice needs to be improved, to a large extent there were signs of good practice and signs of reform underway.

This is the hardest area of government service delivery. It is without a doubt when you read the files of these children, understand that the lives that they lead are incredibly hard and understand the role of the care and protection workers going in there and making decisions.

Let us remember that we have had members come into this place and say, "Why were those children not taken earlier?" Then we have had members come into this place and say, "Why were those children taken at all?" These are the decisions and we are not the trained care and protection staff. We have a job to do here. My long-held wish and desire is that care and protection stops being a political football.

Yes, you can score points on it. You can score points as much as you like but ultimately—Mr Smyth, I take you up on your challenge—the best thing to do for those children that are at risk of breakdown and risk of coming into the care of the territory is for this Assembly to work together to look after them. That is not what happens.

Because care and protection is a political football and you can have motions like this which will not affect one outcome for one child or alter one decision in the minds of the territory parent—you can have all the fun you like—at the end of the day if you seriously want to engender change and reform and support those children, those families at risk, it is about working together in this place as 17 leaders, not along party lines.

Party lines will be here forever in a whole range of areas. But if there were one area where we could all pull our socks up and work together it would be care and protection. Maybe one day this place will get it right, because it has not in the past. *(Time expired.)*

MR SESELJA (Molonglo—Leader of the Opposition) (11.10): Madam Deputy Speaker, the first person to politicise this today was the minister, who tried to claim in her opening statement that holding her to account for this serious failure in care and protection is somehow a distraction from the budget. We will get to the budget. No-one will be distracted from the budget; we will debate it; it will be dealt with. There are also other very important issues to deal with, and this is one of those issues. To try and suggest that we should not deal with this because it is uncomfortable for the minister is the ultimate political statement. It is a sell-out of those she is meant to be serving.

Instead of engaging in the politics of it, she should be getting on and doing the job. She has failed to do that job. We have no confidence that she can do that job properly, and that is why it is absolutely our duty as leaders in this place to say to the government, to say to the Assembly: "You need to have someone in charge who can get it done, because if you don't kids will continue to suffer when they shouldn't. Levels of care will not be what they should be because the leadership is not there."

You have got to ask the question about leadership when the Chief Minister gets up and, having been the minister when the Vardon report was handed down and having been in government for 11 years, Ms Gallagher's defence is, "It's all Bill Stefaniak's fault." It is Bill Stefaniak's fault and it is an adviser's fault from 1998 that Labor has not managed to fix this issue from at least 2004 when the Vardon report came down. The best the Chief Minister can do after 11 years in government is to blame someone 12, 13, 14, 15 years ago.

The community deserve and expect better from their leaders. They expect that when a government has been in office for more than a decade they are responsible for what goes on, not what happened 15 years ago or 20 years ago or 30 years ago. When you have been there for a decade you are responsible. You might be able to get away with that excuse for six months or 12 months of an incoming government, but to claim that after 11 years is outrageous. It is letting down the people you are meant to be serving, and I think the community can see through that.

We hear it from Katy Gallagher in all sorts of areas—it is not her fault that health has got so bad on her watch. It is not her fault that care and protection has not improved—in fact, has gone backwards—on her watch. Well, it is her fault. She was the minister when Vardon was handed down. She is the Chief Minister who put Joy Burch in this job. She has been the Chief Minister while this has been going on.

What has been found by Anita Phillips is shocking. It makes for distressing reading. We have heard about the institutionalised abuse of children and young people in the kinship care system. That in itself is shocking, coming as it does from people so well respected in the community. Then we saw the case of children in care and protection being put with an organisation not approved as a suitable entity and that entity being told to take those children to a house that had no electricity, no heating, no hot water, no bedding and broken windows in the middle of winter.

That is what we are talking about here. We are talking about something that happened almost a decade after Labor came to office. The politics of blaming someone else is ridiculous; it does not pass the common sense test. Then we hear from Anita Phillips that she cannot even say whether or not things have improved, whether kids are better off now than they were in 2004 when Katy Gallagher was the minister and this was brought to her attention. No doubt then she tried to blame the previous government. But to be blaming the previous government in 2012 is a disgrace. It shows a lack of leadership and a lack of genuineness in seeking to address these issues.

Some contrition here from this government would not go astray; some contrition from this minister would not go astray. We saw her on the news the other day coming out and saying: "Oh, well, look, we're spending more money. There's nothing to worry about here. We're spending more money." It was a slap in the face to those who have suffered under her failures. It is all well and good that you are spending more money, but why has the extra money not made a difference? Why has the extra money not improved the situation?

This minister, unfortunately, has shown herself to be not up to the job. She has not shown that she can improve the situation. In fact, on her watch we have seen some of the most concerning and most distressing stories coming out of the care and protection system. For that alone there should be no confidence. But when we then get another damning report months later and we have Anita Phillips saying that she does not even know whether things have improved from 2004, that should be enough.

This goes to what are the standards of this place when it comes to ministerial responsibility. Is it an "anything goes" approach? It appears that from the Labor Party

and the Greens' point of view it is an "anything goes" approach. Ms Hunter says it has not met the Greens' test. When kids are taken into a house with no electricity, no heating, no hot water, no bedding, broken windows, in the middle of winter, when that is done on this minister's watch, that does not meet the Greens' test.

What is the Greens' test when it comes to ministerial responsibility? It seems that it is anything goes for the Labor Party. On such a serious issue you would think the Greens would be able to put aside their loyalty to the alliance and actually do what is right and for once show the community that they will stand up for something they believe in, regardless of whether that causes tension between them and their alliance partners. That would actually see the Greens grow in the estimation of many in the community. If they could see that they will, from time to time, stand up for what is right in this place, do the right thing, that would be good policy and it would be good politics because the community would have some respect for them. As it is today, they have just confirmed that no standard is too low when it comes to the Labor Party. No minister will ever be held to account by the Greens in this place.

But the Chief Minister does not get away with it either. She is the Chief Minister who appointed this minister. She is the minister who keeps her in that job. She should be taking a good, hard look at herself and asking herself the question: is this minister doing a good job? I do not think we actually heard her say that. I think probably in her heart of hearts she knows that Joy Burch is not doing a good job, but she cannot bring herself to withdraw her support. She is not strong enough to actually show leadership and say: "I will take over. I will ensure that these things are fixed, because this minister has shown that she is not up to it." That would not be a political thing to do; that would be leadership. That would be the right thing to do. The community may well judge her very favourably were she to do that.

As it is, she stands condemned, as this minister stands condemned, because she does nothing about it. She does nothing to hold her accountable. This Assembly should hold her accountable. It would send a very clear message to ministers that you cannot just let things linger, you cannot just let bad things that happen in your department go unchecked. This motion should be supported. We should send the clearest possible message that care and protection should be looked after better than this. *(Time expired.)*

MRS DUNNE (Ginninderra) (11.20): The Canberra Liberals will not be supporting the amendment. The amendment is a sell-out of the vulnerable children of the ACT by the ACT Greens here today. The leader of the Greens said: "We can't have a vote of no confidence today because it doesn't meet the test. It doesn't meet the test of"—I think the words the leader used were—"grossly negligent". Well, what could be more grossly negligent than some of the findings of this report when put in the context that we knew that this was a problem eight years ago? The Vardon report told us that this was a problem eight years ago.

Just as an aside, I think that it is rich that we have a new doctrine of ministerial accountability to be levelled against the ACT Liberals. I was not a senior adviser; I was an adviser to the Attorney-General. That was my job. But somehow I am

responsible for cabinet decisions made in 1998. That is a new test of ministerial responsibility, but, of course, it is not the test to which this Chief Minister holds her own.

The Public Advocate has come out and said, "We knew that this was a problem when Cheryl Vardon told us in 2004," and she came out last week and said that the issues that were raised by Ms Vardon in 2004 are still relevant today. We have not fixed the system; we have not addressed the system. Ms Hunter has the audacity to stand up here today and say: "Oh, but it's all right. We shouldn't actually have a more thorough inquiry into that because it may not be fair on the staff." What about the kids? This minister is charged with looking after the kids. But she came in here today and did as my colleagues predicted—I actually thought that she would not stoop so low—and said that this was a distraction on budget day.

This is the very first opportunity the Canberra Liberals have had of raising this issue. We think it is so important that we took the very first opportunity to do something about it. It is interesting, because Ms Hunter was in my office yesterday, and I held up this report and I said, "What are the Greens going to do about this report?" And she looked at me and sort of said: "Well, we're not going to have any motions this week because we have other priorities. We have other motions that we want to put on." I put it to you, Madam Deputy Speaker, that the first priority should not be the Greens' other bills or the other motions; the first priority we should have are our most vulnerable children. The Canberra Liberals took the first opportunity. The Greens failed the test of accountability here today.

The last time the Public Advocate reported, the Greens actually brought themselves to censure this minister. I thought perhaps today we would at least get a censure out of this and perhaps today, after mounting the case for months and months and months about just how incompetent Joy Burch is as the Minister for Community Services, as the minister responsible for children and young people, that these people who claim to be the upholders of the weak and the vulnerable would actually grow some backbone and stand up to this government. In fact, they have become even weaker, even more supine. What have they done? This is what the outcome will be today, because Ms Burch has already said, "We'll be very happy to support this." The Greens' amendment calls on the government to act on all recommendations in the final report and publicly release the milestone reviews.

That is what this government did in relation to Vardon—they put out regular reports about how well they were doing. Those reports amounted to nothing, because eight years later we are still in the same situation. We are still in the situation where the Public Advocate cannot put her hand on her heart and say that the children in the care and protection system are safer than they were in 2004.

I was driving my daughter to school on Friday when I heard her say that. I nearly drove off Hindmarsh Drive. My 17-year-old daughter was horrified to hear a high official in the ACT saying that we cannot guarantee that these kids are better off after eight years of work in this place. It does not pass the common man test. The people in the street are horrified to know of the circumstances that these children live in and of the blase approach taken by this government and their supporters on the crossbench.

Minister Burch stood up and said, "What are we going to do?" She outlined, I think to my count, four different committees and panels. There is a children and young people service committee, an external review panel, there was another committee and another panel she mentioned. She said we are going to have professional development. What have we been doing for the past eight years under Vardon? Vardon said we needed professional development. We are going to have performance measurement of staff to see whether they are doing their jobs.

This is the problem with the care and protection system, and this is something the Public Advocate has said over and over again—there are so many committees and bits of oversight. Ms Hunter said one of the things we need is proper professional supervision of the front-line staff. There is nothing about that in the minister's response. Proper professional supervision is axiomatic in an organisation like the care and protection system. The fact that, after eight years, the Public Advocate can still fall for that and it has not been done is an indictment not just of this minister but of her predecessors as well—Katy Gallagher, Andrew Barr and Simon Corbell before that.

We had the little history lesson from Katy Gallagher. It is never her fault, but she had been minister for the care and protection system for some time before the Vardon report. Before that, Simon Corbell had been the minister for the best part of two years as well, during which time the Public Advocate's predecessor, the community advocate, had written to him on a number of occasions and told him, and told Katy Gallagher, that the law was not being complied with. It only came to a head when she told the same thing to a committee inquiry, and it took some time for that to leak out.

If we are going to look at the history, let us look at the eight years since Vardon or the 11 years since the Stanhope-Gallagher government. This is what the case is: the community advocate had written to the ministers saying the law was being breached. That is what Vardon was sent off to inquire into—why the law was being breached.

The Public Advocate years later said the law had been breached. What did this minister do? She went on the offensive and attempted to bully the Public Advocate. What did this minister do this week? She came out and said: "Don't you worry about it. I've got money in the budget. It's all under control." Look at the government response. It is full of little pull-out boxes with fine little aspirations—"The ACT government are committed to building stronger families within which children can flourish." You would expect that that was the case, but where is their track record on this? Their track record on this is Vardon and two reports from Anita Phillips saying the system is broken.

It is time that we threw out this incompetent minister and we had a real look at why the system is broken and how we can possibly fix it. Yes, it is hard. Yes, it will never be perfect. But the kids who are at risk in the ACT will never have a flying start in life while ever this minister has responsibility for them and while ever this government and their colleagues on the crossbench cover up for her.

Question put:

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

The Assembly voted—

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

Question so resolved in the affirmative.

Motion, as amended, agreed to.

Justice and Community Safety—Standing Committee
Scrutiny report 53

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 53, dated 31 May 2012, together with the relevant minutes of proceedings.

I seek leave to make a brief statement.

Leave granted.

MRS DUNNE: Scrutiny report 53 contains the committee's comments on 14 bills, 27 pieces of subordinate legislation and three government responses. The report was circulated to members when the Assembly was not sitting. I commend the report to the Assembly.

Report 12

MRS DUNNE (Ginninderra) (11.34): I present the following report:

> Justice and Community Safety—Standing Committee—Report 12—*Crimes Legislation Amendment Bill 2011 and Crimes (Offences Against Police) Amendment Bill 2012*, dated 5 June 2012, including dissenting comments *(Mrs Dunne)*.

I move:

> That the report be noted.

The government's Crimes Legislation Amendment Bill seeks to modify the defence available under self-defence when a person uses force to resist arrest. It also requires judges to take a person's occupation into account during the sentencing process if the person's occupation exposes them to higher levels of risk of assault.

The private member's bill, Crimes (Offences Against Police) Amendment Bill, seeks to create aggravated assault offences in the Criminal Code 1990 where there are assaults and other offences against police. The bill uses a similar provision to that introduced in relation to aggravated offences against pregnant women.

The committee report recommends that both bills not be supported. However, I have included dissenting comments in relation to the Crimes (Offences Against Police) Amendment Bill, because I think that this bill is worthy of support.

For the first bill we received an impressive array of representations from the law community about the unfortunate consequences for the state of law in the ACT if this bill were to be introduced. It became quite clear to the committee after hearing these contributions that the defence of self-defence, although rarely used in court, is integral to our legal heritage, that this legal heritage goes back to the Magna Carta and that at the very least it would be a very bad precedent to remove these provisions.

I need to put on the record my dissatisfaction with the approach of the government to this. This committee report was called for by the Assembly in February, and the committee held a series of hearings in April in relation to this, but it was only on the day of the hearings that the committee received the government's submission to that investigation. For the record, there was a motion passed on 23 February referring these bills to the justice and community safety committee. I spoke adversely to the attorney in the hearings about the tardy response of the government to this inquiry. It makes it very difficult for committee members to ask insightful questions when you only get the government's submission that you are supposed to be asking the questions about when the government is essentially sitting down at the table.

The government's submission dwelt on the jurisprudence that would support the approach that the government is taking and I asked a number of questions of the government in relation to why the government was relying on cases from individual states within the United States, not the United States Supreme Court, and why it had not relied on jurisprudence in a number of common law countries. I asked, on behalf of the committee, for some answers to questions about whether there was other jurisprudence closer to home than, say, the individual states in the United States.

Members of the committee put a number of questions on notice, most of which have not been answered, and this is addressed in the committee report as well. This is a most unsatisfactory and disrespectful approach to the committee from the Attorney-General and I think the Attorney-General has some explaining to do about why he would treat the committee in this way.

However, the ACT Bar Association was much more helpful to the committee in relation to the issue of jurisprudence than was the government. Members of the Bar

Association, who had sat in on the minister's evidence because they had not seen what he had to say either, went away and did the work on jurisprudence that had not been done by the department.

I would refer members to the evidence given by Mr Walker, the President of the Bar Association, in particular starting at page 40 of the transcript of the committee inquiry. I will do some selective quoting, because it highlights the problems with the approach taken by the government and the principal reason why the committee took the view that this bill, or this aspect of the bill, should not be supported. The Bar Association did the work about jurisprudence which had not been done elsewhere. Mr Walker talked about the long legal history of the right of self-defence, which goes back 700 or 800 years. He and other members made the point that this was not a mere technicality, which was the case being put forward by the department, but that this is something long ensconced in law. It was the view of the Bar Association that government officials are bound by the law in just the same way as citizens are.

The case that the government relied upon most was a case from the state of Wisconsin, the case of Hobson and Wisconsin, and I will quote some of what Mr Walker had to say about the case of Hobson and Wisconsin. But Mr Walker also went on to make the point that the Supreme Court of Wisconsin was an elected Supreme Court and that perhaps one would need to have some concern about the jurisprudence and how it would apply to a common law jurisdiction like the ACT which does not have an elected Supreme Court. Mr Walker said:

> In Hobson and Wisconsin, as I said, the lead case that has been cited for overturning this, the facts were that Ms Hobson was the mother of a five-year-old. The police thought the five-year-old had stolen a bike. The police went around and wanted to question the five-year-old. Ms Hobson decided she was not going to have her son inquired of in this fashion.
>
> Reading from the judgement—and it is worth reading—Ms Hobson, according to the officer, became a bit irritated and refused to allow Officer Shoate to speak with her son. She said that her son did not do anything and had not stolen any bike. Officer Shoate then told Ms Hobson that he would have to take her son to the police station to be interviewed about the stolen bike and gave Ms Hobson the opportunity to go along to the station. She replied that the officer was not taking her son anywhere. At that point in the conversation, because of Ms Hobson's resistance, Officer Shoate called for backup—

this was a mother protecting her five-year-old son—

> … police officers to assist him.

Shortly thereafter, various other officers attended the house of Ms Hobson and, according to one of those officers, when the backup officers arrived:

> Ms Hobson was standing with her son on the front steps of her residence and was yelling, swearing … in a very loud voice.

I suspect that is what most mothers would do if a police officer came around and said, "We want to take your five-year-old down to the station for questioning about a stolen bike." The evidence continues:

> Officer Shoate then repeated to Ms Hobson that they were going to take her son to the police station, to which Ms Hobson again replied, "You're not taking my son anywhere." Officer Shoate then advised Ms Hobson that she was under arrest for obstructing the officer. Officers then attempted to handcuff Ms Hobson. Ms Hobson pushed the officer away—assault No 1—and struck one officer across the face. She was arrested and charged with battery of police.

But here is the kicker:

> The court ultimately went on to find that there was a defence of resisting unlawful arrest in Wisconsin …

And in this matter they found that Ms Hobson had a right to resist this unlawful arrest. But the Supreme Court of Wisconsin then went on to find, in a way that no court in the ACT or in Australia would find—in no way would we see such judicial activism in the ACT—that, although this defence applied to Ms Hobson, they ruled it out prospectively for anybody else in the state of Wisconsin.

This is the case that this government relied upon—the only case that it quoted at length—to throw out 800 years of law in the ACT. This is a right that goes back to 1292, and the case that we had was the case from a state supreme court of elected judges in the United States. The government could not refer to any experience in Australia or any other common-law country that was a better precedent than this. That is because there is none. This was, almost single-handedly, the reason why the committee decided that this part of the bill should not be supported.

The other part of the bill proposed by the government is that, if a police officer is assaulted or if a public officer is assaulted, judges and magistrates take that into account when sentencing. We were told clearly and repeatedly by the Bar Association and the Law Society that this is already the case; this is the current practice in the ACT. While I personally do not have a great deal of problem with that as a notion, it was the view of the committee that it was probably unnecessary.

I want to turn now to the Crimes (Offences Against Police) Amendment Bill, on which I published some dissenting comments at the back of the report. I wish to dissent from the recommendation of the committee that the Assembly not support the Crimes (Offences Against Police) Amendment Bill 2012. In doing so, I first of all wanted to make the point that I was very disappointed that the committee did not follow the usual practice that we have had in the committee, and which has been advocated by Mr Hargreaves over many years, that if there is a place where there is dissent the report reflect that by saying things like "the majority of the committee think" or "the majority of the committee recommend". In this case, in my absence, although the committee knew that I did not agree with this recommendation, the committee adopted a form of words that gives the impression, on reading the recommendations without reference to the dissenting comments, that I agree with recommendation 2. So it is unfortunate that we did not observe the practice that we usually have in this case, and I have not had a justification for this.

The main focus of the inquiry, and the reason that I introduced dissenting comments, was the elements of the Crimes Legislation Amendment Bill that related to self-defence. The other aspects about occupations, and the whole aspect of Mr Seselja's Crimes (Offences Against Police) Amendment Bill, were pretty much an afterthought by almost everybody who appeared before the committee. It usually came about as "we've dealt comprehensively with self-defence; what do you think about these other aspects?" For the most part, where there were prepared submissions they were not addressed. We heard often, "I haven't really thought about it, but."

It is true that members of the Bar Association—Mr Whybrow, for instance—and Mr Gill from the Law Society, did not think that this was a great idea. But the only submitter who made any reference to it directly in their submissions was the government, where the government reiterated its view that it should not make law in relation to particular occupations and that it did not want to make law in this place.

