



# Debates

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**Wednesday, 6 June 2012**

**MR SPEAKER** (Mr Rattenbury) took the chair at 10 am and asked members to stand in silence and pray or reflect on their responsibilities to the people of the Australian Capital Territory.

**Planning and Development (Greenhouse Gas Reduction Targets) Amendment Bill 2012**

**Ms Le Couteur**, pursuant to notice, presented the bill and its explanatory statement.

Title read by Clerk.

**MS LE COUTEUR** (Molonglo) (10.01): I move:

That this bill be agreed to in principle.

What I am presenting to the Assembly here today is a bill which seeks to align our planning system with our goal of reducing greenhouse gas emissions.

We all know that the Assembly has committed to the goal of reducing our greenhouse gas emissions by 40 per cent by 2020. What we do not yet know is all the details of how we will achieve this. This bill is about ensuring that what happens in the ACT, the development and construction that happens in the ACT, does not inadvertently make the task harder. It is about ensuring that the way we build the ACT is consistent with our long-term aims.

Underlining the importance of this is information that was recently put out by the US government, by part of the US Department of Commerce, the National Oceanic and Atmospheric Administration. It found that the concentration of carbon dioxide in the atmosphere of Barrow, Alaska, reached 400 parts per million this spring. While atmospheric concentrations have been that high in urban areas, where there is obviously significant production of CO<sub>2</sub>, this is unprecedented in terms of a remote area. It is the first time that a monthly average has achieved the 400 parts per million mark in a remote area. Average global levels of CO<sub>2</sub> were 390.4 parts per million in 2011, according to measurements from the same organisation, NOAA. It believes that it would mean that the average worldwide will reach around 400 parts per million by about 2016. Just by way of comparison, members may like to be reminded that before the industrial revolution started in the 1880s, average global CO<sub>2</sub> concentration was 280 parts per million. As we all know here, carbon dioxide is a greenhouse gas and this is going to significantly affect our climate system. This is already significantly affecting our climate system.

As members may remember, I first presented this bill as an exposure draft in February. Since then I have had discussions with the relevant professional organisations—the Institute of Architects, the Planning Institute, the engineers, the Master Builders Association and the Housing Institute. I have also had discussions with a number of the community councils. I think it is fair to say in summary that all of them felt that,

given the Assembly's commitment to 40 per cent greenhouse gas reduction, some action was needed on new construction. It would also be fair to say that there was no consensus as to the importance of action with respect to new building compared to any other action or the details of how best to do it from a new building point of view.

On that note, I am not saying for one moment that this is in any way going to be the only thing, or possibly even the most important thing, that the ACT needs to do to meet its greenhouse gas target. What I do contend, however, is that it is an essential part of the packet of tools that we will need to have if we are going to address our greenhouse gas emissions in a cost-effective matter. I think that, whatever the differences may be around this Assembly, we are all united in feeling that cost efficiency is a desirable attribute for our greenhouse gas reduction target.

After my consultation I am very confident that the aim of the legislation is a sound one and that it is needed if we are going to meet our target. Another way of making it clearer is that, of course, the ACT's target is not a per capita or a per house target; it is a target for the whole of the ACT. That means that if there are more greenhouse gas emissions from new development, it will make the task for the rest of the ACT harder.

This bill basically, in a one-line sentence, says that new development should be consistent with our 40 per cent greenhouse gas reduction target. One way of doing this, of course, is by ensuring that new buildings are carbon neutral. Fortunately, we actually know that this is possible. We know there are a lot of houses in Canberra that are presently carbon neutral. They are houses which are energy efficient and they buy green power or they generate their own solar electricity to meet their residual energy needs. These are carbon neutral houses currently in Canberra.

Whether it is a house, an office, a shop or whatever, the way for a building to become carbon neutral is fairly clear and straightforward. First off, you build it as efficiently as possible and you use passive solar design if possible. We have been going down this route, obviously, in terms of increasing energy efficiency ratings for houses and other buildings. Secondly, there should be on-site generation of energy from renewable sources. Again the ACT has done a lot in this regard. There are a lot of households—mine included—which have on-site PV generation. Thirdly, you have efficient appliances and light fittings. Fortunately there has been a commonwealth-wide minimum energy performance standards program which has led to a considerable improvement in the energy efficiency of buildings. Members may be aware that the per capita electricity consumption in the ACT has slightly declined in recent years. While it is not totally clear why that is so, having talked to some of the people who have been doing the measurements it seems that one of the most likely reasons is the increased energy efficiency of new appliances and in particular a reduction in stand-by power.