The Australian Federal Police Association specifically asked that this legislation be passed. It is also worth noting that the Chief Police Officer made it very clear, again, that he would like to see specific offences in relation to assaulting police, and this legislation introduced by Mr Seselja addresses that issue. The view is that Mr Seselja's legislation addresses offences other than just assault of police and that this is a valid and appropriate way of addressing these issues, especially considering that the government and others in this place do not want to create the offence of assault police.

I make the point that this is a proven legislative approach. This was an approach adopted by the government in the Crimes (Offences Against Pregnant Women) Amendment Bill, which created a similar range of offences against pregnant women where there is an aggravated form of the offence in a number of categories of assault. So we already have the precedent before us—it was a precedent introduced by this Attorney-General—and I think it is a reasonable approach to take.

On the basis of that, and on the clear recommendations and requests of the police, and the clear statement by both the Australian Federal Police Association and the Chief Police Officer that they would like some protection in law for police who are assaulted and for other crimes against police, I believe that this is the best option that is currently available to the ACT Legislative Assembly and I believe that it should have the support of the Assembly.

I want to thank members and the committee staff for the work that they have done and thank the submitters for the work that they have done. *(Time expired.)*

MR HARGREAVES (Brindabella) (11.51): I will be brief. This report is in two parts. The first part deals with the Crimes Legislation Amendment Bill. I think the report is pretty self-explanatory. I just want to echo the chair's thanks to the Committee Office for all of the work, particularly Dr Lloyd, in putting this report together. For me, anyway, it was pretty clear-cut. The evidence that was given to us by witnesses was pretty dramatic and pretty consistent, and it was very persuasive. It has found its way into the way this report is presented.

With respect to the second part, the Crimes (Offences Against Police) Amendment Bill—Mr Seselja's bill, I think it was—I remember two comments coming forward from witnesses: one was that this is totally unnecessary. They did not understand why on earth we would need to be going there. They did not really think it was necessary in the sense that there are already sufficient processes and procedures and penalties contained in existing legislation to cover it. One of the witnesses also said—and I think this was poignant—that it was merely a case of finding out all of the penalties and adding two years to them and was described by that witness as merely a law and order pre-election grab, or words to that effect. I do not want to be accused of misrepresentation, but that is the message I got out of it. It was just a case of a law and order position and was not actually something based in fact.

I regret, in fact, that the committee was not able to have a unanimous position on both pieces of legislation because they had the same common theme in them. We were not convinced that the second piece of legislation was necessary. Indeed, with respect to the first one, as I say, the presentation we received from four significant legal practitioners in this town showed us evidence, both visual and in writing, which quite frankly scared the pants off me as I watched it. I was very moved by their evidence. So I, too, recommend this report in its entirety to the Assembly.

Question resolved in the affirmative.

Standing and temporary orders—suspension

Motion (by **Mr Corbell**) agreed to, with the concurrence of an absolute majority:

> That so much of the standing orders be suspended as would prevent:
>
> (1) any business before the Assembly at 2.30 p.m. this day being interrupted to allow the Treasurer to be called on forthwith to present the Appropriation Bill 2012-2013 and the Appropriation (Office of the Legislative Assembly) Bill 2012-2013;
>
> (2) (a) questions without notice concluding at the time of interruption; or
>
> (b) debate on any motion before the Assembly at the time of interruption being adjourned until the question "That debate on the Appropriation Bill 2012-2013 be adjourned and the resumption of the debate be made an order of the day for the next sitting" is agreed to;
>
> (3) at 2.30 p.m. on Thursday, 7 June 2012, the order of the day for resumption of debate on the question that the Appropriation Bill 2012-2013 be agreed to in principle, being called on notwithstanding any business before the Assembly and that the time limit on the speeches of the Leader of the Opposition and the ACT Greens Parliamentary Leader be equivalent to the time taken by the Treasurer in moving the motion "That this Bill be agreed to in principle"; and
>
> (4) (a) questions without notice concluding at the time of interruption; or
>
> (b) debate on any motion before the Assembly at that time being adjourned until a later hour that day.

Courts Legislation Amendment Bill 2012

Debate resumed from 10 May 2012, on motion by **Mr Corbell**:

> That this bill be agreed to in principle.

MRS DUNNE (Ginninderra) (11.55): With the exception of the sentencing discount, the Canberra Liberals will be supporting the Courts Legislation Amendment Bill 2012. The primary focus of this bill is to establish a case management system for the Supreme Court. The system will cover both civil and criminal matters. Matters requiring listing for trial and certain other matters will be assigned to a docket judge shortly after lodgement and the judge will then manage the matters until finalisation. The explanatory statement tells us that docket systems have been used successfully in the United States and locally in the Federal Magistrates Court, the Federal Court and the Family Court.

As part of this system, elections for judge-alone trials will have to be made before the identity of the trial judge is known. This is already the case, but under the docket system this will need to happen even earlier. This will speed up the process of justice in the territory, or so we have been informed and so we hope.

The bill also establishes that the Magistrates Court will be able to order pre-sentence reports at the time they commit an offender to the Supreme Court for sentencing. This, too, will speed up the process.

The element of the bill the Canberra Liberals will not be supporting relates to sentence discounts, which include shorter non-parole periods. It is proposed that these shorter terms would be available when an offender cooperates in the efficient discharge of the trial process. This does not include guilty pleas or assistance given to law enforcement officers for which discounts can already be given under other sections of the act. In giving a sentence discount the bill contemplates that the sentence still would need to be proportionate to the offence. The court would be required to state the reasons for the discounted sentence and what it would otherwise have been.

There are a number of concerns about this approach. First, because the ACT's penalties are not necessarily comparable with New South Wales, there is no guarantee that our courts will be able to take guidance from the New South Wales court, which is what we have been advised will be the case. So there would be considerable trial and error in this scheme until precedents are established. Second, there is a perception, both in the public arena and in the legal profession, that the courts are already lenient in their sentencing, and this is feedback I get regularly from the police, from prosecutors and from members of the public in particular.

ACT courts are already giving sentence discounts and there is a long history of public reaction to the sentencing culture in the ACT. This proposal is purely and simply an attempt to speed up the process in the court, and it does not necessarily deliver justice for the people of the ACT. That is the main reason why we will not be supporting it.

The Canberra Liberals cannot support this approach and we will be opposing it in the detail stage. We believe the process of justice needs to speed up in the territory, but we do not support achieving this through such artificial means as this discount. We will not support it at the expense of the delivery of justice for victims of crime and at the expense of safety and security for the people of Canberra.

MR RATTENBURY (Molonglo) (11.58): The Greens will be supporting the majority of this bill today. As the attorney noted previously when he presented the bill, the changes were made necessary following the reforms announced last year by the Supreme Court. The court, following consultation with the government and the profession, announced plans to introduce a docket system where a single Supreme Court judge would be assigned to a case from the start and to expand on requirements for exchange of information by parties. Both these changes flow out of consultation undertaken by a working group that was tasked with looking at better and more efficient ways to manage cases coming to the Supreme Court. As members will be aware, delays in the Supreme Court are a continuing problem, and the Greens certainly supported the work done by the working group to look at improvements that were available.

Both the docket system and the exchange of information are technically matters over which the Supreme Court has jurisdiction. Both issues go to how the court registry will conduct its business and how the judges will manage the cases that come before them. There is no law that a parliament could write to dictate that these initiatives be adopted by the courts. Because of this, the bill we are debating today removes legislative barriers that exist rather than actually setting up the new processes themselves.

One issue we are concerned to look into is ensuring that the good consultation that took place with the working group continued on to the more technical aspects of how the changes will actually operate on a day-to-day basis. The devil can so often be in the detail, so it would have been a mistake to have the working group consult on the principle and agree to it only for that consultation to stop when it came to the detail.

My office was briefed on this recently, and I thank the directorate for the written answers to our questions. From that information, I am pleased to see that Justice Penfold is preparing a paper outlining details of the two proposals and consulting with stakeholders, including judges, the bar, the Law Society, Legal Aid and the Director of Public Prosecutions. These are the groups that will be required to work in accordance with the new changes on a daily basis, so it is appropriate that they be consulted on the finer details. The Greens support the process that has led to the two changes, and we also support the continuing consultation that is occurring on them.

A final amendment made by the bill relates to the sentencing discretion vested in the court, and Mrs Dunne has flagged her intention to move an amendment on this. Currently, the Crimes (Sentencing) Act 2005 explicitly lists 26 factors that a court must take into account when deciding an appropriate sentence. One of those 26 factors is whether the defence has made any pre-trial disclosures and, if so, the extent of those disclosures. What the government's amendment would do is add a 27th factor for the court to take into account as a mitigating factor which would

reduce sentence. The proposed new factor is whether the defence has engaged in conduct that assists the administration of justice. The example provided in the bill is where an admission is made either pre-trial or during the trial.

At the outset the Greens were intrigued by this amendment, as it appears to replicate the existing factor. The question was whether it was confusing and unnecessary to add in a factor that duplicates existing factors. The directorate has provided my office with further examples of the type of conduct that is envisaged to be captured by the new factor. When I read through the examples my position moved from one of intrigue to one more of concern. The examples provided would move the sentencing discretion of the court into an area that is far less certain than the existing factor. The existing factor of pre-trial disclosures is an open and shut case for the court to determine—either the offender made pre-trial disclosures or they did not. The proposed new factor of facilitating the administration of justice, while operating in the same space as the existing factor, is far less certain.

Another area of uncertainty is exactly how the new factor helps achieve any of the seven overarching purposes of sentencing as set out in the act. I have spoken about these before, and the purposes of sentencing are, in a nutshell, to punish, to prevent and deter crime, to protect the community, to rehabilitate the offender, and to denounce the behaviour of the offender. The Greens do not see how the proposed amendment helps to achieve any of these purposes.

In effect, what the government should also be doing in this bill is amending the list of purposes as well as saying up front that it is a legitimate purpose of sentencing to help the courts run more efficiently, if that is what it thinks is the case. That is what this amendment attempts to do. I think the interesting and unanswered question—one which I think warrants much further discussion—is whether sentencing is a legitimate tool to be helping to create court efficiencies. I think that is quite a significant question of jurisprudence and one that I feel has not been thoroughly fleshed out in the preparation of or the discussion on this bill.

The perfect way to look into this issue would of course be to conduct a complete review of the Crimes (Sentencing) Act, something which I have proposed in this place before and which members may well be tired of hearing me talking about. That proposal was not supported by any of the other parties in this place, but we consider that it remains necessary. This question that has come forth of whether we should allow discounts in sentencing to assist with greater efficiencies in the court is the sort of thing we would be wanting to consider and perhaps look at other jurisdictions, both in Australia and in the common-law world, around the appropriateness of that approach and the effectiveness, if it has been implemented in other places. Otherwise we end up operating in an ad hoc manner—either proposing drastic sentencing increases for some crimes or adding in new factors in isolation, both examples of which we have now seen in this Assembly. I believe the review is still necessary, and this matter of sentencing discount is another item that could be looked into in the context of that review.

The Greens understand the government's rationale for the amendment. It fits with the overarching intent of the bill today to make our courts more efficient. However, we

think, on balance, that the uncertainty it would create would be counterproductive. Any time the law is changed has the potential for unforeseen consequences, and we do not believe this amendment has been fully thought through. We believe it must be fully thought through by a sentencing review. We will be supporting Mrs Dunne's amendment when she brings it forward.

In conclusion, we support the remainder of the bill. We welcome the continuing focus on addressing delays in the Supreme Court. They are an injustice, and we must continue to strive and work with the courts to ensure that those delays are alleviated.

MR CORBELL: (Molonglo—Attorney-General, Minister for the Environment, Sustainable Development, Minister for Territory and Municipal Services and Minister for Police and Emergency Services) (12.05), in reply: The passage of the Courts Legislation Amendment Bill today will lay the foundation for reforms for ongoing efficiencies in the listing practices of the Supreme Court. The bill is one of the ways in which the government has acted to support the court to change aspects of its case management and listing practice with a view to reducing the time taken to finalise matters lodged in or committed to that court.

Substantial government funding has also been provided to conduct a blitz of civil and criminal matters this year. The blitz involves the bringing forward of a pool of civil and criminal matters for a one-off period in the expectation that many will be resolved without trial. The goal of the blitz is to clear the backlog, opening the way for the Supreme Court to implement its reforms.

Government funding has allowed for the temporary appointment of two acting judges to conduct the blitz, together with additional support staff in the court. The funding also extends to additional staffing for the Director of Public Prosecutions and Legal Aid to conduct cases during the blitz and for Corrective Services to support their involvement in preparing pre-sentence reports and transportation of prisoners.

The blitz has been conducted in two separate six-week periods. The first of these is now complete with, I have to report, pleasing results. Out of the 93 civil matters listed, 45 settled, 13 were completed with the decisions reserved, six of which have subsequently been delivered, five were vacated, two were adjourned, one was sent to a court referee, and only 27 were not reached. Out of the 40 criminal matters listed, 21 matters were resolved with a plea of guilty, six were discontinued by the DPP and four matters were vacated. The remaining nine were heard and the decisions reserved, of which three have now been delivered.

The bill for debate today arises out of the Supreme Court's decision late last year to change aspects of its case management and listing practice. The court's decision arose from comprehensive work conducted by Her Honour Justice Penfold of that court and the Director-General of the Justice and Community Safety Directorate in reviewing case management and listing procedures. The main changes announced by the court were the adoption of a docket case management system covering both civil and criminal matters. Under a docket system, matters in categories requiring listing for trial and certain other matters would be assigned to a docket judge shortly after being lodged. These matters would then be managed by that judge until finalisation.

Under the docket system, each judicial officer will manage their docket with a view to encouraging early and efficient resolution of matters. The adoption of a docket system will assist the court to take control of cases to make the best use of the time and resources available to it. Consultation with other jurisdictions during the review process confirmed that judicial control over case management functions, including listing, is essential to improving court efficiency. Docket systems have been successfully implemented in the United States and locally in the Federal Court, the Family Court and the Federal Magistrates Court, where they have all been proven to improve efficiency.

Another major change announced by the court was an expansion of the existing requirements for the exchange of material in criminal matters. The new requirements are designed to ensure that the prosecution has properly considered its position and that the defence is fully aware of the prosecution case before the matter is assigned to a docket judge. Therefore, the bill contains three main amendments to assist the court to implement these proposed changes.

Firstly, the bill contains amendments to the Supreme Court Act to provide that the election for a judge-alone trial must be made before any time limit prescribed under the court procedure rules. This will allow the timing of elections to be better matched to court processes that will exist under the new docket system. Accordingly, the existing requirement for the election to be made before the court allocates a date for the person's trial will be removed. The amendments keep the requirement that an election must occur prior to the identity of the trial judge being known to the accused or to his or her legal representatives.

The second set of amendments that the bill contains is to the framework for ordering and preparing pre-sentence reports in the Crimes (Sentencing) Act. Amendments clarify that the Magistrates Court can order a pre-sentence report at the time they commit an offender to be sentenced in the Supreme Court. The amendments also remove a provision in the act dealing with the distribution of pre-sentence reports from the courts to the parties. This is a procedural matter which would be more appropriately dealt with in the court procedures rules.

Finally, the bill contains amendments to the Crimes (Sentencing) Act to permit a reduced sentence to be imposed where an offender has facilitated the administration of justice by cooperating to ensure that the trial is focused as efficiently as possible on the real issues in dispute. New section 35A enables a court to impose a lesser penalty, including a shorter, non-parole period, on an offender than it would otherwise have imposed having regard to the degree of assistance provided in the administration of justice.

The provision is designed to encourage cooperation by ensuring that the trial is focused as efficiently as possible on the real issues in dispute. The provision will extend to allowing a reduced sentence to be imposed where an offender, while maintaining a not guilty plea through to trial, has nevertheless facilitated the administration of justice through pre-trial disclosures, disclosures made during trial or otherwise. It is worth noting that a similar provision already exists in New South

Wales and, accordingly, the case law that exists on this provision in New South Wales will serve as a guide to the ACT judiciary in applying new section 35A.

It is important to note also that new section 35A ensures that any lesser penalty imposed must not be unreasonably disproportionate to the nature and circumstances of the offence. The new section also clarifies that the power is not intended to limit the operation of existing sections 35 and 36, which allow for reduced sentences in certain circumstances. While a plea of guilty or assistance provided to law enforcement agencies can be considered to meet the requirements of facilitating the administration of justice, the new section is designed to provide that other actions are required to trigger the reduction under the new section. Therefore, this is not a duplication of existing provisions; this is a new, additional provision recognising and creating greater incentive for cooperation throughout the trial process.

The court will be required to give a statement where it imposes a lesser penalty for an offence under the new power. The court must state the penalty it would have imposed and the reason for the imposition of the lesser penalty. This will ensure the visibility of reductions for two reasons: (1), to ensure that the community are able to satisfy themselves that sentences continue to reflect the seriousness of offences; and, (2), to ensure that defence counsel can advise their clients that the benefits of pre-trial and trial cooperation ultimately may facilitate greater efficiency in cases before the courts.

I note that both Mrs Dunne and Mr Rattenbury have indicated their opposition to new section 35A. That is of concern to me. This is an important provision, one which will create a new incentive to allow for more timely and efficient trials. That must be a very important consideration for this place. It is a mechanism which has worked very well in New South Wales. It acts as an incentive to ensure that the accused does not seek to use procedural or technical argument to delay a trial but, instead, narrows the matters in dispute to those which are truly in dispute between the accused and the prosecution.

It does not mean that the accused abrogates their right to plead not guilty. It does not mean that the accused is unable to mount an adequate defence. What it does mean is that issues that might be used or raised for tactical reasons to delay or string out a trial can still be used but, if they are not used, then those matters can be taken into account by the sentencing judge if the accused is found guilty. It is, I believe, a sensible mechanism, a mechanism that will encourage the more effective and productive use of the court's time. I would encourage members to reconsider their position on the matter.

Finally, the amendments in this bill will assist the Supreme Court to change aspects of its case management and listing practice with a view to reducing the time taken to finalise matters lodged in or committed to the court. The reforms in the bill represent a firm commitment to assisting the court to improve waiting times and form part of our broader commitment to improving access to timely justice for the community. I would ask other members to reflect on those overriding objectives and not handicap this legislation by removing new section 35A. I commend the bill to the Assembly.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail stage

Bill, by leave, taken as a whole.

MRS DUNNE (Ginninderra) (12.15), by leave: I move amendments Nos 1 to 4 circulated in my name together *[see schedule 1 at page 2658]*.

Amendments 1 to 4 remove from schedule 1 amendments 1.1 to 1.5. These are the matters that deal with the reduction of sentence as a result of assistance in the administration of justice. As I said in my comments at the in-principle stage, the Canberra Liberals do not believe that this is an appropriate approach to take at the moment. The attorney again repeated the comments that there was jurisprudence for this in New South Wales and that this would be the guide.

However, the problem with that jurisprudence in New South Wales is that it is based on quite different sentences and therefore it will be difficult to have application here in the ACT. As we have seen with a number of matters here in the ACT, New South Wales jurisprudence has been specifically excluded from the court's capacity to consider because of the disparity in sentences. We do not believe that this provides real administration of justice. It may increase the rate at which things are dealt with, the rapidity with which things are dealt with, but this is only one aspect of the administration of justice. We believe that we need to be accountable to the community and demonstrate to the community that we are providing them with a just outcome and a safe community in which to live. I do not believe that the proposal at this stage passes that test.

MR CORBELL (Molonglo—Attorney-General, Minister for Police and Emergency Services and Minister for the Environment and Sustainable Development) (12.18): The government will not be agreeing to these amendments. The Liberal Party, and the Greens, for that matter, cannot stand up in this place in future and accuse the government of failing to take steps to tackle work practice, efficiency or timeliness in the Supreme Court if they remove this provision. This is a very important part of the government's bill. It is a part of the bill that will assist in the timely consideration of matters that go before the court and allow the court to provide a small reward if the accused cooperates during the conduct of the trial and allows the trial to focus on the matters that are truly in dispute.

I would like to deal with some of the existing provisions in the New South Wales legislation that give guidance on and highlight why the government believes this provision should be included in the ACT act. The similar provision is section 22A of the Crimes (Sentencing Procedure) Act of New South Wales. The case law that exists in this provision does serve as a guide to the ACT judiciary. Arguments about the appropriateness and level of sentence are not an argument not to make this provision.

That is an argument around what should be the appropriate sentence. That is a matter that can be dealt with, if Mrs Dunne wishes to agitate on that issue, by proposing changes to sentencing law per se.

Providing for a discount regardless of what the base sentence is is a valuable thing to do. Let me talk about some of the examples of actions that have been found to have assisted in the administration of justice in New South Wales. They have included things such as shortening a hearing by reducing the number of witnesses required to give evidence, enabling technical evidence to be adduced in a shorthand fashion rather than in a more lengthy manner and cooperating with the prosecution by allowing for the production of a statement of agreed facts.

This is all about sensible use of the court's time. This is all about giving an incentive to the accused to cooperate without abrogating their right to argue their innocence, but enabling the court to focus on the matters that are in dispute rather than those that are not or focus on issues that are going to take up more and more of the court's time during a trial. This concept of sentencing discount is not new. It works in New South Wales. It is a very efficient use of the court's time in New South Wales. Why can we not have that here in the ACT? Why can we not have that here when we know that work practice in the Supreme Court must be reformed? The court itself has acknowledged that and is taking some very positive and constructive steps to address that. As a legislature, we should be supporting the court in this regard. That is what new section 35A is all about.

The concept of sentencing discount is not new to the ACT. The courts already have the discretion to reduce sentences where an offender pleads guilty to an offence or where an offender has assisted law enforcement agencies. But that does not go as far as the provision provided for in proposed new section 35A, which is about assisting in the administration of justice more broadly. Rather than assisting police or pleading guilty, you can potentially plead not guilty and still, if found guilty, have a potential discount added or taken into account in the sentence imposed because you have assisted with the conduct of the matter in the court overall. That is a positive and constructive thing to do. We should be supporting such a measure here in the ACT.

Any concerns about the exercise of the power resulting in sentences that do not reflect the seriousness of the offence and are not in accordance with community expectations have been mitigated by the provisions in this bill. First of all, the new power is discretionary. It is only one of the matters that a court must take into account when imposing a sentence. The court is also guided by the stated purposes of sentencing in section 7 of the ACT's Crimes (Sentencing) Act, including to ensure that the offender is adequately punished in a way that is just and appropriate, to protect the community from the offender, to make the offender accountable for his or her own actions and to recognise the harm done to victims and the broader community.

In addition, the bill specifically requires that a lesser penalty imposed under the new power must not be unreasonably disproportionate to the nature and circumstances of the offence. The court would also be required to give a statement where it imposes a lesser penalty for the offence and must state the penalty it would have imposed and the reason for the imposition of a lesser penalty.

As members can surely see, there is a significant range of checks and balances proposed in new section 35A to deal with the issues raised by Mrs Dunne without removing section 35A from this bill. The removal of section 35A from this bill would pose a handicap to our courts in having a mechanism that they would otherwise have at their disposal to deal with the more efficient use of the court's time during the conduct of criminal trials. I urge members to support new section 35A.

MR RATTENBURY (Molonglo) (12.24): As I indicated in my earlier remarks, the Greens will be supporting Mrs Dunne's amendments.

Question put:

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

The Assembly voted—

Ayes 8		Noes 6	
Ms Bresnan	Mr Hanson	Dr Bourke	Mr Hargreaves
Mr Coe	Ms Le Couteur	Ms Burch	Ms Porter
Mr Doszpot	Mr Rattenbury	Mr Corbell	
Mrs Dunne	Mr Seselja	Ms Gallagher	

Question so resolved in the affirmative.

Bill, as a whole, as amended, agreed to.

Bill, as amended, agreed to.

Paper

Mrs Dunne presented the following paper:

> Justice and Community Safety—Standing Committee—Report 12—*Crimes Legislation Amendment Bill 2011 and Crimes (Offences Against Police) Amendment Bill 2012*—Copy of the extracts of the relevant minutes of proceedings.

Sitting suspended from 12.29 to 2 pm.

Questions without notice

Hospitals—funding

MR SESELJA: My question is to the Minister for Health. In December 2009 former Chief Minister Jon Stanhope stated in relation to the federal targets for elective surgery:

> In relation to the first and second stage we met the target and we expect to do the same again.

In September 2011 Canberrans lost almost $1 million in health funding because the ACT Labor government failed to meet the target. In May you stated in relation to federal targets for emergency departments:

> We will fulfil our obligations to the commonwealth government.

Minister, given ACT Labor's history on promising to meet performance targets and then failing to do so, can the people of Canberra be confident that we will receive full federal reward funding for the emergency department?

MS GALLAGHER: That is certainly the intention, and the advice that I have before me today is that we will be able to reach the four-hour target that has been set for 2012.

In relation to the elective surgery targets, this has come up at ministerial meetings. I would say that governments around Australia have also lost money under that. In fact, I think the WA government lost more money than the ACT government in relation to elective surgery targets.

The issue there is that not everybody manages their waiting list the same. That is an issue that health ministers have taken up—to try and get a standardised approach to waiting lists now that waiting list management and targets and financial rewards are being included in commonwealth payments. What is clear is that you have different ways of managing your lists. We know—the New South Wales government admitted a lot of category 3 patients within five days of being put on a list—that there is something shonky going on around the country in terms of waiting list management.

That is an issue that is before health ministers.

Members interjecting—

MR SPEAKER: Thank you, gentlemen.

MS GALLAGHER: We can, hopefully, get some standardised practice around how jurisdictions manage their waiting lists.

The staff in the emergency department and in the Health Directorate are very focused on meeting the targets that have been set by the commonwealth to ensure the reward funding flows.

Members interjecting—

MS GALLAGHER: I would just like to draw members' attention to the fact that nobody on the opposition benches is actually listening to the answer.

Mr Seselja interjecting—

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

MR SESELJA: Minister, given the large number of presentations to the emergency department in the first quarter of this year, are you still confident that we will meet federally set targets for reward funding?

MS GALLAGHER: As I said, the staff in the emergency departments that are in the hospital are working, in excess of reasonable workloads I would say, to try and manage the patient flow into the hospital, and that is the priority for this government: to manage the patients so that they are able to be seen. I have no advice before me at this point in time—but I would put a caveat on that, in that there are a number of audits underway into emergency department timeliness—that would indicate that we would be unable to meet that target in December.

I would like to take the opportunity to acknowledge the effort of staff—unlike the Liberal Party, who think we have the worst health system in the country; I think I saw that flash up on TV last night. We reject that entirely.

Opposition members interjecting—

MS GALLAGHER: We do not have the worst public health system in the country. You over there might think it. You can talk that all the way to October, that we have got the worst public health system—and we will stand by the people who work 24 hours a day, seven days a week—

Opposition members interjecting—

MS GALLAGHER: when you are tucked up in bed grinning at the thought of the little attack ads that you will run during the campaign—

Opposition members interjecting—

MR SPEAKER: Thank you, members. Order!

MS GALLAGHER: excited beyond belief at the bad news—

Opposition members interjecting—

MR SPEAKER: Order, members! Ms Gallagher, the question, thank you.

MS GALLAGHER: that might come to the health system. But the Labor government will stand by the public health system.

Mr Hanson interjecting—

MR SPEAKER: Mr Hanson, thank you.

MS GALLAGHER: It is an excellent health system. It is under pressure. It is being transformed into a modern health service. There is work still to be done, but we on this side of the chamber in no way accept the propaganda being run by the Liberal Party that we have the worst health system in the country.

MR HANSON: A supplementary, Mr Speaker.

MR SPEAKER: Yes, Mr Hanson.

MR HANSON: Minister, given the admitted deliberate manipulation of emergency department data, are you still confident that we will meet federally set targets for reward funding?

MS GALLAGHER: I think I have answered that question. It is a variation on a theme. There are a couple of audits underway. I have not been briefed on those audits. They are being managed by the Treasurer.

Mr Hanson: Why is that?

MS GALLAGHER: Well, you know, Mr Hanson. Why are you asking a follow-up question? I did the right thing and stood aside on a potential of conflict of interest. That is why, Mr Hanson, and you know very well. If you have got anything more to say, stand up and say it instead of making snide interjections. At this point in time there is no evidence before me that we will not meet the commonwealth target for emergency department timeliness.

MR HANSON: A supplementary.

MR SPEAKER: Yes, Mr Hanson.

MR HANSON: Minister, how can the commonwealth trust the health data being presented by the ACT given the deliberate manipulation of data?

MS GALLAGHER: I am not going to answer on behalf of the commonwealth. They will form their own views, but from my understanding of the work that is being done and the discussions that have been had with the commonwealth, they are comfortable with the process that is underway and we will provide all of the reports as necessary to the commonwealth to substantiate those audits once they have been completed.

Children and young people—children, youth and family support program

MS HUNTER: My question is to the Minister for Community Services and it relates to the children, youth and family support program. Minister, on 24 May the two peak bodies representing young people and families wrote to the ACT government. This letter, outlining serious concerns with the new model, called for an urgent consideration of the provision of further funding to the new program. Minister, do you agree with the peak bodies that the new children, youth and family support program framework has created serious service gaps for young people, with significant funding diverted from front-line services?

MS BURCH: I thank Ms Hunter for her question. I did, like everyone in this place, receive a letter co-signed by the Youth Coalition and Families ACT, where they raised a number of concerns around the way we have reformed the children, youth and

family support program here in the ACT. This has been a matter of some discussion, and I recognise absolutely, Ms Hunter, your interest in this program and the connections you have particularly with the youth service sector here in the ACT, having previously been employed through the Youth Coalition; I think you headed up the Youth Coalition. So I understand your connection to this area of business.

We did put in, as I have said here before, a major change to how we did business. There were some services, some youth drop-in services, that had fewer than three people a day utilising that service. Every government has limited resources. We have not taken any dollars out of this program; we have maintained the program—and, Ms Hunter, I am coming to your question. But it is important that there has been no reduction in funding. There is simply a new way of doing business. Saying "simply" probably underscores the change that has been before the community sector. There have been organisations that have had challenges in implementing this change, but I have also been contacted by a number of key organisations that have welcomed these changes and recognise the benefits of them.

In regard to service gaps, the sector and the government have been working very closely and have been in regular communication over the implementation. It has just been three months; the end of May saw the first three-month period of that implementation. There was to be a planned meeting, an update, a "find where we are" implementation meeting by the end of May. I asked some questions about that today—whether it had actually occurred. The advice that I got just before I came down, Ms Hunter, was that there was a conversation with the sector that deferred that for a little bit, while still going through the important changes that we need to do.

I agree, and I have accepted here, that the implementation of this program has been less than ideal. I recognise that. Should we immediately respond to the call from the Youth Coalition and Families ACT? I do not think we should; I think there is time yet to go through it and see how this system is bedded down. We are working with the institute of children's studies around an evaluation or to look at the outcomes of this piece of work, these reforms as well. So there is still some work to do in bedding down these reforms before we need to jump to the service gaps. But I have always said that we will look, as this is bedded down, to see where some further work needs to be done.

MR SPEAKER: A supplementary, Ms Hunter.

MS HUNTER: Thank you, Mr Speaker. Minister, could you give more detail about the current status, the allocated budget and the anticipated implementation of the evaluation of the CYFSP that you have said is being conducted by the Institute of Child Protection Studies?

MS BURCH: I do not have the details in front of me, Ms Hunter, but I understand that the Community Services Directorate is talking with that entity about looking at evaluations. We made these reforms because we wanted to look at the outcomes on these very vulnerable people—youth, children and families. This reform has been a long time coming. Certainly, it has been part of the conversation. Could we have had the outcomes and evaluation framework in place before we implemented it? Possibly,

but when you are going through such reform it is important to make sure that you get these evaluation frameworks and outcomes right. I am quite happy to give you some further advice as that is finalised, Ms Hunter. Make no mistake: I understand your genuine interest in this area and I too am keeping a very watchful eye on how we implement this.

MS LE COUTEUR: Supplementary, Mr Speaker.

MR SPEAKER: Yes, Ms Le Couteur.

MS LE COUTEUR: Minister, how has the closure or reduction of the youth drop-in services impacted on other services, many of which are already stretched to capacity?

MS BURCH: There has been a change in youth drop-in services. There are four hubs within this new model: north, south, east and west, effectively. There are four youth services that operate across those hubs. They have changed the way they do it, but they still run programs that are looking at youth and those with that risk. As I said, some of the services were not utilised. When you have three people coming through, you should look to how you can provide that service more directly or more efficiently.

Certainly there is a strong emphasis on outreach work. That goes out. And open access or drop-in activities in safe places continue. This may include some of the existing youth centres. There is a late night program of recreational activities at locations where young people are likely to congregate and have the capacity to move geographically as the need emerges.

The focus is very much on looking at those areas, those physical areas, where youth tend to congregate and perhaps meet up. Sometimes they need to be supported and guided to other services. But as said, we will keep a watching brief on these reforms. They are significant reforms. I take my hat off to the services that have been part and parcel of this, because this has not been an easy task. This has been a significant shift for them as organisations and I welcome their contribution and their efforts for our community.

MR HARGREAVES: Supplementary, Mr Speaker.

MR SPEAKER: Yes, Mr Hargreaves.

MR HARGREAVES: Minister, could you tell us about the consultation process around the changes to the drop-in centres?

MS BURCH: I thank Mr Hargreaves for his interest in the young folk of Canberra. As I said, there has been a change in youth drop-in centres, and indeed to the whole service delivery program under the children, youth and family support program, with a clear emphasis on work towards those at most risk and those that are most vulnerable.

The youth engagement services will continue to be applied across four networks. For example, the Woden Community Services, Southside Community Services and Anglicare will work with the south-western Weston area. Belconnen Community Services have responsibility for the Belconnen network. Communities@Work and the YWCA of Canberra are looking at the Tuggeranong network, and the Northside Community Services and Anglicare again are looking at the north and Gungahlin network.

I have an interest clearly in our neck of the woods, Mr Hargreaves, down at Tuggeranong. In the Tuggeranong region there is a range of services that continue or will be delivered to vulnerable children and young people. These include an information and engagement coordination service delivered by Parentline and Communities@Work. There is an intensive intervention service delivered by Barnardos. There is a therapeutic service delivered by Relationships Australia, Companion House and the YWCA. There is a culturally and linguistically diverse youth engagement service that is delivered by Companion House and the Multicultural Youth Services, both fantastic organisations working with people from a cold background. Case management activities are delivered by the Canberra PCYC, Barnardos, the Smith Family and CatholicCare. These are all great organisations that do a fantastic job for particularly those groups, for the people of Brindabella and Tuggeranong.

Distinguished visitors

MR SPEAKER: I would like to acknowledge that we are joined in the Assembly today by visiting members of the Parliament of Kiribati. I would like to welcome Mrs Tekanene MP, the Minister of Education, and Mr Kumkee, a member of the opposition. We welcome you to the ACT Assembly.

I would also like to acknowledge that we are joined by a former member of the Assembly, Mr Mick Gentleman, in the public gallery today. I welcome you back to the Assembly, Mr Gentleman.

I would also note that we are joined by the ANU women's group in the Assembly today, who have come to observe question time. I welcome you to the Assembly, ladies.

Questions without notice

Health—services

MS PORTER: My question is to the Minister for Health. Chief Minister, over the past decade, demand for health services in the ACT has grown exponentially. Can you please advise the Assembly how this government has transformed the health system since coming to office and are you aware of any alternative views?

MS GALLAGHER: I thank the member for the question. Demand for health services has been growing very rapidly over many years.

Mr Seselja interjecting—

MS GALLAGHER: I can see how interested the Leader of the Opposition is in the health system. In fact, in this year alone we have seen an increase of about 4½ per cent and over the past five years inpatient activity levels have risen by 18 per cent. In some areas of health care the growth has exceeded those rates that I just spoke about. Presentations to the emergency department have been growing by over five per cent per annum in recent years and demand for outpatient services has also seen substantial growth, with about a seven per cent increase, when compared to the same year.

I think it is worth discussing the broader health system. I am always happy to take questions on the emergency department and the elective surgery program, but I would also like to outline that there are a number of other programs that operate in the health system, both in the acute system and in the community-based setting. There has been substantial change to this over the term of this government.

In fact, we have started a new eye service, an ophthalmology service, and a head and neck trauma service. Both of these services have reduced the number of ACT residents having to travel interstate. We have opened a sleep studies laboratory. We have opened a new 16-bed medical assessment and planning unit. We have opened the mental health assessment unit. We have opened Australia's first public nurse-led walk-in centre. We have opened a new PET scanner. For the first time in the ACT, people in the ACT do not have to travel to Sydney if they need a PET scanner.

We have opened two new step up, step down facilities in mental health. We have opened the one-stop shop for rehabilitation and disability support services at Village Creek. A nursing and midwifery research centre has opened. A business hours GP service has opened. A neonatal emergency transfer service has opened to transport critically ill newborns to Canberra Hospital. We have provided more support than ever before in relation to GP assistance. We have expanded midwifery-led models of care. We have implemented a world award winning system in the NICUCAM area where parents of new babies can log on and see their babies in the NICU over webstreaming.

We have implemented digital mammography. We have had mental health community policing initiatives start with ACT Policing. We have jointly established the medical school. There is a new range of e-health initiatives which have been flowing out across the hospital. We have opened two new linear accelerator machines which are designed to provide radiation therapy treatment for people with cancer. A second cardiac catheter lab has been opened. There are additional operating theatres at both the public hospitals, more intensive care beds, more emergency department treatment spaces, record levels of elective surgery and expanded hospital in the home services. At the same time we have been implementing progressive, positive health legislation like new policies on smoking in cars with children, new food safety laws and, of course, mapping our work with plans for suicide, alcohol, tobacco and other drugs, breastfeeding, chronic disease, renal services and diabetes. The list goes on and on.

This is what the government has been working on in transforming the health system. Yes, there will always be interest in emergency departments and elective surgery. You cannot take your eye off that, but at the same time I think it is worth acknowledging the hard work of people working in the public health system who are delivering all of these services that the Liberals would call the worst health system in the country.

Mr Seselja interjecting—

MS GALLAGHER: That is what you have stuck your name to, Mr Seselja. Good luck to you.

MR SPEAKER: Ms Porter, you have a supplementary question.

MS PORTER: Chief Minister, as part of that transformation, how has the government invested in beds and staff to meet growing demand and prepare our health system for the future?

MS GALLAGHER: I thank Ms Porter for the question. It is true that the government has invested heavily in beds across the public hospital system. In the five years prior to this government's election to office, the Liberals took 114 beds out of the public health system—114 beds.

Mr Smyth interjecting—

MS GALLAGHER: Mr Smyth always says: "It's not true. Prove it." And every time he does it I table the AIHW advice. There: I am very happy to table it again. I do not see you scurrying off to pick that up. I table the following paper:

> ACT Public Hospitals—Bed capacity by year—Graph.

Members interjecting—

Mr Hargreaves: Point of order, Mr Speaker.

MR SPEAKER: Chief Minister, one moment, thank you. Stop the clock. Mr Hargreaves on a point of order.

Mr Hargreaves: Mr Speaker, this side has heard the questions in relative silence for all this time. I am having a lot of trouble hearing the Chief Minister answer the question from Ms Porter. I really would like—

Members interjecting—

Mr Hargreaves: Would you please ask those folks just to be quiet for the remaining seven minutes of question time?

MR SPEAKER: Order! We will proceed with question time. Chief Minister, you have the floor.

MS GALLAGHER: So 114 beds were reduced from the public hospital system in the lead-up to 2001. We have now increased that. We had 670 beds in 2001; we now have 934 beds. That is an additional 264 beds that have been funded over the term of this government. In addition to that, staffing of the beds—we have seen our health workforce grow by 58 per cent. The number of salaried medical staff has grown by 131 per cent; we now employ 671 doctors. The number of nursing staff has increased by 68 per cent; we now employ 2,140 nurses across the system. In terms of allied health professionals, they have grown from 316 in 2001 to 593 in 2010-11, an 88 per cent increase. This is what you have got to do. This is the hard work in building up the health system—building up the capacity of your workforce, building up your bed capacity, delivering services that have never ever been dreamed of in a place like the ACT, and making the ACT public health system the envy of the country, not, as the Liberals would have it, out there with their propaganda, saying it is the worst in the country.

MR HARGREAVES: A supplementary, Mr Speaker.

Members interjecting—

MR SPEAKER: Order! Mr Hargreaves has a supplementary.

MR HARGREAVES: Minister, what projects have already been completed as part of the government's health infrastructure program and what projects are underway?