Lastly, having got through all of that, there is purchasing green power for any residual power needs. Once you have done those first three things—you have built efficiently, you have generated on-site if you happen to have a suitable site where you can do it and your appliances and light fittings are all energy efficient—your residual power needs are not going to be very great. In fact for some houses in Canberra the residual power needs are zero.

Recently the commonwealth Department of Climate Change and Energy Efficiency commissioned consultants pitt&sherry to analyse a range of energy efficiency measures for new residential and commercial buildings in Australia by 2015 and 2020. Their results do not assume any government subsidies, although they do assume, of course, a carbon price of \$23 a tonne because this was legislated by the federal government and will be in place very soon. The very good news is that they found there are very significant cost-effective opportunities for energy savings in new commercial buildings from as early as 2015 relative to the BCA 2010 list. They ranged from 50 per cent to 80 per cent savings. The savings were so high in commercial buildings because the energy efficiency requirements of the BCA for commercial buildings are not that high.

There were also options for more energy efficiency and passive solar design for residential buildings. Using these and on-site PV generation was cost effective in most parts of Australia from 2015 and all, including Canberra, from 2020. Because our electricity price is lower than in many other parts of Australia, in fact it was somewhat marginal for the ACT in 2015 but it was still worthwhile. So for residential buildings, going carbon neutral is, or soon will be, cost effective.

Looking on a bigger scale, members may be aware that in the Barangaroo project in Sydney, which is one of the biggest developments planned for Australia, it is planned to have office space for 23,000 people, as well as 800 apartments. The Barangaroo Delivery Authority's goal is to make the precinct the first of its size in the world to be "climate positive". What it means by that is that the site will generate more renewable energy than it uses. It will export energy, it will recycle water and it will export more water than it uses, it thinks. It will have a recycled water service and a waste recycling service. It will only use recycled water for flushing its toilets, irrigation and fire sprinklers. It will discourage the use of cars that use fossil fuels. It will have electric car power stations in car parks, as well as walking and cycling infrastructure and good links to public transport.

Turning to this bill, it is designed to ensure that planning decisions and planning approval processes are consistent with the legislated greenhouse gas reduction targets in the Climate Change and Greenhouse Gas Reduction Act 2010. To achieve this, the bill amends the objects of the act, inserts new requirements for a statement of strategic directions and a range of other development plans, as well as inserting a number of new requirements within the existing Planning and Land Authority functions.

The bill creates new obligations on the Planning and Land Authority and ensures that the planning decisions are made recognising both the impacts of climate change and our obligation to respond to and achieve the legislated greenhouse gas reduction targets in the Climate Change and Greenhouse Gas Reduction Act 2010.

The bill requires larger scale development plans—that is, structure plans, concept plans and estate development plans—to be compatible with the greenhouse gas reduction targets. These plans cover the layout of suburbs, which affects transport planning and building orientation. The bill also requires climate change impact assessments to be undertaken for larger scale impact track development applications.

Apart from impact track developments, the bill does not cover individual building approvals. As members would be aware, the way the planning system is set up means that the Assembly cannot easily change the requirements for individual building approvals. However, the bill does require the planning authority, ACTPLA, to revise the territory plan by December 2013 to ensure that planning is compatible with greenhouse gas targets. The territory plan would then need to be revised every five years after that with the same aim.

I would expect that this revision would lead to a number of changes in the planning codes which would require buildings to be consistent with our greenhouse gas reduction targets. In the short term this may mean a move to a seven-star EER requirement for residential buildings. Effectively, new office buildings in the ACT are built with, at the very least, a 4½ NABERS rating, because the commonwealth will not rent them if they are not. It might require that to move up to a five-star or 5½-star rating. I note that the ACT government in its now postponed plan for a new office building was going higher, I think, with a five-star NABERS rating. So that is quite achievable in the ACT. The bill would also require ACTPLA to report annually on greenhouse gas emissions expected from approved developments.

The planning system sorely needs such changes. The planning committee is currently looking at draft territory plan variation 306, which is a very large document. I have asked, and will ask again, how this code will impact on greenhouse gas emissions. Unfortunately, no-one seems to know. We cannot even say, "It won't make a difference," or, "It will make things worse." We simply do not know. This bill would see a territory plan variation which would address our greenhouse gas reduction target.