MS GALLAGHER: The government has allocated around—well, I will wait; I predict that the Treasurer may have some more announcements in this area. But we have seen massive investments in infrastructure projects. We have completed the surgical assessment and planning unit, the new mental health assessment unit, the adult mental health unit, the new car park, additional operating theatres, the sleep lab, the walk-in centre, Calvary's intensive care unit, a high dependency and coronary care unit, and the new CT-PET suite at Canberra Hospital. The women's and children's hospital is due for completion in the next couple of months. The Capital Region Cancer Centre is well underway, and we are very much looking forward to having that open as a new centre of cancer treatment and research excellence.

Our community health centres at Belconnen and Gungahlin are well underway now, an upgraded Tuggeranong community health centre is due to start soon, and a new sterilising service at Canberra Hospital. The Ngunnawal bush healing farm is now out for final consultation on the design. We have planning for the new north side hospital well underway. These, again, are the signs of a government that is prepared to invest and make health a priority and make Canberra even stronger, and we will not stand for the attacks by the Liberal Party. If you are going to attack me, attack me; that is fine. But do not attack the hard working staff of the public health system.

Mr Hanson: You attacked the doctors.

MS GALLAGHER: You attack them, Mr Hanson, by telling them they run the worst health system in the country. It is not me providing the operations; it is the doctors and nurses. And your ad will offend all of them.

Opposition members interjecting—

MR SPEAKER: Order, members! Mr Hanson has a supplementary question.

MR HANSON: Minister, if it is all so good, why do we have amongst the longest waiting times for elective surgery in the nation, the longest waiting times for emergency departments in the nation and a chronic shortage of GPs which has us at the second lowest number per capita, behind the Northern Territory? And, if it is all so good, why are your senior staff deliberately manipulating the data?

MS GALLAGHER: Obviously Mr Hanson has not listened to any of the answers that I have given to previous questions. The health system is broader than the elective surgery and emergency department. And I am not trying to shy away from responsibility for those at all. But in order to improve those areas you need to create capacity. In order to create capacity you need beds. You need to stop removing the 100 beds that the Liberal Party took out of the system, and that has taken years to do because you need to employ the doctors and the nurses to actually staff those beds.

That is the legacy of Brendan Smyth when he was last in control of the health system: 114 beds taken away. They have taken time to replace. But the answer to improving both of those figures, emergency department and elective surgery, is to create the capacity. So what have we done? We have built extra operating theatres. We are doing record amounts of elective surgery; 11,000 procedures a year are being done. We are creating extra capacity in the emergency department and extra beds within the hospital. That is what we do. It takes time. It takes hard work. It takes commitment. It takes resources and it takes a preparedness to stand by the staff who are working in the public health system who deliver those services every day.

Mr Seselja: Not hide behind them—

MR SPEAKER: Members!

Mr Seselja: Not hide behind them.

MR SPEAKER: Mr Seselja!

MS GALLAGHER: I do not intend to hide behind them, Mr Seselja. I never have. I have fronted every press conference and every public question on any matter relating to the health system. That is leadership. I never hide behind public servants. I never have and I never will. I am prepared to stand up for our public health system, day in, day out—because, day in, day out, I read the files of the hard work of all of the professionals that work in that system. I read the files. I understand what they do. They work hard and they deserve our support, Mr Seselja.

It being 2.30 pm, questions were interrupted pursuant to the order of the Assembly.

Appropriation Bill 2012-2013

MR BARR (Molonglo—Deputy Chief Minister, Treasurer, Minister for Economic Development and Minister for Tourism, Sport and Recreation) (2.30): I present the Appropriation Bill 2012-2013 and the following papers:

Explanatory statement to the Bill.

Human Rights Act, pursuant to section 37—Compatibility statement, dated 1 June 2012.

Budget 2012-2013—Financial Management Act, pursuant to section 10—

Speech (Budget Paper No 1).

Supporting the Economy. Supporting Jobs. (Budget Paper No 2).

Budget Overview (Budget Paper No 3).

Budget Estimates (Budget Paper No 4).

Reader's Guide to the Budget.

Financial Management Act, pursuant to subsection 62(1)—Statements of Intent 2012-2013—

ACT Building and Construction Industry Training Fund Authority, dated 1 June 2012.

ACT Compulsory Third-Party Insurance Regulator (CTP Regulator), dated 31 May 2012.

ACT Gambling and Racing Commission, dated 10 and 30 May 2012.

ACT Insurance Authority, dated 31 May 2012.

ACT Long Service Leave Authority, dated 30 and 31 May 2012.

ACT Public Cemeteries Authority, dated 30 and 31 May 2012.

Canberra Institute of Technology, dated 30 May 2012.

Cultural Facilities Corporation, dated 30 and 31 May 2012.

Exhibition Park Corporation, dated 29 and 31 May 2012.

Independent Competition and Regulatory Commission, dated 29 and 31 May 2012.

Land Development Agency, dated 31 May and 1 June 2012.

Legal Aid Commission (ACT), dated 30 May 2012.

Public Trustee for the ACT (PTACT).

I move:

That this bill be agreed to in principle.

Supporting our Economy. Supporting Jobs.

Introduction

It is my pleasure to present the 2012-13 ACT Budget to the Assembly.

This Budget is about supporting the local economy and supporting local jobs.

It is about creating a fairer Canberra today, and a fairer future.

And it continues our measured and responsible plan to return the Budget to surplus.

Our economy and society are the envy of many.

The fundamentals of the ACT economy, and of the ACT's fiscal position, are sound.

Our community has Australia's highest standard of living.

Canberrans are on average the healthiest, best paid and best educated people in Australia.

The ACT has the nation's lowest unemployment rate, a Triple-A credit rating, and low net debt.

Like all jurisdictions and communities, however, we face challenges in the short-term.

The ACT is bearing the brunt of the federal government's contraction in spending and employment.

We are not immune to the economic turbulence buffeting economies right around the world.

And while most Canberrans are prospering, the Government acknowledges some in our community are doing it tough through no fault of their own.

We are well placed to conquer these challenges.

But conquering them is not a given, it requires a plan and a cool head.

This Budget sets out how the ACT Labor Government will steer the national capital through these challenges.

This Budget sets out a measured and responsible plan to return to surplus.

It focuses on delivering the frontline services and infrastructure our community deserves and expects.

It lays out a path for vital, long-term reform of our taxation system, and provides innovative measures to support our private sector.

And it creates the conditions and lays the foundation for an even more prosperous, fair and sustainable city as we head into our second century.

Budget principles

At its core, this is a budget about fairness.

It is a reform budget.

It sets out a clear vision for the future.

This Government will never shy away from explaining and promoting its values and its plans for the future.

ACT Labor's vision is to ensure that the ACT remains the happiest, healthiest, most sustainable community in Australia, with the country's highest standard of living.

Labor will always put the community first.

We will always balance economic ends with social goals, rather than viewing economic goals as an end in themselves.

Labor will always look after those who need a hand up, or who are doing it tough, through appropriate and targeted assistance.

Supporting the most vulnerable in the community is in our DNA.

Labor will continue investing in the frontline services our community deserves and expects. We have delivered record investment in schools, hospitals and community services. And record delivery of infrastructure.

Opposition members interjecting—

MR SPEAKER: One moment, Mr Barr. Members, I do understand that it is the practice of this place that the appropriation bill is heard in silence. I believe that to be the tradition, and I think it would be helpful if we could hear the Treasurer clearly.

Mrs Dunne: I ask you to reflect back on the address-in-reply to the appropriation bill last year, Mr Speaker, where Mr Seselja was heckled and interjected against most of the time. I would like you to keep that in mind when you reflect on the level of interjection through this bill.

MR SPEAKER: I recall last year's budget, both the speech and the speech-in-reply, and I think there was heckling on both sides. Members, could we just conduct ourselves for this one day of the year, and again on Thursday, by attempting to hear these very important speeches and listening to them respectfully on both sides. Minister Barr, you have the floor to continue.

MR BARR: Labor will pursue reform—even in challenging economic times.

And Labor will create the right conditions for our private sector to grow, innovate and create jobs.

These are the values enshrined in this Budget.

Economic outlook in the ACT and Australia

Let me turn to the economic conditions facing the ACT.

GSP growth has been relatively strong in 2011-12, at around 2½ per cent.

As a result of the planned Commonwealth Government fiscal consolidation, growth is expected to moderate to around 2 per cent in 2012-13.

We expect relatively flat final demand growth as measured by State Final Demand, of around ½ per cent in 2012-13.

Unemployment is likely to rise, but remain low compared to the national average.

All the Australian jurisdictions not in the midst of a mining boom are facing challenging economic circumstances.

Indeed, the challenge for Australia more broadly is stark.

The mining sector investment pipeline is booming, drawing in capital and labour to the west and north of the country.

This, along with the high Australian dollar, has posed a significant challenge to sectors such as manufacturing, tourism, tertiary education and retail.

Fiscal outlook

In 2009-10, in the aftermath of one of the most challenging global economic situations since the Great Depression, the Government set out a responsible plan to return the ACT Budget to surplus by 2015-16.

When we subsequently advanced this timeframe and proposed a return to surplus in 2013-14, we did so based on the Territory's economy performing better than envisaged, due to the size of the Commonwealth stimulus and our own capital program.

The situation is now somewhat different.

Europe's continuing and worsening sovereign debt woes are well known, and having flow-on effects around the world.

Financial markets have remained unstable.

The current surge in national economic activity, while welcome, is in sectors that do not contribute to the GST pool. And because of lower nationwide consumption, that pool is shrinking.

The Commonwealth's recent Budget was constructed against this backdrop, and the spending decisions in that budget have knock-on implications for every State and Territory.

All these external factors influence the Territory's fiscal position, and local business and consumer confidence.

In response to these deteriorating conditions, the target for the return to surplus has now been moved back to the original target of 2015-16.

It is the right decision for this city and this community because it will let us absorb some of the impact of these external factors without risking unnecessary damage to local confidence, local business and local jobs.

In brief, the new scenario looks like this:

As a result of the timing of Commonwealth Government payments, this year the operating deficit will reduce to $125.5 million.

However, this will increase the deficit in 2012-13, and make it larger than previously expected.

In 2012-13 the forecast is for a $318.3 million deficit.

In the out years the deficit is projected to be $130.2 million in 2013-14, and $51.3 million in 2014-15. We are forecasting a surplus of $25.2 million in 2015-16.

In the face of all this it is important to recognise that the ACT's fundamentals are strong.

We have low net debt and a strong asset base, and we are investing in productive infrastructure to continue to support growth.

And that is why we are able to take the decisions we take today—decisions that protect rather than imperil our local economy and local jobs.

The decisions taken in this Budget allow us to maintain the Government's spending and employment.

We will not go down the path of slash and burn budgeting.

Instead, today I am delivering a Budget that shows a responsible and measured plan to return the ACT to surplus.

This Budget also sets out an important program of new initiatives. This Budget is stimulatory. It protects activity and confidence, but it will not seek to expand unsustainably or carelessly. It will maintain activity.

The new initiatives spend in this Budget is $63.2 million in the 2012-13 financial year and $155.1 million over the four years.

Each dollar is targeted for maximum effect.

The 2012-13 capital works budget sees the ACT Government continuing to invest in a robust infrastructure program of over $900 million in 2012-13.

This will support our economy at a time when support is needed. It signals the confidence we have in our economy and our labour force. And it will deliver infrastructure that drives productivity.

The Government wants to see the ACT economy continue to grow and this Budget is aimed at ensuring that.

We firmly believe a return to surplus is not an end in itself. Some Governments have shown the folly of austerity—the pursuit of fiscal Darwinism at the expense of growth, and, crucially, at the expense of the community and jobs.

Instead we are taking a sensible and measured approach.

Good governments balance economic goals with social ends.

Good governments do not pursue policies that have been shown to fail, in this case knee-jerk austerity. Cutting at a time of challenge deepens the contraction—it does not support growth.

Good governments do not jeopardise the well-being of society's most vulnerable by cutting spending on important social programs.

And good governments show faith in the resilience of our people—our public service, our private sector—to meet challenges head on.

Fiscal update

Since the Mid Year Review, own source revenues have softened, due to the moderation of the housing market and commercial activities mainly related to land supply and development.

Regulatory revenue has also softened.

Superannuation liabilities have increased as more PSS and CSS members are taking pensions rather than lump-sum payments due to the volatility of the financial markets, and members are also living longer.

To assist with its own budget the Commonwealth has reduced its revenue to us in 2012-13 by $48 million, bringing this payment to us forward to 2011-12.

We have also added new expenditure to provide essential services to the community. Savings have also been made in the 2012-13 Budget which partially offset our new spending in the first year, and fully offset new initiatives over the four years of the budget.

Savings

In this Budget we have continued to drive improvement in public service delivery.

We are making responsible savings in travel, printing, consultancies and advertising. We expect our public service to embrace technological advances and perform their valuable roles more efficiently over time.

Progressive reform of the ACT Public Service will help it play its part in enabling our community and economy to grow.

Building on the work of the Hawke review, our next step is to position the public service to achieve even greater value for money, provide even higher quality services, be innovative and manage change effectively.

In order to achieve this, we will establish an advisory group from industry, community and government to assist Cabinet decision making on public sector reform.

Reform of the ACT's taxation system

Let me now turn to initiatives in this Budget beginning with our reforms to the ACT's taxation system.

The need for reform of state and territory taxes has been accepted for some time. Tax bases around Australia—including in the ACT—are unsustainable.

The cost of some essential services, notably health care, is rising faster than the rate of economic growth and the GST base is eroding.

Land sales are a finite resource.

Further, our taxes are inequitable, volatile and inefficient.

The five-year plan I outline today makes the ACT's taxation system fairer, simpler and more efficient.

Fairer because we are reducing taxes for those on lower incomes.

Simpler because we are removing some taxes and reforming others.

More efficient because we are reducing the distortions on household spending and business activity.

This plan is revenue neutral—the reforms are not about raising the overall amount of tax the Government receives.

Many taxes will reduce, some will rise, and several will be abolished.

The guiding principle has been that households who can least afford it should pay less, and those who can most afford it, should pay more. This is currently not the case with many of our taxes.

In addition, there will be concessions for some who fall outside the scope of tax reform.

Structural change of the scope and scale we are announcing needs a measured introduction. This is a plan for the first five years of what will be a 20-year process.

Insurance Taxes

Today I am announcing the abolition of all tax on insurance premiums.

Currently the ACT levies a 10 per cent tax on general insurances and a 5 per cent tax on life insurance. This tax makes insurance more expensive and creates a disincentive for people to insure.

Over the next five years we will abolish these taxes—starting from October this year, the tax will reduce by 20 per cent each year.

This means every family with home insurance, contents insurance and motor vehicle insurance will see a reduction in those costs.

Every business in the ACT will see a reduction in their business insurance.

Around one-third of households on the most modest incomes—those earning up to $30,000—do not have insurance. In contrast almost 100 per cent of households on the highest incomes do. This change will make insurance cheaper and more within the grasp of all households.

This tax cut will make a real difference to Canberrans.

A family with two working parents and two children, with two motor vehicles plus home and contents insurance and one or two life insurance policies will see a reduction in their out of pocket expenses.

In the first year, their insurance costs should decrease by around $75, and by the time the duty is completely abolished, they should be making savings of around $375 on their premium.

This is a good practical step to reduce cost of living and to abolish a disincentive to insure. Its benefits will be widely felt by individuals and businesses.

Today I also announce a series of tax changes that make housing more affordable and place downward pressure on rents.

These changes also send strong signals to the market about the type of housing currently being supplied and put the Territory's revenue onto a more sustainable footing.

Stamp duty

We are starting a long-term plan to abolish stamp duty on conveyancing.

Over the next five years the Government will reduce the amount of stamp duty paid on all homes—beginning tomorrow.

From tomorrow a family buying a $500,000 home will pay $2,450 less in stamp duty than they would pay today.

In five years time the stamp duty on a $500,000 home will have reduced by over $7,000. This represents a 12 per cent reduction from tomorrow, rising to a 34 per cent reduction in five years time.

This will deliver more affordable homes to more Canberrans.

In addition to reducing stamp duty, today we are expanding access to and reconfiguring the existing home buyer concession scheme.

This concession scheme comes in addition to the reduction in stamp duty for housing purchases and acknowledges the special help that some sections of the community need to buy a home.

The scheme will continue to be available to households on lower than average incomes – and we are now making it available to more Canberrans by increasing the income threshold to $150,000. This is in line with the Federal Government's threshold for income assistance and support.

A full concession will be available for properties valued in the bottom 25 per cent of the market, and increase to $385,000.

It means more people will be eligible for a reduction in stamp duty when buying a home.

To encourage the construction of new homes, from 30 August, 2012 - the scheme will be targeted at new homes only. This will send a strong signal to the housing and construction industry to supply more affordable homes.

Land tax

To put downward pressure on rents and encourage investment in the kinds of housing which are in the shortest supply, I announce today a cut in the land tax paid by landlords who rent out low- and medium-priced properties.

Properties that will see the biggest reduction will be those with land valued at $300,000 – with up to $368 slashed off land tax.

Based on averages, a rental property in Chisholm will see a reduction of $307 in land tax a year – good news for renters and good news for investors.

This reform is an incentive for investors to provide properties at the lower end of the property market, and aims to boost the supply of affordable homes for rent.

It will provide a particular incentive to invest in standalone houses, increasing the availability and affordability of homes for low- and one-income families.

These changes not only move the Government's revenues away from volatile sources but they make housing more affordable for Canberrans – whether they are buying or renting.

Today I also announce the abolition of land tax on commercial properties. This revenue source will be rolled into commercial rates, simplifying and streamlining administration for businesses and cutting the time spent on compliance.

Payroll tax

From July 1 the Government is cutting payroll tax for local businesses to help reduce their costs and to encourage businesses to expand and employ more Canberrans.

The new threshold at which businesses become liable for payroll tax will rise from $1.5 million to $1.75 million.

This will give the ACT the highest payroll tax threshold in the nation, and make us the lowest taxing jurisdiction for businesses with a payroll of up to $4.7 million.

Under the reform about 115 businesses will no longer pay any payroll tax. This will allow those businesses to employ up to 5 extra people before paying payroll tax. This will create the conditions for an extra 575 additional jobs in our private sector.

In addition about 1,865 businesses will get a tax cut as a result of the higher threshold, putting about $6.8 million back into local businesses, further boosting job growth and investment.

This reform alone gives the ACT the simplest and most competitive payroll tax system for small to medium enterprises, an important part of our economy.

Rates

Canberrans understand that tax changes like the ones I have announced need to be paid for.

The overall aim is not to reduce the money the Government invests in services for Canberrans, but to move away from inefficient and regressive taxes and focus on fairer, progressive revenue sources.

That is why today I announce important changes to the general rates regime.

These changes do not alter the fundamental premise on which rates have always been collected – linking rates charged to the value of land.

However, these reforms make the system more progressive.

We will be introducing a series of progressive marginal tax rates to replace the existing flat valuation based charge. The fixed charge paid by all Canberra households will remain the same at $555.

Under the new scale, rates will decrease for around a quarter of properties. The average increase will be $123 per year or $2.35 a week. This will be offset by the reductions in insurance costs, stamp duty and rents I outlined earlier.

ACT Labor believes this is a fairer system.

Those with greater capacity pay a little more. Those with less capacity pay considerably less.

The most vulnerable get a helping hand in the form of targeted assistance and concessions.

A fairer Canberra

This Budget continues to fund programs and services for some of the neediest in our community, including Canberrans with disabilities, children and young people at risk, and older Canberrans.

We are investing $15.4 million over four years to support children and young people in out of home care – including those in residential, kinship and foster care.

We will create additional Care and Protection positions; at a cost of $5.3 million over four years and we will invest $5.5 million in new funding to respond to the Blueprint for Youth Justice.

We will provide increased support for Special Needs Transport and we are providing funding for therapy in schools for children with a disability.

We commit $5 million to additional public housing.

For those in existing public housing we will improve energy efficiency, driving down the power bills of those most in need.

For households in financial hardship, we are expanding the no-interest loan scheme.

To ensure everyone has access to quality and timely emergency care, we will increase funding for the ACT Ambulance Service, with an additional $9.5 million over four years and almost $4 million for new, modern onboard equipment.

This will ensure that Canberrans get access to the highest quality emergency health care when they need it most.

We will also be investing in a new fire station at Charnwood and in an upgrade of phone systems to better support triple-zero emergency calls.

A fair city is one with an effective and timely justice system.

The government is investing in making our court system more efficient and in helping the courts address their backlog of cases. We will also be increasing funding to the Legal Aid Commission and supporting the relocation of the Women's Legal Centre.

A strong and diverse economy

One of this Government's key priorities is ensuring that the Territory's economy remains strong and resilient.

Our measures to grow the private sector, and to reform our taxation system, will indeed ensure that Canberra continues to have a strong and diverse economy.

The ACT economy has been the envy of many around Australia and the world in the past 10 years.

We have Australia's highest average incomes, and the most skilled and educated workforce.

Our unemployment rate has been below 4 per cent for nearly a decade.

We are experiencing robust population growth.

However, we cannot take our situation for granted.

Today the Government is announcing a substantial support package for business, aimed at supporting our economy and jobs.

We are committed to creating an environment in which the private sector can thrive, and we are committed to market-based policies and actions to broaden employment, business activity, growth and investment.

These things are at the core of the Government's recent business development strategy—jobs, growth and diversification.

Today's Budget backs this strategy with more than $20 million over the next four years.

This funding will further support NICTA, Australia's centre for excellence in information and communication technology, and expand our grants programs to businesses, including establishing a new stream of grants for clean-tech and sustainability oriented companies needing support to get started here in Canberra.

Importantly, the Business Development Strategy supports a better dialogue between the government and business, including the establishment of a red tape reduction taskforce that I will chair.

In addition to the new funding is the $30.1 million the Government is investing in cutting payroll tax—a major incentive for businesses in Canberra to grow and for businesses to establish themselves in Canberra.

One of the most substantial ways we are supporting our economy is through our $900 million capital works program.

The capital program in the Budget contains over $43 million for enhancing hospital facilities, over $20 million for emergency station upgrades and relocations—

Mr Hanson interjecting—

MR SPEAKER: Mr Barr, one moment, please. I am sorry to interrupt you. Members, I think the dignity of the Assembly will be enhanced if we can hear the budget speech and the budget reply speeches in silence. I note, Mr Hanson, that you are on a warning from the Deputy Speaker this morning. My patience is tiring on this. I think this is an occasion where the Assembly can rise above this. Treasurer, you have the floor to continue.

MR BARR: The capital program in the Budget contains over $43 million for enhancing hospital facilities, over $20 million for emergency station upgrades and relocations, road works in Gungahlin, Molonglo and North Weston, and upgrades to schools and the Canberra Theatre Centre.

This is an investment in the community and an investment in local jobs, local people and local businesses.

A more liveable city

Canberra is a great place to live.

The Budget reflects Labor's commitment to ensuring that we remain one of the most liveable and accessible cities in the world.

It invests in the future, through its focus on sustainable living, infrastructure development, neighbourhood renewal and regeneration, and transport innovation.

This Budget looks beyond the short term to ensure that Canberra is well placed to respond to future growth and future challenges.

The Government has already invested heavily in our transport system. Our commitment to a more sustainable, reliable and frequent transport system continues in the Budget today.

Funding of $67.8 million over four years and beyond will be allocated to deliver the initiatives contained in *Transport for Canberra*, including improvements in technology to capture the full benefits of the *MyWay* system.

This Budget also includes funding to rejuvenate and maintain our town centres and villages.

The Urban Improvement Fund will provide an additional $22 million to deliver footpath improvements, playground upgrades, improvements to the quality of our sportsgrounds, a dog park in the inner north and upgrades to the Belconnen dog park, and improvements to public toilet facilities across the Territory.

The sustainability of our city is also important to Canberrans.

The ACT has the most ambitious greenhouse gas reduction targets of any jurisdiction in Australia, and the Government recently passed new energy efficiency laws that will help more than 70,000 Canberrans save on their annual energy bills.

This Budget provides funds that over time will help us become a truly carbon neutral city that has successfully adapted to a changing climate.

The Government will lead by example, committing $5 million to fund projects within government to make our operations more energy efficient and funding work to reduce the carbon footprint of our schools such as the installation of high-efficiency lighting, high-rating roof insulation and thermal resistant glass.

Crucial to our liveability as a city is our fantastic cultural life. This year's Budget continues Labor's investment in the arts, with a focus this year on some of our most loved arts facilities.

Funding is provided for upgrading the Tuggeranong Arts Centre, refurbishing and upgrading the Canberra Theatre Centre—including the Playhouse and Courtyard theatre—and for kicking off phase II of the Belconnen Arts centre. The Lanyon Heritage Precinct will also get extra funding, following community consultation.

An educated and skilled community

Education has always been, and will always be, a priority for Labor.

Our aim is to ensure that every Canberran is able to reap the benefits of a high-quality education system and reach their full potential.

The ACT has the highest levels of educational attainment in Australia and we continue to commit record levels of funding. This Budget invests $909 million in education and training.

It continues our investment in state-of-the-art school facilities.

We will fund the operations of the Bonner Primary and Franklin Early Childhood schools at a cost of almost $12 million. And we will continue to implement *Excellence and Enterprise,* our blueprint for high school education.

We also commit $12.9 million towards the restoration of Taylor Primary School, with a view to students returning to the school in 2014.

Labor continues to promote a culture of excellence in teaching so that we can deliver the highest possible standards in our schools, and attract and retain the very best teachers in the country.

The Government established the Teacher Quality Institute and this Budget commits further funding to support the role the Institute plays in boosting the quality of teachers in all our schools—government and non-government.

The budget continues the reforms of the teaching profession set out in the recent enterprise bargaining round, providing incentives for teaching excellence and delivering on the Government's commitments for $100,000 classroom teachers.

The Government believes quality teaching is the single most important thing affecting a child's education and that our teachers should be rewarded.

The Government committed $108 million over 3 years to ensure ACT schools can attract and retain the best teachers in the country.

On the recommendation of the Non Government Schools Education Council, this Budget also boosts funding to support students with a disability in non-government schools.

The Government remains committed to ensuring there are the necessary resources to assist special needs students to get the best possible start in life.

The ACT outperforms other States and Territories in the areas of vocational education and training, and this Budget invests an additional $3.2 million over four years in CIT's Year 12 program, strengthening linkages between secondary and vocational education, and providing additional support for CIT students with disabilities.

In addition, $28 million has already been secured from the Commonwealth for skills training that will create an additional 1,000 vocational education and training opportunities over the next 5 years.

Canberra's tertiary education institutions are some of the best in Australia. We will continue to work co-operatively with the tertiary sector and seek partnership opportunities.

We will continue to leverage our educational strengths, and ensure that innovation and research and development remain at the forefront of our community.

The initiatives contained in this Budget will ensure a well-educated and highly skilled population, capable of meeting the challenges of the future.

A healthier and more active community

Labor has made and continues to make record investments in hospitals and other health services, building world-class facilities and a modern health system.

The result is a health system that responds even better to the needs of our community now and that is prepared for the demands of the future.

This Budget builds on our commitment, and this year delivers a record level of investment in health of $1.3 billion.

We are delivering more acute care beds and more hospital-in-the-home beds. There are more beds for Calvary Hospital, new paediatric high dependency beds and additional intensive care beds at the Canberra Hospital.

We are expanding the Canberra Hospital's emergency department with new treatment spaces and more beds.

Neo-natal services will be expanded in the new Women's and Children's Hospital—to look after the needs of our newest Canberrans.

There is additional funding for the Gungahlin, Tuggeranong and Belconnen Community Health Centres, and for mental health services in the community.

This will help maintain a modern, high-quality health system capable of accommodating the growing demand for health care.

The expansion of existing services and the continued development of new hospital and community health facilities to meet increasing demand is a priority for Labor.

This new funding in the Budget comes in addition to the new Women's and Children's Hospital, the two new community health centres in Belconnen and Gungahlin, a new cancer centre, and more nurse-led Walk-in Centres.

A healthy community is an active community. Investing in sport and recreation helps keep Canberrans healthy and helps keep our long-term health costs down.

Canberra is Australia's most active and healthy city and the ACT Labor Government is enhancing this status by improving sporting facilities across the Territory.

There is funding in the Budget to restore drought-ravaged ovals at Watson, Weetangera and Bonython.

There is funding to promote inclusive sport and implement the industry-led *Active2020* strategy.

And the Government will help local sporting clubs and organisations provide more opportunities to get, and stay, active.

Conclusion

This is a responsible Budget.

It supports our economy and our community—it supports jobs.

It allows for a measured return to surplus and contains necessary and historic taxation reforms to secure our long-term economic future.

Canberrans are proud of the community we have built over our first century.

With its investment in frontline services, and support for our private sector, this Budget will ensure our community is well placed to prosper, and meet the challenges of our second century.

I commend the Appropriation Bill and the 2012-13 Budget to the Assembly.

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

Appropriation (Office of the Legislative Assembly) Bill 2012-2013

MR BARR (Molonglo—Deputy Chief Minister, Treasurer, Minister for Economic Development and Minister for Tourism, Sport and Recreation) (3.08): I present the Appropriation (Office of the Legislative Assembly) Bill 2012-2013 and the following papers:

Explanatory statement to the Bill.

Human Rights Act, pursuant to section 37—Compatibility statement, dated 1 June 2012.

I move:

That this bill be agreed to in principle.

I will speak only briefly in relation to this legislation. Following recent legislative changes, a separate appropriation is now required for the Office of the Legislative Assembly. This bill provides such an appropriation, and I wholeheartedly commend it to the Assembly.

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

Papers

Mr Speaker presented the following papers:

Review of the Emergency Response Strategy for Children in Crisis in the ACT—*Who is looking out for the Territory's Children?*—Final Report by the ACT Public Advocate, dated 31 May 2012, pursuant to the resolution of the Assembly of 21 September 2011.

Standing order 191—Amendments to:

Commissioner for the Environment Amendment Bill 2012, dated 21 and 22 May 2012.

Crimes (Child Sex Offenders) Amendment Bill 2012, dated 15 and 16 May 2012.

Electoral Amendment Bill 2012, dated 15 and 16 May 2012.

Energy Efficiency (Cost of Living) Improvement Bill 2012, dated 14 May 2012.

Legislative Assembly (Office of the Legislative Assembly) Bill 2012, dated 21 and 22 May 2012.

Planning, Building and Environment Legislation Amendment Bill 2012, dated 21 and 22 May 2012.

Road Transport (General) Amendment Bill 2012, dated 11 and 14 May 2012.

Committee Reports—Schedule of Government Responses as at 4 June 2012, including outstanding Government responses in Sixth Assembly.

2013 Canberra Centenary—Funding and tourism—Letters to the Speaker from:

Senator the Hon Jan McLucas, Parliamentary Secretary to the Prime Minister, dated 1 May 2012, concerning the resolution of the Assembly of 28 March 2012.

The Hon Peter Slipper MP, Speaker of the House of Representatives, dated 10 May 2012, concerning the resolution of the Assembly of 28 March 2012.

Executive contracts
Papers and statement by minister

MS GALLAGHER (Molonglo—Chief Minister, Minister for Health and Minister for Territory and Municipal Services): 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—
>
> Short-term contracts:
>
> Annie Glover, dated 26 and 27 April 2012.
>
> Karen Greenland, dated 30 April and 1 May 2012.
>
> Lois Ford, dated 10 April 2012.
>
> Michael Kegel.
>
> Steven Wright, dated 13 April 2012.
>
> Contract variations:
>
> Abrie Swanepoel, dated 9 and 10 May 2011.
>
> Adrian Scott, dated 16 and 18 April 2012.
>
> Francis Duggan, dated 22 December 2011.
>
> Ian Wood-Bradley, dated 3 May 2012.
>
> Kim Salisbury, dated 9 and 10 May 2012.
>
> Paul Lewis, dated 3 and 4 May 2012.

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

Leave granted.

MS GALLAGHER: I present another set of executive contracts. These documents are tabled in accordance with sections 31A and 79 of the Public Sector Management Act, which require the tabling of all director-general and executive contracts and contract variations. Contracts were previously tabled on 1 May. Today I present five short-term contracts and six contract variations. The details of the contracts will be circulated to members.

Remuneration Tribunal determinations
Papers and statement by minister

MS GALLAGHER (Molonglo—Chief Minister, Minister for Health and Minister for Territory and Municipal Services): For the information of members, I present the following papers:

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

ACT Civil and Administrative Tribunal—Determination 6 of 2012, dated 10 May 2012.

Certain Advisory Councils—Determination 7 of 2012, dated 10 May 2012.

Clerk of the Legislative Assembly—Determination 4 of 2012, dated 10 May 2012.

Full-time Statutory Office Holders—Determination 3 of 2012, dated 10 May 2012.

Head of Service, Directors-General and Executives—Determination 5 of 2012, dated 10 May 2012.

Members of the ACT Legislative Assembly—Determination 2 of 2012, dated 10 May 2012.

Part-time Public Office Holders—Travelling Allowance—Determination 8 of 2012, dated 10 May 2012.

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

Leave granted.

MS GALLAGHER: I present another set of Remuneration Tribunal determinations. These documents are tabled in accordance with section 12(2) of the Remuneration Tribunal Act 1995, which requires the tabling of all determinations. A determination was previously tabled on 1 May 2012. Today I present seven determinations. The details of the determinations will be circulated to members.

Paper

Mr Barr presented the following paper:

Financial Management Act, pursuant to section 26—Consolidated Financial Report—Financial quarter ending 31 March 2012.

Financial Management Act—instruments
Papers and statement by minister

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

Financial Management Act—

Pursuant to section 16—Instruments, including statements of reasons, directing a transfer of appropriations from the:

Economic Development Directorate to the Territory and Municipal Services Directorate, dated 30 May 2012.

Territory and Municipal Services Directorate to the Justice and Community Safety Directorate, dated 22 May 2012.

> Pursuant to section 16B—Instrument authorising the rollover of undisbursed appropriation of the Economic Development Directorate, including a statement of reasons, dated 29 May 2012.

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

Leave granted.

MR BARR: As required by the Financial Management Act 1996, I table a number of instruments issued under sections 16 and 16B of the act. Advice on each instrument's direction and the statement of reasons must be tabled in the Assembly within three sitting days after it is given. Section 16B of the act allows for appropriations to be preserved from one financial year to the next, as outlined in instruments signed by me as Treasurer.

This package includes one instrument signed under section 16B. The appropriation being rolled over was not disbursed during the 2010-11 fiscal year and is still required in 2011-12 for the completion of the projects identified in the instrument. The instrument authorises a total of $26.185 million in rollovers for the Economic Development Directorate comprising $960,000 in net cost of outputs and $25.222 million in controlled capital injection.

These rollovers have been made as the appropriation clearly relates to project funds where commitments have been entered into but related cash has not yet been expended during the year of appropriation or where expected increased activity necessitates that undisbursed funds will be required in a subsequent year.

This package also includes two instruments authorised under section 16. Section 16(1) and (2) of the FMA allow the Treasurer to authorise the transfer of appropriation for a service or a function to another entity following a change in responsibility for that service or function.

These instruments facilitate the transfer of $1.857 million in net cost of outputs appropriation from the Territory and Municipal Services Directorate to the Justice and Community Safety Directorate associated with the management and responsibility of the rego.act system and $1.341 million in net cost of outputs appropriation and capital injection (controlled) appropriation of $14.216 million for the National Arboretum Canberra from the Economic Development Directorate to the Territory and Municipal Services Directorate.

Further details of these instruments can be found in each individual instrument I have tabled here today. Mr Assistant Speaker, I commend these instruments to the Assembly.

Justice and Community Safety—Standing Committee
Report 9—government response

MR CORBELL (Molonglo—Attorney-General, Minister for Police and Emergency Services and Minister for the Environment and Sustainable Development) (3.15): For the information of members, I present the following paper:

> Justice and Community Safety—Standing Committee—Report 9—*Inquiry into the Prostitution Act 1992*—Government response.

I move:

> That the Assembly takes note of the paper.

On 19 October 2010 I presented a motion to the Assembly seeking a review of the act. Members may recall that on 15 September 2008 a young woman tragically died in a Canberra brothel from an overdose of drugs. Subsequent inquiries found that she was 17 years old at the time. The minimum age for providers of sexual services under the Prostitution Act is 18. The death of this young person, this tragic death, understandably raised community concerns about the oversight of employment of sex workers. I proposed that the committee would examine the processes in place for regulation of the industry, with the aim of identifying reforms that protect sex workers and their clients.

The tragic death of the young woman focused attention on the effectiveness of the act as a regulatory instrument to protect sex workers and their clients. It also called into question the capacity of regulators. As the government's submission to the inquiry stated:

> The *Prostitution Act 1992* … in its current form reflects a progressive and socially responsible approach to regulation of the commercial sex industry in the Territory, which the ACT Government wishes to continue, and to improve upon. While the Act is almost 20 years old and would benefit from being brought up to date, it is considered to be generally appropriate, and broad revision at this time is not proposed.

In seeking this inquiry, I put the view that no regulatory system can realistically be expected to be perfect in either its form or its operation. In relation to the Prostitution Act, there are some specific events that the government has considerable concern about, not because the various regulatory agencies have failed to operate in the most effective manner possible but because there may be opportunities to reform the law in this area to better protect licensees, employees, young people, migrants, visitors and clients of the sex industry.

Members will recall that the terms of reference for the inquiry were adopted on 28 October. As a result, the committee received 58 submissions, including submissions from the ACT government, the Health Directorate, the Human Rights Commission, the Australian Federal Police Association, ACT Policing and the commonwealth Department of Immigration and Citizenship.

The committee chair presented the committee's report on 23 February this year. It contains 17 recommendations, most of which address the issues of health and safety, sex trafficking and underage participation in activities related to the commercial sex industry. Mrs Dunne has indicated that she is openly opposed to a legalised regulated commercial sex industry, and she dissented from six of the 17 recommendations.

As elected representatives of the community, we must not discriminate against those who choose to undertake sex work. Equally, we must not shy away from our responsibilities to protect the innocent, vulnerable or, in some cases, even the unwary in our community. This is a difficult balancing exercise. In order to protect the community, is it necessary to criminalise the activity of sex workers or those who procure their services? The government believes it is more appropriate to recognise the right of sex workers to carry on their occupation in a regulated and safe environment.

I will not outline the positions taken on this issue in the submissions the committee received. Adequate summaries can be found in the committee's report and in the government's response. It is sufficient to say that the inquiry revealed that argument on this issue is divided into two categories: proponents who favour regulation rather than criminalisation of the commercial sex industry, and opponents who do not believe that regulation achieves its stated aims and who believe that sex work or the procurement of sexual services is degrading or detrimental to women and should be criminalised.

The majority report of the committee favours recognition of the sex industry as a legitimate occupation and proposes a number of measures for better protection of the health and safety of sex workers and their clients. Having carefully considered the report, the government has decided to agree in full or in part to 12 of the 17 recommendations. A further four recommendations are noted for possible action, subject to their viability and the availability of resources. The government has only disagreed with one recommendation, recommendation 16.

The government has given full or partial agreement to recommendations 1 to 9, 11, 12 and 15 of the report. These are: promoting recognition of the sex industry as a legitimate occupation; changing the name of the act; reviewing and reworking offence provisions in the act; managing risk from organised crime, including sex trafficking; improving compliance checking and reporting; improving measures for protecting the health of sex workers and their clients; protecting the privacy and safety of sex workers and their clients; and improving information and assistance for sex workers.

The government has noted recommendations 10, 13, 14 and 17 of the report, relating to assistance for sex workers wishing to leave the industry, registration of sole operators, working from residential premises and reviewing the operation of the act in five years. These four recommendations will require further consideration before a decision is made about what action will be taken.

The one recommendation the government disagrees with is recommendation 16, stating that personal information on sex workers held by the Office of Regulatory Services may only be disclosed to police in the course of an investigation on presentation of a warrant. The government's position in relation to recommendation 16 is that it is unduly restrictive in a regulatory environment that adequately provides for the protection of personal information and that it is inconsistent with the manner in which ACT Policing generally obtains information from regulators for the purposes of investigating a crime. However, the government

will consider whether a memorandum of understanding to formally articulate an information-sharing arrangement in relation to investigations involving sex workers would be appropriate.

Overall, the government welcomes this report as a positive analysis of the legal and social issues involved in the regulation of the sex industry. The majority of the recommendations present a means of advancing regulation of the industry and protecting sex workers and their clients. The government's position on the operation of the Prostitution Act is that the act and the agencies responsible for its administration have significantly raised the level of protection of the health and safety of sex workers in the ACT and their clients. However, there is clearly room for improvement to be made in ensuring that people involved in the industry, either as workers or as clients, are kept healthy and safe. This includes being protected from the practice of people trafficking, which is a serious offence.

A significant amount of work will be required to give effect to the government's proposals. Apart from a number of important changes to the ACT's legislation, there will be a need for government agencies and sex work operators to review a number of aspects of their practices. In particular, the practice of allowing young people to be involved in the sex industry in any way must stop, and the government will be pursuing options for further strengthening enforcement of the law in this area and in the area of sex slavery or people trafficking in the sex industry.