Equally, when we decide to do new developments, be they new suburbs, new estates or new infrastructure, no-one seems to look at the impact they are going to have on the ACT's greenhouse gas emissions. Given that we are committed to reducing them, it seems crazy to just keep developing the ACT without any idea of what this is doing to greenhouse gas emissions. This bill would change this, as ACTPLA would look at larger scale developments and also report annually on expected emissions from approved developments.

While I am not optimistic enough to think that this bill will be passed in its present form, I am optimistic enough to think that what it will do is prompt ACTPLA, the government and some parts of the wider community to think about the issue and come up with good ideas to address it. I am pleased to say that while my success rate in actually getting my planning bills passed is not high, my success rate in getting out the ideas behind the bills being implemented is significantly higher. I thank ACTPLA and the planning minister for the cooperation I have had in the past, and hope to have in the future.

In summary I think the idea that new development may well have an impact on greenhouse gas emissions and is something that needs to be considered is an idea whose time has come in the ACT. Given that, I commend this bill to the Assembly.

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

## **Water and Sewerage Regulation (Water Heaters) Amendment Bill 2012**

**Ms Le Couteur**, pursuant to notice, presented the bill and its explanatory statement.

Title read by Clerk.

**MS LE COUTEUR** (Molonglo) (10.16): I move:

That this bill be agreed to in principle.

This is another climate bill. The bill I present to the Assembly today is a bill to amend the Water and Sewerage Regulation 2001, to provide that only efficient, environmentally friendly hot-water systems may be installed in both new and existing homes and houses.

Members may remember that I presented a similar bill in 2009 and, fortunately, with the Liberal Party's support, the part that related to new buildings was passed. This has made a difference in the ACT in that for the last three years only energy efficient hot-water services have been installed in our new houses, and I thank the Liberal Party for its support. That standard, of course, allowed solar hot water, heat pumps, and high-efficiency five-star gas and did not allow electric storage heaters in most circumstances of installations in new homes.

Unfortunately at that stage neither the Liberal nor the Labor parties were prepared to consider anything as far as existing houses were concerned. That was very short sighted because, of course, most houses in the ACT are existing houses. If we want to make a difference we need to look at both new and old. The Greens recognise most of the ACT's housing stock already exists, and that will continue to be the case. Improving our existing housing stock is incredibly important. It was beyond me at the time why neither side supported that part of my bill, but that is the case.

When we passed the legislation last time relating to new houses we got the ACT up to the stage of being with the pack. But we have fallen behind now. In the time since 2009 other jurisdictions have actually worked on hot-water services and we have not. We have ignored the situation, which is very depressing, because I quote from the debate last time. This is what the government said:

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

Let me just repeat this:

... legislation for new and replacement water heaters in class 1 buildings by 1 May 2010 ...

It is now 2012. We still do not have legislation from the government addressing water heaters in existing buildings. This is incredibly disappointing, and this is why I am effectively reintroducing the legislation I had in 2009. The government said it would do the job; the government unfortunately did not do the job.

This is particularly unfortunate because energy efficient hot-water services are one of the things that have been identified time and time again as being cost effective. Yes, there is a higher up-front cost, but over the lifetime of a hot-water service, the person who has the energy efficient hot-water service is well ahead financially. This is one of the reasons I am particularly passionate about it. It is something which is good for the environment, but it is also something that is really good for the people of the ACT, particularly the low income people of the ACT, who should not have to waste their money heating water with very inefficient hot-water services.

I quoted a comment in the previous debate from Dr Hugh Saddler, who most of us in the ACT who are interested in energy matters would be well aware of. He said:

The changes proposed by this Bill could make significant energy savings for Canberra houses. Canberra has a large proportion of houses with gas which still use electric hot water heaters. Converting these houses to efficient hot water systems when the existing system has to be replaced is the low hanging fruit, in terms of lowest cost and highest energy savings. This is particularly prevalent in rental homes and houses, and passing this Bill could significantly reduce energy bills for low income renters.

That is still the case. Low income renters who have the misfortune to have electric storage heaters as their only hot-water service will be advantaged if my bill is passed. For those of us in the Assembly who are concerned about equity and cost of living for low income people in the ACT, I very much urge them to pass this bill. This is a practical thing we can do which will actually reduce costs for low income renters in the ACT.