The government proposes to establish an implementation working group to include all relevant government agencies and peak representatives of the industry to develop and oversee a program of implementation of the government's responses and further related recommendations made by ACT Policing which are canvassed in the government's response.

I encourage members to consider the government's response and participate in later debate on changes that the government will propose in relation to its response to this report. I commend the paper to the Assembly.

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

Papers

Mr Corbell presented the following papers:

> Bail conditions—Government response, pursuant to the resolution of the Assembly of 9 May 2012.
>
> Security Industry Act, pursuant to section 21A—Review of the operation of paragraph 21(1)(a)(iii)—Report, dated June 2012.
>
> Commissioner for Sustainability and the Environment Act, pursuant to subsection 21(2)—Commissioner for Sustainability and the Environment—Report on Canberra Nature Park (nature reserves); Molonglo River Corridor (nature reserves) and Googong Foreshores Investigation—Government response, dated June 2012.

State of the environment report 2011—government response
Paper and statement by minister

MR CORBELL (Molonglo—Attorney-General, Minister for Police and Emergency Services and Minister for the Environment and Sustainable Development): I present the following paper:

> Commissioner for Sustainability and the Environment Act, pursuant to subsection 19(3)—Commissioner for Sustainability and the Environment—State of the Environment Report 2011—Government response, dated June 2012.

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

Leave granted.

MR CORBELL: Mr Speaker, I am pleased to table the government's response to the ACT state of the environment report 2011 pursuant to section 19(3)(b) of the Commissioner for the Sustainability and the Environment Act 1993.

The government supports in principle all of the commissioner's recommendations and has responded in detail to the five themes of land and water, biodiversity, air, climate and people. The government is pleased that it has already taken strong action in all of those areas and is continuing its solid record in delivering for our environment and for the territory community. It continues to deliver on its commitment to make a difference, to manage and protect our environment and to deliver quality outcomes for our community.

In one area in particular the government is leading the country. The government is leading the nation in energy emissions reduction and in supporting alternative energy production. In December last year passage of the Electricity Feed-in (Large-scale Renewable Energy Generation) Act authorised the territory to develop up to 210 megawatts of large-scale renewable energy generation capacity. The solar auction represents the release of the first 40 megawatts of capacity under the act.

In May this year I was pleased to be able to announce that this auction is proceeding to its final stage, with 22 proposals shortlisted to bid for feed-in tariff support to deliver real renewable energy generation in the ACT. The level of interest in the process is taking Canberra one step closer to becoming Australia's solar capital and is demonstrating the government's commitment to deliver large-scale solar projects for our community.

The 40 megawatts of capacity that the project will deliver is expected to result in a reduction in greenhouse gas emissions of more than 850,000 tonnes over the life of the generating assets. While the ACT is one of the smallest contributors to global greenhouse gas emissions, the territory has set ambitious greenhouse gas reduction targets.

Through the Climate Change and Greenhouse Gas Reduction Act, which came into effect in November 2010, emission reduction targets of zero net greenhouse gas emissions by 2060, 40 per cent below 1990 levels by 2020 and 80 per cent below 1990 levels by 2050 have been established. These targets set a clear direction for planning a more sustainable future. Adaptation to climate change is about maximising our resilience and our capacity to cope with unavoidable changes. A zero net emissions Canberra in 2060 will look, feel and be very different to the city we live in today.

Work is already underway across the government to understand the risks associated with climate change and identify ways in which the ACT can adapt to climate changes and reduce the potentially undesirable impacts. The government's *Weathering the change draft action plan 2* takes up that challenge proposing five possible pathways towards zero net emissions by 2060. Those pathways present different means to use a range of reduction strategies: energy efficient buildings, sustainable transport, sustainable waste policies, the use of renewable energy, gas-generated electricity and the use of carbon offsets.

The government has strongly involved the community through the development of draft action plan 2 on the best means to implement and manage the transition to climate change. That community input has added real value to the government's consideration of the best option. The five pathways identified in the draft action plan have been supported by comprehensive whole-of-government strategies that will guide how we live, work and recreate in our city now and into the future. Like many cities, Canberra is facing the global challenges posed by population growth, climate change, energy and food security. To ensure our long-term environmental, economic and social security we need to make difficult decisions and take action now.

The government's overarching strategy for ensuring the sustainable and viable future of our city is its new ACT planning strategy. That strategy will seek to establish how the territory and city will develop into the future to meet the aspirations of the community and the environmental, social and economic challenges of this century. The strategy will seek to build on Canberra's existing strengths to help it and the region address the challenges and to manage future issues.

One of those strengths is its existing metropolitan structure that has built strong communities and which can support urban intensification focused on centres and along transport corridors. It also has a strong knowledge and service-based economy—a clean industry that can be an important base from which to diversify and attract families, businesses and services. It is the heart of a diverse and vibrant region that offers many opportunities for education, specialist services to government, clean technology, digital enterprises and the creative sector as well as tourism, food production and the potential to generate renewable energy and support technologies that do so.

Those strengths will help us adapt to change and to address our long-term sustainability and liveability but they will require us to change and adapt as a

community. The path for change that is being set out in the strategy will be based around outcomes that we as a community have identified as important to achieve and will present clear and defined strategies to achieve them.

Together with its refreshed strategies on transport, climate change, energy, social equity, health and affordability, the ACT planning strategy will guide our planning and development and ensure that the city is able to be recognised as a sustainable city in the future.

The government has already published its ACT waste management strategy that sets out clear directions for the management of waste and reaffirms the government's commitment to progress its goal of zero recoverable waste sent to landfill. The ACT is now one of the leading jurisdictions in waste management in Australia with over 70 per cent of waste generated in the ACT reused or recycled. But there is more to be done. The government realises that better waste management is an opportunity to relieve pressure on raw materials, through the recycling and reuse of products and reduced greenhouse gas emissions, to ensure Canberra remains a clean, safe place to live and enjoy.

The goal of this strategy is to ensure that the ACT leads innovation to achieve full resource recovery and a carbon neutral waste sector. This will come through the achievement of four outcomes: reduced waste generation, full resource recovery, a cleaner environment and a carbon neutral waste sector. An implementation plan to support the waste strategy 2011 is currently under development.

Further, the government's transport for Canberra strategy launched in March this year responds to all the actions identified in the commissioner's report in this regard. That strategy clearly sets out a path to deliver on a key government priority—providing an effective and efficient transport system that meets the needs of the community while reducing environmental and social impacts.

This is a coordinated transport approach guided by six principles: integrating transport with land use planning; making active travel the easy way to get around; providing sustainable travel options and reducing transport emissions; moving people safely around the city; improving accessibility; and efficient and cost-effective management of travel demand across the system.

This strategy builds on the government's infrastructure investments since 2001. It incorporates the government's policies on improving access and use of sustainable forms of transport. It also supports improved vehicle occupancy rates, the provision of appropriate bus, timetable, cycling and walking infrastructure and promotes behaviour change and informed transport decision making by our community.

The final plank in the government's platform of adaptation and environmental strategies is in its revitalised think water, act water strategy. Currently under development, this strategy will take a broader and integrated catchment management approach to our water responsibilities and will consider the commissioner's recommendations in relation to sediment and erosion mitigation, water sensitive urban design and actions to mitigate impacts of urban development on water quality.

That strategy will affirm our strong record in water and catchment management, which can be seen in projects such as the design and construction of urban wetlands in Canberra's north, storm water harvesting that reduces our reliance on drinking water for irrigation and implementation of water sensitive measures in developments across the city. A refresh of this strategy will not only work to improve our understanding and management of our own catchment areas. It will also support the government in fulfilling its obligations under the national water initiative agreed to by COAG.

The government will also continue with a range of other environmental management activities. A range of conservation, planning, research and mapping activities are being undertaken in collaboration with the New South Wales government to support a better understanding of ecological processes and the effects of management actions.

Soil and vegetation mapping and the data that it is providing is supporting ongoing natural resource management activities. The government is also continuing its range of programs for nature and biodiversity conservation, including research, ecological surveys, plans and management for our parks, reserves, monitoring of threatened species and communities, and building on our ecological connectivity, weeds and pest management programs.

The government will continue to participate in COAG activities on a number of environmental matters. All jurisdictions are working on an Australian native vegetation framework that will require jurisdictions to monitor the extent and condition of their vegetation. COAG is also working on better integration of state, territory and commonwealth environment protection regulation and, when agreed, these nationally consistent approaches will help inform the government's opportunities to expand and enhance current programs and policy outcomes.

The government looks forward to continuing to produce strong environmental outcomes for its community and to working with the commissioner in implementing the recommendations of the report. I commend the response to the Assembly.

Papers

Mr Corbell presented the following papers:

Public Accounts—Standing Committee—Inquiry—Auditor-General's Report 3/2011—The North Weston Pond Project—Government submission.

Subordinate legislation (including explanatory statements unless otherwise stated)

Legislation Act, pursuant to section 64—

Animal Welfare Act—Animal Welfare Advisory Committee Appointment 2012 (No 1)—Disallowable Instrument DI2012-74 (LR, 17 May 2012).

Blood Donation (Transmittable Diseases) Act—Blood Donation (Transmittable Diseases) Blood Donor Form 2012 (No. 1)—Disallowable Instrument DI2012-68 (LR, 7 May 2012).

Children and Young People Act—Children and Young People (Official Visitor) Appointment 2012 (No 1)—Disallowable Instrument DI2012-72 (LR, 16 May 2012).

Civil Law (Wrongs) Act—

Civil Law (Wrongs) Professional Standards Council Appointment 2012 (No 1)—Disallowable Instrument DI2012-64 (LR, 3 May 2012).

Civil Law (Wrongs) Professional Standards Council Appointment 2012 (No 2)—Disallowable Instrument DI2012-65 (LR, 3 May 2012).

Civil Law (Wrongs) Professional Standards Council Appointment 2012 (No 3)—Disallowable Instrument DI2012-66 (LR, 3 May 2012).

Civil Law (Wrongs) Professional Standards Council Appointment 2012 (No 4)—Disallowable Instrument DI2012-67 (LR, 3 May 2012).

Education Act—Education (Non-Government Schools Education Council) Appointment 2012 (No 1)—Disallowable Instrument DI2012-73 (LR, 17 May 2012).

Energy Efficiency (Cost of Living) Improvement Act—

Energy Efficiency (Cost of Living) Improvement (Emissions Factor) Determination 2012 (No 1)—Disallowable Instrument DI2012-91 (LR, 1 June 2012).

Energy Efficiency (Cost of Living) Improvement (Energy Savings Contribution) Determination 2012 (No 1)—Disallowable Instrument DI2012-92 (LR, 1 June 2012).

Energy Efficiency (Cost of Living) Improvement (Energy Savings Target) Determination 2012 (No 1)—Disallowable Instrument DI2012-93 (LR, 1 June 2012).

Energy Efficiency (Cost of Living) Improvement (Priority Household Target) Determination 2012 (No 1)—Disallowable Instrument DI2012-94 (LR, 1 June 2012).

Nature Conservation Act—

Nature Conservation (Flora and Fauna Committee) Appointment 2012 (No 1)—Disallowable Instrument DI2012-70 (LR, 17 May 2012).

Nature Conservation (Flora and Fauna Committee) Appointment 2012 (No 2)—Disallowable Instrument DI2012-71 (LR, 17 May 2012).

Planning and Development Act—

Planning and Development Amendment Regulation 2012 (No. 1), including a regulatory impact statement—Subordinate Law SL2012-18 (LR, 10 May 2012).

Planning and Development Amendment Regulation 2012 (No. 2), including a regulatory impact statement—Subordinate Law SL2012-19 (LR, 10 May 2012).

Road Transport (General) Act—Road Transport (General) Application of Road Transport Legislation Declaration 2012 (No 2)—Disallowable Instrument DI2012-46 (LR, 10 May 2012).

Security Industry Act—Security Industry Amendment Regulation 2012 (No 1)—Subordinate Law SL2012-20 (LR, 17 May 2012).

Unit Titles (Management) Act—Attorney General (Fees) Amendment Determination 2012 (No 2)—Disallowable Instrument DI2012-49 (LR, 15 May 2012).

Waste Minimisation Act—Waste Minimisation (Landfill Fees) Determination 2012 (No 1)—Disallowable Instrument DI2012-69 (LR, 15 May 2012).

Education, Training and Youth Affairs—Standing Committee
Report 8—government response

MS BURCH (Brindabella—Minister for Community Services, Minister for the Arts, Minister for Multicultural Affairs, Minister for Ageing, Minister for Women and Minister for Gaming and Racing) (3.03): For the information of members, I present the following paper:

Education, Training and Youth Affairs—Standing Committee—Report 8—*Future Use of the Fitters Workshop, Kingston*—Government response.

I move:

That the Assembly takes note of the paper.

I am pleased today to be tabling the government's response to report 8 of the Standing Committee on Education, Training and Youth Affairs on the future use of the Fitters Workshop. The report, tabled out of session on 16 April, made five recommendations in relation to the future use of the Fitters Workshop—principally that it be used as a multi-purpose space and that Megalo Print Studio + Gallery be given an alternative site for a purpose-built facility on the Kingston Foreshore.

I want to thank the committee and the committee office for their work. There has been significant public interest in this issue both from the arts community and the media. There were 56 submissions to the inquiry and a number of public hearings. The information in the report is a clear reflection of the different views and positions in the community, but, Mr Speaker, it is little more than that.

On that basis, and having carefully considered the committee's report, the government reaffirms its decision to refurbish the Fitters Workshop for Megalo print studio, consistent with our commitment in the 2011-12 ACT budget—that is, the government does not agree with the committee's recommendations.

The committee's reasoning and its referencing of facts to support its conclusions were less than persuasive. The arguments put forward by the opposition and the Greens to justify this inquiry were not verified or corroborated by the inquiry process, yet the majority of the committee still proposed that the ACT government breaks its promise to Megalo, go back on a budget commitment and further delay the refurbishment of the Fitters Workshop. That is not how the government treats its community arts organisations.

There were suggestions in the inquiry that the unusual acoustics to the Fitters Workshop may lend themselves to a broader range of music styles than had already been performed there, but the acoustic testing commissioned by the committee found that the building is only suitable for a limited range of music. We also heard claims that the government's decision-making process in committing the Fitters Workshop for Megalo had been flawed, yet we saw nothing in the committee's report to support this.

In the absence of new, evidence-based information, the ACT government can see no reason to break its promise and to exacerbate the damage already done to Megalo print studio.

I note that there were dissenting comments from Mary Porter MLA in relation to the politicisation of the issues and the role of the media in the debate. Ms Porter notes that her examination of the matter before the committee led her to believe that the process leading to the decision by the ACT government was done in the best interests of the arts community. Ms Porter raised concerns regarding Megalo's position as a result of the delays on this matter. I agree. The acceptance of the committee's recommendations would only cause further delays.

The decision to locate Megalo Print Studio + Gallery to the Fitters Workshop was made by the ACT government with the best interests of the arts community in mind. This decision was supported with funding for the refurbishment of the building in the 2011-12 budget, agreed by the Assembly.

During the inquiry there was commentary about the impact refurbishments would have on the heritage values of the Fitters Workshop. The Fitters Workshop is heritage listed and, as such, any works to the internal or external parts of the building would need to be consistent with its heritage listings. Just as the conversion of the former powerhouse building to accommodate the Canberra Glassworks has, in fact, enhanced the heritage features of the building, so too will the refurbishment to accommodate Megalo.

I note that proponents of the mixed-use option have given limited consideration to the reality that to make the Fitters Workshop usable for performance, exhibitions and other activities, substantial additional funding would be needed to meet those standards, such as accessibility, fire and emergency, and occupational health and safety. No consideration was given to what impacts these necessary works would have on the building's acoustics.

The committee's report also outlines the time lines discussed by the Land Development Agency during public hearings of the inquiry. Notwithstanding that the LDA representative who appeared before the committee prefaced his comments with the disclaimer that his time lines were "ballpark" only and that the LDA did not have carriage of the project, the committee chose to accept those time lines over those provided consistently by the Community Services Directorate. That, of course, is a moot point, given the delays that have already been caused by the inquiry. There has been such delay in construction on the Fitters Workshop that Megalo will need to call Watson home for at least another year.

I urge the Assembly not to exacerbate the division in the arts community that this issue has caused. The government has made a decision to accommodate Megalo at the Fitters Workshop, and it reaffirms that decision today. People have had their say. Their views have been carefully considered. It is now time to get on with the job. It is time to end the disruption to Megalo print studio and to help the government get on with delivering for the Canberra's arts community.

I want to thank all those involved in this inquiry. To those who have put submissions in and those that came before the inquiry, please be assured that I have considered all of the information and submissions with regard and respect. However, the government stands by its decision to relocate Megalo to the Fitters Workshop.

MS LE COUTEUR (Molonglo) (3.44): As I have only just received this report, I will only speak briefly on it, basically to say I am really disappointed. The education committee did an excellent job in looking at the Fitters Workshop. I note Ms Burch made adverse comments about consultation. I point out to Ms Burch that that was not part of their terms of reference. Their terms of reference were quite clear about what they were to look at—options for alternative venues, options for alternative purpose-built accommodation for Megalo and any other relevant matter. It was not a witch-hunt in any fashion. I think that that was a silly comment.

It is very disappointing for anyone involved in public life and community involvement to have the situation where a considerable inquiry comes to what appeared to me to be a very reasoned conclusion and for the government not to take it up. It is disappointing from the point of view of the community thinking how they can best make an impact on the government if things like this do not make an impact.

Clearly I disagree with the government's conclusions. I think what the inquiry said around the general development of the arts precinct was very clear and correct—having Megalo in the precinct but not specifically in that building. Some very exciting, positive options were put forward from a planning point of view and also from an artistic point of view. I regret that it seems these will not occur.

Another of the things I regret very much is the angst this has caused to the arts community in the ACT. It is not a large community; it is not a well-funded community. It is very unfortunate this has happened. It is particularly unfortunate that the music community will feel unloved as a result of this, particularly given the ongoing developments, or lack of developments, with the School of Music. I very much regret the government's response.

MR HANSON (Molonglo) (3.47): As a member of the committee, I would like to briefly respond to the comments Ms Burch has made and also to comment on the government's response. I must say I am not surprised, but I am disappointed. I think the opportunity for a multi-use facility at the Fitters Workshop was, by the end of the committee inquiry, the self-evident best way forward. I came to that committee inquiry with very little knowledge of the subject and listened to the evidence—the arguments which were put forward by both sides—and it became very clear to me visiting the facility, talking to the experts, that this was the best way forward. I note in

Ms Burch's tabling speech that she talked about evidence. Well, we sought the evidence; we had experts in acoustics. There were disparaging comments that it is only suitable for Gregorian chants and Enya. That is a very narrow and very disparaging view of what the Fitters Workshop can be used for in terms of the performing arts.

There was an opportunity here to establish a long-term vision for the arts precinct, of which the Fitters Workshop would be a central part. It could be used by Megalo, by other visual arts organisations and could be used for the performing arts. You would have a proper arts community, a proper arts precinct, that could potentially unite the arts community. What Ms Burch and the government have done today is make a decision that will continue to divide the arts community.

Let us be very clear—the arts community is divided on this issue, and it is also clear that the reason for that is that the minister before Joy Burch, Jon Stanhope, picked a winner. He was obstinate, as his successor, Joy Burch, has been in refusing to acknowledge that it probably was a flawed decision. But even if you accept from the government that it was not, certainly new evidence came to light. It became apparent that the decision that had been made was no longer a good decision because of the evidence about the acoustic qualities of that facility. But the government refused to listen. They refused to acknowledge that they had made a mistake, and they continued to blunder on. In doing so, they divided the Canberra arts community. There is a level of hostility out there now that is unparalleled, and it rests solely at this government's feet.

It is important to note Ms Porter's role in this as a committee member. Ms Burch mentioned she made some dissenting comments. Let us be very clear that Ms Porter was along for the ride on this. She listened to the evidence and she was in agreement with the other members of the committee until the 11th hour. After we had gone through the first draft, after she had signed off on all the recommendations, Mr Stanhope then entered the building and, miraculously, we all got an email telling us she has changed her position 180 degrees.

Let me be very clear about what I think happened. Ms Porter listened to the evidence as I did and came to the conclusions I did—that is, a multi-use facility is the appropriate way forward for the Fitters Workshop. Then the government, or ex-members of the government, put some pressure on Ms Porter and she changed her mind. Her explanation—"it's all too hard; I got confused; I didn't have capacity in my office"—is equally disturbing. So Ms Porter rests at this point of either having been influenced by the government or being grossly incompetent in the conduct of her duties. I think it is probably the former.

Do not use Ms Porter's dissenting comments as any form of evidence that the government is right on this. I assure you, until the 11th hour, this was a unanimous view, because it was based on the evidence. It is only Ms Porter having her arm twisted by either you, Ms Burch, as the minister, or by former members of this place, that, in my view, has changed what she was doing. Otherwise there is an issue of gross incompetence.

The arts community will remain divided, and that rests at the feet of Joy Burch and the ACT Labor government.

MRS DUNNE (Ginninderra) (3.51): We started the day with a discussion about how incompetent this minister is, and we look like we will come close to concluding the day on the same note. This is a slap in the face for the committee, who worked diligently and, as Mr Hanson said, came to this with an open mind. I was not part of the inquiry, although I was afforded the courtesy of being able to attend hearings, but I believe that Mr Hanson and Ms Bresnan came to this with an open mind and looked at the issues, in the same way as I understand Ms Porter did for the most part. This is a sorry day for the arts community when a weak minister, who is incapable of making a decision by herself, a strong decision showing some leadership, has fallen in behind the flawed decision making of her predecessor.

We know that this was a whim. We know that this decision-making process revolved around a letter from Megalo to the minister that flattered the minister at the time and the minister said, "That is a really good idea." We know that that letter was never responded to. The only response Megalo got from that was a budget allocation. It was a decision to place Megalo in the Fitters Workshop.

After that, when other things were discovered about the Fitters Workshop, there was steadfast resistance by this Labor government, under successive ministers, to say, "There is new information on the table and we are going to have"—their favourite term—"an evidence-based approach to policy making." They love to talk about evidence-based approaches to policy making—and if ever we have seen anything that is lacking an evidence-based approach, this is it. Two successive arts ministers in the ACT have steadfastly refused to have the acoustic reports done, because it may have told them something that was inconvenient.

From the outset I have been saying: "At least get the information. Know what you are doing. If the acoustic reports come back and say that it is not a goer as a music venue, I will be satisfied. Then you can go ahead and do this." But they would not do it. Eventually there was this committee of inquiry, and the committee rightly sourced the acoustic work that should have been done by the government. It was very inconvenient for the government that the acoustic work should come back in such a way that showed that there was a great deal of potential. It was very interesting to listen to the sound engineer who did one of the acoustic studies who said: "Yes, it is edgy, but that is where you want to be. If you want to be making music, you do not want to be making music in a place where the acoustic is perfect, where there is no reverberation and all these sorts of things. If you want to be at the cutting edge of music, you want to be in this edgy place."

That is what the sound engineers were saying. But Minister Burch did not hear that. Minister Burch did not want to hear anything contrary to the position that she had taken on as Minister for the Arts in the baton change from Jon Stanhope. We know that in the past the minister has done this and on this occasion she did it again: she put her hands over her ears and said, "La, la, la, la, la; I don't want to hear." That is what she does. She is an incompetent minister. She has been divisive in the arts community.

She has set one aspect of the arts community against the other. She and her staff are the ones who have characterised this as a conflict between the print makers and the music makers. Only Joy Burch has done that. And only Joy Burch today has perpetuated that.

This is a disgraceful government response and it shows that this is an incompetent minister incapable of making a decision based on the facts, on the evidence; a minister who is incompetent and incapable of exercising leadership, because if she exercised leadership the clear evidence from the only impartial group who has looked at this matter is that there should be another approach.

No-one should ever say that the Canberra Liberals do not want Megalo at Kingston. We do want Megalo at Kingston. But we have here today admission from this minister that they cannot get it done. They made commitments to Megalo that they were never going to get done. We have seen a multitude of time lines for this project. It is not going to happen in a year. It was going to happen by June this year. It is not going to happen at least for another year. It has been on again, off again, because this minister cannot get it done. She cannot get her story straight and she will not listen to the community.

This is a disgrace, and the Canberra arts community, the wider arts community, will recognise the failings of this minister, who failed to show leadership when she had the opportunity.

Question resolved in the affirmative.

Papers

Dr Bourke presented the following paper:

> Pursuant to section 13 of the Annual Reports (Government Agencies) Act 2004, the Canberra Institute of Technology annual report for 2011.

Justice and Community Safety Legislation Amendment Bill 2012 (No 2)

Debate resumed from 10 May 2012, on motion by **Mr Corbell**:

> That this bill be agreed to in principle.

MRS DUNNE (Ginninderra) (3.58): The Liberal opposition will be supporting the second Justice and Community Safety Legislation Amendment Bill 2010 (No 2). The bill makes minor, non-controversial amendments to the legislation administered by the JACS directorate. Six acts are amended.

I will comment only briefly on two aspects of this bill. The first relates to the amendments to the Emergencies Act 2004 and the Environment Protection Act 1997. These amendments will align the provisions of the two acts relating to backyard barbecues and to the approvals and requirements for burning off. Mr Smyth has some

comments to make on this bill, and if at the end of my remarks he is not here I shall take the liberty of imparting Mr Smyth's comments on these two issues as well, because I understand that he is held up with budget deliberations at the moment.

In relation to burning off, approval for permits will be required under each law. At first glance this may be seen as an increase in red tape, and to some extent it is. But the risk associated with burning off far outweighs the small inconveniences of having to satisfy the requirements of both acts.

The second aspect of this bill relates to amending the Victims of Crime Act 1994. This is a relatively minor amendment that excuses from the scrutiny of the Standing Committee on Justice and Community Safety appointments to the victims of crime board of judicial officers and representatives of the Australian Federal Police. This already applies to appointments of public servants to the board.

I have some residual concerns about this approach, because judicial officers are, as it were, one step removed from the public service. Representatives of the AFP are perhaps even further removed by virtue of the fact that the services of the AFP are contracted to the ACT government. I hasten to add that this does not diminish in any way the integrity or credibility of judicial officers or the AFP. It is simply to point out that public servants have already gone through a process within government and more easily qualify for government board appointments.

Judicial officers, on the other hand, are the embodiment of the separation of powers and, whilst their eminence and experience are highly valued on boards such as the victims of crime board, it may be more appropriate for their appointments to be subject to a process different from that applying to public servants. Similarly, representatives of the AFP perhaps should go through such a process—possibly even more so than for judicial officers, given the contractual relationship between the AFP and the ACT government.

Unlike as applies to public servants and judicial officers, the government has had little to say on who the AFP engages in its workforce. It is possible that a more rigorous process of appointment to the victims of crime board is appropriate. Nonetheless, I understand that the approach that this amendment contemplates is not unusual and has worked reasonably well in the past, so we are willing to support it, with the caveats that I have outlined. I continue to be grateful for the work that the JACS directorate do in identifying and adjusting these minor issues, and we support the bill.

I will rely on Mr Smyth's notes to make specific comments about the matters raised in this bill in relation to the Emergencies Act and the Environment Protection Act. Mr Smyth did receive a briefing on this bill on 28 May and it was useful in contemplating the issues that arose in the bill.

The opposition will be supporting the bill, even though at one stage Mr Smyth did contemplate moving an amendment to oppose parts 1 and 3 of the bill. The reasons for the proposed amendment related to a critical question that Mr Smyth asked in a briefing: in the event of the ESA commissioner and the delegate to the EPA disagreeing about the proposed fuel reduction burn during bushfire season, how was

this dispute to be resolved? Mr Smyth asked this question on 28 May. He received a substantive answer to this question only this morning. The answer is that, if a proposal for a fuel reduction burn is not provided with the necessary authorisation by both the ESA and the EPA, the burn cannot proceed.

Clearly, this outcome has the potential to be an untenable situation. Mr Smyth said that, as he has only just been told of this potential outcome, he has not had time to consider it fully and determine whether it is appropriate to amend the bill as he had considered. Mr Smyth and I believe this is a matter for further consideration. It is something we will be keeping under observation. This is an area of some red tape and, although there are pros and cons for this, we are concerned about the implications.

Fuel reduction is becoming more and more critical. Expert advice indicates that there may be only 10 to 14 days during a season when it is possible to conduct a burn. Indeed, the head of the fire management unit in TAMS recently commented in an interview on radio 666 that there are only 13 days in a season which are suitable for fuel reduction burns. Clearly, the question Mr Smyth raised, therefore, is fundamental. At this stage there is no satisfactory answer to resolving any of the potential disputes about whether a fuel reduction burn should be conducted during the bushfire season.

Mr Smyth notes the complex regulations required by the provisions of the two acts before a fuel reduction burn can be undertaken, that there needs to be an authorisation from the EPA and separately from the Emergency Services Authority; there is no one-stop shop for getting authorisations. The Canberra Liberals wonder whether it is necessary to have more than one authorisation and why a second is required. It is not sufficient to say, "It is only two authorisations." There is inevitably the risk of an argument about further regulation. It is not until you are able to stand back and see the impost of any additional regulations that it is possible to assess the regulatory burden, and these are aspects that we shall be keeping a close eye on.

That said, we believe that the bill is worthy of support and on this occasion we will be supporting the bill, but with the concerns raised by Mr Smyth about the apparent double handling of authorisations under the Emergencies Act and the Environment Protection Act. I think that is an area where some consistency needs to be looked at and we will keep a close watch on this.

MR RATTENBURY (Molonglo) (4.05): The Greens will be supporting this bill today. It amends five separate acts in the ACT statute book. The amendments are relatively straightforward and are designed to make the application of the laws smoother in practice.

One area I would like to touch on in particular is the amendments to the Unit Titles (Management) Act 2011. For some time now the Owners Corporation Network, who represent many unit title owners across the ACT, have been agitating for improvements to be made to the sinking fund provisions of the act. I have met with them to discuss their concerns about the provisions and have encouraged them to make contact with the government to outline their concerns. So I am pleased to see the government responding to their concerns in this bill today.

The concern that the Owners Corporation Network had was that the legislation would not clearly support an owners corporation that took a progressive and longsighted approach to building up the sinking fund for large scale investments in the common property. The concern of the OCN was that any owners corporation who took a responsible approach and put aside a small amount of money each year for large scale investment required in the future could be taken to ACAT by a disgruntled owner.

The Greens agreed with these concerns and have been looking into this issue. We also made it clear to the OCN that we would be happy to support the government if it brought forward amendments to address their concerns. We do agree that owners corporations should be able to plan for the future of large scale infrastructure. If we take a five-storey lift as an example, this will have a service life in excess of 20 years. The best approach is to set aside a small amount of money each year for that service, rather than to massively raise sinking fund levies in the 20th year when a particularly large service was scheduled.

I think this is not only prudent in terms of smoothing out the cost impact for owners but also fair, in the sense that, with something like a lift that has perhaps a 20 or 25-year lifespan, if the owners corporation is not preparing and putting aside a small amount of money each year in the early years you could essentially get free riders and those who buy into the complex at a later point in time are left with the burden of picking up the maintenance costs. Clearly, planning and paying for the costs over a longer period of time is both easier for owners and fairer in terms of the long-term ownership of properties.

The amendments today clarify that an owners corporation that acts in such a way is acting within the scope of the act and that the levies it charges would be proper. The way in which the government has achieved this in the legislation is to insert an example of the way in which a sinking fund could operate under the act. The example explicitly shows that a sinking fund can plan to end with a surplus at the end of the 10-year plan. So long as that surplus can be shown to be set aside for future expenditure related to the common property, the fund is valid.

The Greens support this issue being cleared up. Having a well-planned sinking fund to ensure good and proper maintenance is carried out on common property is obviously a good thing and a prudent thing. In the long run this ultimately prolongs the useful life of the infrastructure, which makes good sense on a number of different grounds.

Of course there could have been a number of different ways to approach this, and I think the government has taken a different approach from what OCN suggested, but the essence here is ensuring the ability of owners corporations to plan for the long term, something which has had a question mark around it. I am very pleased to see that matter being resolved in the bill today, in addition to the other matters that the bill addresses. On that basis, the Greens will be supporting the bill today.

MR CORBELL (Molonglo—Attorney-General, Minister for Police and Emergency Services and Minister for the Environment and Sustainable Development) (4.09), in reply: I thank members for their support of the bill.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

National Energy Retail Law (ACT) Bill 2012

[Cognate bill:
National Energy Retail Law (Consequential Amendments) Bill 2012]

Debate resumed from 10 May 2012, on motion by **Mr Corbell**:

> That this bill be agreed to in principle.

MADAM DEPUTY SPEAKER: I understand it is the wish of the Assembly to debate this bill cognately with executive business order of the day No 4, National Energy Retail Law (Consequential Amendments) Bill 2012. That being the case I remind members that in debating order of the day No 3, executive business, they may also address their remarks to executive business order of the day No 4.

MR RATTENBURY (Molonglo) (4.10): The background to this legislation is that it is part of the national energy customer framework, which is a component of ongoing national energy market reforms agreed to by COAG. It marks the end of the line of a 17-year process, the development of the framework beginning in 1995. The framework consists of this bill and rules and regulations made under it, including new national rules to enable retail customers and property developers to seek new connections and articulate the rights and obligations between distributors and retailers, including a credit scheme.

In essence, there are two essential components to this bill that I will touch on. One is that it promotes best practice in consumer protection; the second is that it seeks to streamline the regulation of energy by removing all jurisdictional frameworks and setting a national framework, including cuts to red tape for retailers and distributors, protection of state rights and a regulatory regime that jurisdictions can fully adopt over time as appropriate for the circumstances of each market.

I do not intend to reflect in great detail on the legislation. I do particularly, though, want to comment on the issues around hardship for consumers. The new laws require retailers to develop and maintain customer hardship policies by which they need to identify residential customers experiencing payment difficulties due to hardship and assist customers to better manage their energy bills on an ongoing basis.

It also requires retailers to offer flexible payment options and be able to identify government concessions that customers might be eligible for. I particularly want to touch on this, because it is valuable to have a consistent national framework on this, in terms of both ensuring that those customers facing hardship are given opportunities to

meet their bills in a flexible way and also having that consistent approach across the country as people move so they know that if they still find themselves in the same circumstances they can access similar conditions in different jurisdictions.

The Greens support the intent of this bill. We support it in principle. I will flag that later in the debate I intend to move some amendments. Those amendments are not about the specifics or the policy issues in relation to the national energy retail law; rather, they come to the issue of how a state or territory jurisdiction should operate in the context of these sorts of national frameworks. The Greens certainly have a number of concerns regarding the way that the national laws can be amended and apply in the territory without any oversight from the Assembly. This is an area of concern for us.

I will be moving a number of amendments, and I will speak in more detail on those amendments during the detail stage.

MRS DUNNE (Ginninderra) (4.14): This bill will apply the national energy retail law to the ACT as part of a national legislative initiative made up of all jurisdictions except Western Australia and the Northern Territory. This is the third national energy law established under the Australian energy market agreement.

In essence, this bill will bring energy supply under a national regulation, joining together the national electricity law and the national gas law. As noted in the government's explanatory statement for this bill, the national energy retail law provides for specific enforcement, licensing and other functions to be carried out by the Australian Energy Market Commission, ACAT and the Australian Energy Regulator.

This bill will also see the regulation of non-price retail and non-economic distribution functions shift from the ACT's ICRC to the Australian Energy Regulator, the AER. The national energy retail law as applied in this bill will replace provisions of the Utilities Act. Equally, the consequential amendments that follow today's bill primarily comprise minor amendments to clean up various pieces of allied legislation.

This bill is part of ongoing federal initiatives in energy market reforms dating back to 1995, when all jurisdictions endorsed the national competition policy agreements. It is worth noting that many of the energy market reforms to date occurred under the Howard administration. In 2001 COAG agreed to a set of core national energy policy objectives and principles to underline the development of effective, open and competitive national energy markets. In 2003 the Ministerial Council on Energy made recommendations to COAG on reform in the areas of governance of energy markets, regulation, electricity transmission, user participation, national gas penetration and greenhouse gas emissions. In 2004 the MCE developed energy market reforms formalised in the intergovernmental Australian energy market agreement, the AEMA. The essence of today's bill can be traced back to 2006, when the AEMA was amended to include the transfer of retail and distribution regulation to a national framework.

The bill, I note, does not have a set commencement date, which will allow for the coordination of other participating jurisdictions.

Clause 10 in effect gives power to the Australian Energy Regulator and the Australian Competition Tribunal to act in the ACT. Part 5 gives provisions for how the national law will be implemented in the ACT and states in clause 14 that the ICRC will continue to have responsibility for price direction under the Independent Competition and Regulatory Commission Act 1997. Clause 17 clarifies the applicability of ACT and New South Wales laws at border areas. Clause 21 spells out the ICRC's obligations to provide information to the AER. I note that in subsection (2) this requirement even applies to information that was given to the ICRC in confidence. Clause 22 extends the AER's functions and provides for powers to make regulations in the ACT. Part 10 provides for transitional arrangements pertaining to customer contracts, applications for connections and supply, customer hardship, complaints, contravention of licence conditions and exempt sellers.

It is worth noting again that this bill will only see the regulation of non-price retail and non-economic functions shift to the AER. As such, clause 55 on negotiated customer contracts excludes feed-in-tariff contracts from transitional provisions, so they are unaffected by this bill. This is further affirmed by the consequential amendments at part 3.

It is perhaps fitting to remind the chamber at this juncture that Mr Corbell's initiatives such as the feed-in-tariff scheme are costing residents of the ACT $225 a year on their electricity bill. This is on top of the 85 per cent increase in our electricity bills since ACT Labor formed government. And let us not forget about this government's support for its federal counterpart's carbon tax: from July, Canberrans will be slugged an additional $244 on their electricity bill. What is more, the recent introduction of Minister Corbell's energy efficiency improvement scheme means that Canberra residents are faced with collectively paying up to $1 million a month to foot the bill for ACT Labor's initiative in this instance. At a time when there are signs that the economy is slowing down, and with the ACT Treasurer having now predicted a budget deficit of around $300 million in the next financial year, Canberra residents are facing annual average electricity bills of above $1,600.

The Canberra Liberals will be supporting the bill and its consequential amendments today. This bill is part of a uniform move towards national regulation. I understand, from the briefing provided to Mr Seselja's office, that there is support from all the participating jurisdictions. That said, this bill leaves cost-of-living and economic responsibilities to the respective jurisdictions, and it is worth noting that the government's track record on addressing the cost of living and the management of our economy has been wanting.

I will address the amendments Mr Rattenbury proposes to move at a later stage.

MR CORBELL (Molonglo—Attorney-General, Minister for Police and Emergency Services and Minister for the Environment and Sustainable Development) (4.20), in reply: I thank members for their support of this bill and the consequential amendments bill. The National Energy Retail Law (ACT) Bill and the National Energy Retail Law (Consequential Amendments) Bill both provide for the adoption of the national energy retail law as a law of the ACT, with some modifications that provide for our specific needs.

The bill will implement the national energy customer framework, commonly referred to as the NECF. This legislation is also being adopted by other jurisdictions. The second bill will make necessary consequential amendments to existing ACT legislation that are necessary as a result of the adoption of the national energy retail law.

The implementation of the NECF will eventually integrate all participating individual state and territory retail energy markets into a single market. The state and territory regulatory frameworks for the sale and supply of energy will be combined into a single framework with a common set of national rules. NECF will see the removal of inconsistent requirements, providing for a seamless national energy market, meaning increased competition, greater opportunity for innovation in the products that are sold to customers and, consequently and ultimately, more competitive prices.

At the same time, the second bill makes necessary consequential amendments to maintain consumer protections and requirements unique to the territory's needs. These include the continued role of the ACT Civil and Administrative Tribunal as the energy ombudsman under the NECF and the mandatory green power first offer requirement.

This legislation represents one of the final and major achievements under the energy reform agenda agreed to by Australian governments under the Australian energy market agreement in 2004.

The implementation of NECF was also identified as a priority in the sustainable energy policy released by the ACT government last year. It caps eight years of national energy regulatory reform, which has included the establishment of the national energy market bodies, the Australian Energy Market Commission and the Australian Energy Regulator, and other significant national energy reforms such as the introduction of the national electricity law and the national gas law.

The implementation of NECF in the territory represents a significant improvement to the consumer protection framework for ACT gas and electricity customers, especially those who are most vulnerable. In addition to improving consumer protections, the NECF will deliver lower compliance costs for electricity and gas suppliers wishing to supply into the Canberra market. By streamlining and removing inefficient regulation, this legislation has the effect of making it easier for new electricity and gas retailers from other states to enter the ACT market, through reducing their compliance costs.

Over the longer term, the NECF—by facilitating greater competition through a single national energy retail market, combined with a robust consumer protection framework—will help provide Canberra consumers with more choice through a greater variety of products to suit their needs at competitive prices. This is a significant outcome in the fact of increasing energy costs. In April this year the ICRC released its draft determination for the regulated retail tariff for the period 1 July 2012 to 30 June 2014. The determination recommended an increase of 17.2 per cent on the 2011-12 determination. This increase, driven almost entirely by external factors, represents a significant increase on household electricity bills.

I note that Mrs Dunne reiterates the lie that the feed-in tariff cost is already being passed on to consumers at a level of $210 or so a year. That is simply wrong. It is wrong in fact, and Mrs Dunne should know it. And she should call Mr Seselja to account for continuing to perpetuate it. The pass-through cost of the feed-in tariff is not $200 a year

Mrs Dunne: Point of order.

MADAM DEPUTY SPEAKER: Stop the clocks, please?

Mrs Dunne: Mr Corbell said that I perpetuated the lie. That is unparliamentary. He said that I have lied and he needs to withdraw the comment. He also needs to withdraw the implication that Mr Seselja has lied. Mr Seselja is not here to defend himself.

MADAM DEPUTY SPEAKER: Mr Corbell?

MR CORBELL: I withdraw the term "lie". Mrs Dunne needs to stop perpetuating the false claim that the feed-in-tariff has already been passed through to the order of over $200 a year to ACT customers. It is not true. It is false. It is incorrect. It is a misleading and deliberately false claim being made by those opposite.

Mrs Dunne: Point of order, Madam Deputy Speaker. You really have to call Mr Corbell to order. He has withdrawn "lie" and then accused us of making misleading claims in the Assembly. That is something that can only be done with a substantive motion. Mr Corbell needs to withdraw, and I would advise that he needs to be instructed upon what is parliamentary in this place.

MADAM DEPUTY SPEAKER: Mr Corbell?

MR CORBELL: What is your ruling, Madam Deputy Speaker?

MADAM DEPUTY SPEAKER: I thought you were going to say something; that is why I paused.

Mrs Dunne: He has to withdraw.

MADAM DEPUTY SPEAKER: You need to withdraw the imputation.

MR CORBELL: I withdraw the imputation, but the only people who really should be called to account on this issue are the Liberals, continuing to make the claim that feed-in tariff costs have been passed through to Canberra consumers to the order of over $200 a year, when it is false, when it is wrong. They only need to read the latest ICRC report to know that it is false and it is wrong. It has not been passed through at anywhere near the order that is suggested by Mrs Dunne. We will continue to hold the Liberals to account for putting forward such false and misleading claims to the Canberra community.

It is clear that, as a government, we must act now to minimise and reduce price pressures on families. The bill before us reflects the government's ongoing commitment to ensure that budgets remain manageable. It also reflects our commitment to important reforms which facilitate and harness the capacity for national markets to deliver essential services to the community equitably and efficiently.

This legislation delivers a number of welfare-enhancing outcomes for ACT consumers. The legislation includes compulsory obligations on retailers and distributors to connect and supply all small customers at a standard price on a standard contract. This will ensure that no households are refused energy supplies where they are available. Under NECF, retailers will be required to develop and implement a hardship policy approved by the Australian Energy Regulator. This policy will help identify and assist customers who are experiencing difficulties in making payments. These hardship policies are designed to ensure early responses from retailers towards such customers and to assess more flexible and alternative payment options. Retailers will also be required to assess the appropriateness of any ongoing market contracts for hardship customers. This, combined with the government's energy efficiency cost-of-living improvement legislation, will provide comprehensive support for low income households struggling with rising energy prices.

This brings me to another comment that Mrs Dunne made in her speech. She criticised the passage of the government's energy efficiency cost-of-living improvement legislation. The ACT Liberals are the only Liberal Party group in the country that are opposing mandating energy companies from supplying energy efficiency services to their customers. The New South Wales government has retained legislation adopted by its predecessors that deliver these services. The Victorian Baillieu Liberal government has just expanded its energy efficiency legislation—its VEET legislation, as it is known—to cover small and medium business enterprises. The Victorian energy minister is on the record as stating that the VEET legislation, the equivalent of the territory's energy efficiency cost-of-living improvement legislation, is the sort of carbon reduction legislation the government will support, because it reduces costs to consumers: it saves consumers money.

The Canberra Liberals are the only people in the country who oppose legislation that requires electricity companies to help their customers save money. It is the most extraordinary position for those opposite to adopt. They are out of sync with Ted Baillieu. They are out of sync with Barry O'Farrell. They are out of sync with their Liberal counterparts who recognise that energy efficiency legislation saves electricity customers money. It saves them money. They voted against the bill that will save 70,000 Canberra households, on average, over $300 a year on their electricity bill by the year 2015—$300 a year, ongoing, each and every year. Over the life of the scheme, the average saving to households is in the order of $2,000—$2,000. Those are the savings to energy customers.

The Canberra Liberals voted against it. They voted against legislation that their more sensible and considered counterparts in Victoria and New South Wales support, and

they did so from what appears to only be a fundamental lack of understanding of how this legislation operates. The government's energy efficiency cost-of-living improvement legislation saves consumers money, reduces electricity costs, improves greenhouse gas abatement, and is completely compatible with the NECF legislation that we are adopting today.

The NECF legislation also provides for model contracts between retailers and customers and distributors and customers. These include strong, robust protections, including restrictions on disconnecting customers, overcharging, security deposits, payment plans and processes for handling customer disputes.

For the first time in the ACT, gas customers will also have the benefit of having a direct deemed connection contract with gas distributors, a practice that has existed in the electricity industry for an extended period. Previously, gas distributors discharged their obligation through retailers. A direct relationship with consumers will enable distributors to respond speedily to consumer concerns and needs without going through an intermediary.

NECF provides a far more comprehensive consumer protection model than that which currently exists in the ACT and is therefore a significant improvement for ACT energy customers.

There are also strict requirements on energy marketers to disclose all necessary information to small customers. This includes information on early termination penalties and the right to complain about the marketing activity. Customers will have the right to withdraw, with a cooling-off period of up to 10 business days for market retail contracts upon acceptance of an offer by a retailer. These requirements will protect customers from misleading marketing practices and complement existing regulations in this area.

Further, the ombudsman role of the ACT Civil and Administrative Tribunal has been preserved. The tribunal will remain responsible for hearing and resolving energy-related disputes in the ACT.

The NECF also establishes a small claims compensation regime for customers. Under this scheme, small customers will be able to make small claims for compensation by directly contacting and communicating with the distributors, but without having to undertake a potentially costly and time-consuming legal process. If the customer is not satisfied with the outcome of the small claims process, they will still be able to lodge a claim with the ACAT. The government will progressively implement the small claims compensation scheme over 2012-13 once the framework is established through the NECF.

Finally, I turn to the issue of transitional arrangements. The bill provides for the smooth transition to the new national framework to avoid disruption to energy consumers and commercial relationships between businesses. Customers on the ACT standard contracts will be automatically transferred onto the corresponding standard retail contract under the national energy retail law. Customers on negotiated contracts will retain those contracts. In either case, customers will face no disruption and will

not be required to do anything to maintain the continuity of their supply. Rights, benefits and prices acquired on those contracts will be preserved and continued. Similarly, retailers that already hold licences in the ACT under the Utilities Act will be transitioned to holding national retailer authorisations under the national law.

Finally, and importantly, while this legislation adopts the national framework, it also preserves and continues requirements we hold important in the ACT. This includes regulation of electricity prices for small customers and the mandatory green power first offer requirement.

In conclusion, the NECF and this bill are the outcome of an extensive interjurisdictional development process and comprehensive local and national consultation. The bill enjoys strong support from all ACT and national stakeholders. It will deliver consumer benefits, greater competition and improved economic benefit to the territory. It is a real and important national reform, and I commend the bill to the Assembly.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail stage

Bill, by leave, taken as a whole.

MR RATTENBURY (Molonglo) (4.36), by leave: I move amendments Nos 1 to 4 circulated in my name together *[see schedule 2 at page 2658]*.

As I flagged in the in-principle phase, these amendments are not about the policy of this legislation and the national energy reforms but, rather, the manner in which these national frameworks are agreed to, the manner in which they are rolled out and the role of state and territory governments in that context. The Greens have a set of concerns around how amendment to legislation such as this takes place, what role the Assembly has in assessing those amendments and what information is available to the community about those amendments. We are concerned that, the way the legislation is set up, amendments can essentially be made to a package of legislation such as this without any scrutiny by the Assembly and without the ACT community potentially receiving information on it.

To that end, I have moved four specific amendments, and I will speak to each of them. Amendment No 1 ensures that the Assembly continues to have ultimate responsibility for the laws that apply to Canberrans. Our function as the legislature is to make laws in the best interests of people of the territory. It is simply not appropriate for us to delegate this function not just to our executive but to other jurisdictions' executives over which we have no control. There is no doubt that there is a place for national laws and that it is desirable for there to be a uniform system across the federation. In the context of energy generation, distribution and retail sale by participants in a national grid, it especially makes sense.

However, that does not mean that the Assembly should surrender responsibility for the laws that regulate something so fundamental as the provision of electricity to Canberrans. The amendment that I am proposing here, amendment No 1, is modelled on the Education and Care Services National Law (ACT) Act 2011, section 6. The point of citing that particular section is that this Assembly on a previous occasion has made a similar amendment to enable this parliament to continue to have oversight on laws that will affect residents that we represent. There is absolutely no reason why this law should be any different. We have done it on previous occasions and we should continue to do it on this occasion.

I think I should perhaps be clear: as a matter of principle, this is not about saying that we want to break down national uniformity, that we want to somehow have the ACT being regularly inconsistent in these agreements. But we certainly want to retain the ability to have a level of oversight. In the process of undertaking a national reform—for example, it may be something that was particularly detrimental to the ACT because of our small size, our particular geography—there may be a basis on which the ACT Assembly would take the unusual decision, but nonetheless a decision, to have the ACT not adopt that particular element of the legislation. I do not think this is a decision the Assembly should take lightly. Our job as representatives is to ensure that we look to the national perspective but particularly represent the people of the ACT.

My amendment No 2, which is similar to amendment 1, ensures that regulations made under the national scheme operate in the same way as the regulation making powers ordinarily delegated to the executive by this Assembly. For all the same reasons, it is not appropriate to delegate our legislative responsibility and oversight entirely to the executive and the executives of other jurisdictions. It is not appropriate to completely abrogate responsibility for the regulations made under that law.

Amendment No 3 changes the nature of the power being delegated to the minister to ensure that local instruments have the same oversight requirements as other regulations made under the act. Given the nature of the instruments and the broad range of issues they cover, it is appropriate that the Assembly continues to have an oversight role. Ordinarily, when we delegate power to make a notifiable instrument it is for a very specific matter where the Assembly has made the clear determination that the particular instrument is relatively minor and operational rather than containing any significant policy matters. It is not the case with these instruments that we can be sure exactly what they will do and that it is appropriate to leave the matter entirely to the minister. Therefore, the Greens believe that the Assembly should have an oversight role.

The fourth and last amendment that I am proposing today is to deal with the regulation making power and now standard practice of including a Henry VIII clause. This is something that has certainly been remarked on by the scrutiny committee on more than one occasion. I have heard Mrs Dunne speak on this issue quite regularly, and rightly so. It is a considerable thing to delegate to the executive the ability to override an enactment of the Assembly. This extends for five years under this proposed legislation. The Greens think there should be an additional limitation on the

delegation to ensure that, where a regulation purports to modify the operation of an enactment of this parliament, we have the opportunity to disallow the regulation before it commences.

We believe that this is an appropriate amendment because it is the middle ground between simply not supporting the clause and the excessive delegation proposed in the bill. What it means is that the minister would have some ability to retain the power to take these sorts of steps, but it would provide the Assembly with an opportunity to subject those decisions to scrutiny. We have a disallowable period where we could come into this place and debate a matter if we felt it was of such concern that it warranted a possible disallowance.

In conclusion, the essence of these proposed amendments is, as I say, not to undermine the approach to national uniformity but, rather, to ensure that as representatives here in the ACT we continue to fulfil our responsibilities and ensure that laws past affecting the residents of the territory have received a suitable level of oversight. We are concerned that, the way the national legislation has been designed, that capability of the Assembly is being removed. I believe that the amendments that I have put forward today give us back that capability whilst continuing to see us operate as part of a national movement.

MR CORBELL (Molonglo—Attorney-General, Minister for Police and Emergency Services and Minister for the Environment and Sustainable Development) (4.43): The government will not be supporting the amendments proposed by Mr Rattenbury. The proposed clauses would impede the operation of the national scheme in the ACT. The point of adopting a framework law is that the framework is the same in all jurisdictions participating. If the Assembly disallows at any point, the national framework starts to splinter. This detracts from commercial certainty of the law for national operators who would consider the ACT market less attractive.

The proposed clause conflicts with the intent of clause 9(1) of the bill. The clause is contrary to the intent of clause 6 of the Australian energy market agreement, which is that each of the parties agrees to further develop and implement a national legislative framework for the energy market comprising the Australian energy market legislation with consistent application and effect within each party's jurisdiction.

The proposed clause is likely to mean that the ACT's implementing legislation will not receive approval through the Ministerial Council on Energy. The ACT may not be able to participate in the NECF if this clause is adopted, thereby derailing all of the improvements that the bill will provide to ACT consumers. The proposed clause is of significant concern to the government. We believe that the most appropriate way to deal with this matter is to adopt the legislation without this provision.

MRS DUNNE (Ginninderra) (4.44): The Canberra Liberals will not be supporting these amendments, not because they are lacking in merit in their own right but for a couple of reasons. Firstly, this piece of legislation has been around for a while. Mr Seselja's office received these amendments this morning, which was fairly late notice from the Greens.

The main reason is that if the proposed amendments are incorporated, the ACT legislation will not be agreed to by the other jurisdictions. There are a number of legal implications—I am advised by Mr Corbell's office—of this. I know that the need for uniformity and national laws creates problems. It is something that the scrutiny committee has discussed on a number of occasions—the extent to which you are locked in or not locked in to national legislation. But the advice that the ACT legislation would not be agreed to by the other jurisdictions is, I think, the clincher for the Canberra Liberals. On that basis, we cannot support these amendments.

Amendments negatived.

Bill, as a whole, agreed to.

Bill agreed to.

National Energy Retail Law (Consequential Amendments) Bill 2012

Debate resumed from 10 May 2012, on motion by **Mr Corbell**:

> That this bill be agreed to in principle.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail stage

Bill, by leave, taken as a whole.

Bill, as a whole, agreed to.

Bill agreed to.

Adjournment

Motion by **Mr Corbell** proposed:

> That the Assembly do now adjourn.

Mr John Desmond Button OAM

MR COE (Ginninderra) (4.47): This evening I would like to pay tribute to Mr John Desmond Button OAM, who passed away on 28 May at the age of 90.

Mr Button's sense of duty was evident throughout his life: whether it was through military service, the law, school boards, veterans groups or numerous other organisations, it was a life of commitment to the community for the benefit of others.

John Desmond Button was born in Neutral Bay in 1921. At the age of 18 Mr Button enlisted in the Royal Australian Navy, just before the beginning of World War II, in August 1939. He served until the end of the war in 1945, including as a communications yeoman on HMAS *Burnie* and HMAS *Napier*.

Professionally, Mr Button was a distinguished solicitor working for the commonwealth in the Crown Solicitor's Office in Sydney from 1945 and also as a stipendiary magistrate in the late 1950s through to 1962. He was also a founding member of the Mallesons Stephen Jaques law firm.

However, as well regarded as his professional career was, it was his personal commitments to many community groups for whom many people will best remember Mr Button.

He was a foundation director of the Vietnam Veterans Trust, which later became the Australian Veterans' Children Assistance Trust.

Members of the Heraldry and Genealogy Society of Canberra will remember Mr Button as being a member since 1991 and actively contributing to the governance regime in place at the organisation. A statement published on the society's website states:

> HAGSOC is indebted to John, who was a former member of the Society, and who voluntarily contributed his professional, specialised expertise to the compilation of the Constitution and Rules …
>
> We can thank John for the Constitution and By-Laws that we use today and which provide the necessary guidance and integrity for the successful management of the Society.

Prior to my election in 2008 I had the privilege of working at the Returned and Services League of Australia's national headquarters. It was in this capacity that I had an association with Mr Button, as he was a long-serving trustee of the organisation. Mr Button's loss will be mourned by all members of the RSL, including those who worked most closely with him in recent years, such as the national president, Rear Admiral Ken Doolan AO RAN; national secretary, Mr Derek Robson AM; chairman of the national trustees, Brigadier John Sheldrick OAM; and the other national trustees.

Mr Button performed the role of honorary legal counsel for over 20 years and represented the RSL on their board of directors. Mr Button also served as a member of the board of Canberra girls grammar school between 1963 and 1966 and again from 1971 to 1977. In 1977 he was the chairman of the school board and would later serve as chair of the Gabriel Foundation board from 1986 to 1989. During this time, as head of the Gabriel Foundation, he would see the development of the Chapel of the Annunciation, which recognised his role at the opening in 1988, through a plaque in the foyer.

Mr Button was awarded the Medal of the Order of Australia, in recognition of his service to the community, in the Queen's birthday honours in 1987.

Mr Button was farewelled at the Canberra girls grammar school chapel in a service led by the former school chaplain, Reverend Robert Wilson, on Saturday, 2 June.

He was father and father-in-law to Christine, Jennie and Jonothan, and Jane and Joao, and grandfather of Karina, James, Cameron, Andrew and Nigel.

Question resolved in the affirmative.

The Assembly adjourned at 4.52 pm.

Schedules of amendments

Schedule 1

Courts Legislation Amendment Bill 2012

Amendments moved by Mrs Dunne

1
Schedule 1, part 1.1
Amendment 1.1
Page 3, line 4—

omit

2
Schedule 1, part 1.1
Amendment 1.3
Page 3, line 13—

omit

3
Schedule 1, part 1.1
Amendment 1.4
Page 5, line 1—

omit

4
Schedule 1, part 1.1
Amendment 1.5
Page 5, line 7—

omit

Schedule 2

National Energy Retail Law (ACT) Bill 2012

Amendments moved by Mr Rattenbury

1
Proposed new clause 6 (1A) to (1C)
Page 4, line 10—

insert

(1A) A law that amends the National Energy Retail Law set out in the schedule to the South Australian Act and is passed by the South Australian Parliament after this Act's notification day must be presented to the Legislative Assembly not later than 6 sitting days after the day it is passed.

(1B) The amending law may be disallowed by the Legislative Assembly in the same way, and within the same period, that a disallowable instrument may be disallowed.

Note See the Legislation Act, s 65 (Disallowance by resolution of Assembly).

(1C) If the amending law is not presented to the Legislative Assembly in accordance with subsection (1A), or is disallowed under

subsection (1B), the National Energy Retail Law applying under subsection (1) is taken—

(a) not to include the amendments made by the amending law; and

(b) to include any provision repealed or amended by the amending law as if the amending law had not been made.

2
Proposed new clause 7 (2) to (4)
Page 4, line 20—

insert

(2) A regulation made under the National Energy Retail Law must be presented to the Legislative Assembly not later than 6 sitting days after the day it is made.

(3) The regulation may be disallowed by the Legislative Assembly in the same way, and within the same period, that a disallowable instrument may be disallowed.

Note See the Legislation Act, s 65 (Disallowance by resolution of Assembly).

(4) If the regulation is not presented to the Legislative Assembly in accordance with subsection (2), or is disallowed under subsection (3)—

(a) if the regulation is not an amending regulation—the regulation is taken to be repealed; or

(b) if the regulation is an amending regulation—the regulations applying under subsection (1) are taken—

(i) not to include the amendments made by the amending regulation; and

(ii) to include any provision repealed or amended by the amending regulation as if the amending regulation had not been made.

3
Clause 24 (3) to (5)
Page 18, line 4—

omit

4
Proposed new clause 63 (4)
Page 28, line 15—

insert

(4) Subject to any disallowance or amendment under the Legislation Act, chapter 7, a regulation under subsection (2) commences—

(a) if there is a motion to disallow the regulation and the motion is negatived by the Legislative Assembly—on the day after the day the motion is negatived; or

(b) on the day after the 6th sitting day after the day it is presented to the Legislative Assembly under that chapter; or

(c) if the regulation provides for a later date or time of commencement—on that date or at that time.