Moving on to more things about hot water, I note that in the ACT, as I am sure we are all aware, under 70 per cent of our greenhouse gas emissions come from the stationary energy system, including hot-water services. According to pitt&sherry, the residential sector in the ACT was responsible for 31 per cent of emissions in 2008, with hot water contributing 18 per cent of that amount. Hot water is particularly high in the ACT compared to some other jurisdictions because of our cold climate and because, unfortunately, we have not had a good penetration of solar hot-water systems.

In 2010, as we are all aware, the ACT Legislative Assembly passed legislation committing the ACT to reducing greenhouse gas emissions to 40 per cent less than 1990 levels by 2020. In order to meet those targets, we need to take more steps than we have at present. That includes how we use our energy more efficiently, which includes venturing into hot water.



The Council of Australian Governments—COAG—has been dealing with the issue of phasing out greenhouse-intensive hot-water services, and we discussed at some length COAG's efforts in the previous debate in 2009. In the debate in 2009 I suggested that I thought COAG was sometimes being slow and inefficient. Right now, COAG may or may not be slow and inefficient, but I have to say they have been moving faster than we have in the ACT, so I probably should take back any of my previous comments along those lines.

In December 2008 the Ministerial Council on Energy agreed to a number of important initiatives under the national framework for energy efficiency, including a national hot water strategic framework. The framework provides for reduction of greenhouse gas emissions associated with water heating through the specification of minimum energy performance standards for water heaters and phasing out of conventional electric resistance water heaters, except where the emissions intensity of the public electricity supply is low—that is, the Tasmanian exemption—together with a range of information and education measures.

This initiative will deliver lifetime cost savings to households at times of rising energy costs as well as significant CO<sub>2</sub> reductions. This phase-out of conventional electric resistance water heaters is intended to cover all new homes and established homes in gas reticulated areas from 2010, new flats and apartments in gas reticulated areas and established homes in gas non-reticulated areas from 2012.

In December 2010 the Ministerial Council on Energy, which has now been replaced by the Standing Council on Energy and Resources, issued a communique which, among other things, stated that the ministers had agreed to a decision on the regulatory impact statement in the phase-out of greenhouse-intensive water heaters. The December 2010 meeting of the Ministerial Council on Energy also noted the need to ensure a degree of national harmonisation to avoid fragmented regulation as this imposes costs on businesses and consumers with respect to energy efficiency measures.

I will come back to this need for harmonisation, but first I want to look at the regulatory impact statement. The regulatory impact statement for the decision to phase out greenhouse-intensive water heaters in Australian homes was prepared for the national framework for energy efficiency by George Wilkinson and Associates for the National Institute of Economic and Industry Research and is dated 15 November 2010.

The RIS is very comprehensive and identified that the most effective and efficient way to phase out electric water heaters is to regulate against their installation—that is, prohibit their installation except in very restricted circumstances. It is worth noting that replacement sales comprise up to 75 to 80 per cent of the water heater market. The RIS examined the business as usual model, taking into account actual market behaviour based on observed tendencies to replace like with like, resist high capital purchases and underinvestment in more efficient hot-water heaters, the exclusion of electric hot water heaters from the entire replacement market after 2010, which is what the bill was proposing back when the RIS was done—I am just talking about the

date as clearly my bill is not proposing to exclude them after 2010 and we will wait until 2013—and the exclusion of electric hot water heaters from the replacement market in some areas after 2010 and in all areas after 2012.

The cost-benefit analysis took into account the value of renewable energy certificates, otherwise known as RECs, created by solar and heat pump water heaters, as these are legislated until 2030, but did not factor in any other state, territory or commonwealth rebates. Also, of course, given the date of 2010, it did not factor into it the carbon price which will soon be in place throughout Australia.

The analysis showed that solar and heat pump water heaters with high capital costs but also high energy cost savings or natural gas and LPG water heaters with lower capital costs but also lower energy savings would reduce the water heating emissions of the household by 50 or 60 per cent compared with replacing an electric hot-water heater.

According to the RIS the water heaters that would substitute for the electric types excluded from the market could either cost about the same to purchase in a store—for example, LPG—cost slightly more—that is, natural gas or heat pumps—or significantly more—that is, solar. They would cost less to run—that is, solar and heat pumps—about the same—natural gas, and if a household has low water use, LPG—or significantly more—LPG. Given that we have natural gas, of course, in the ACT, I would be very surprised if there were LPG installations in any significant quantity in the ACT.

It is also important to note that the RIS makes the point that this regulation will have particular benefit for people who are renting. This is because older systems will be replaced by more efficient systems and that tenants will have lower energy costs associated with their hot-water systems.

While no-one will be forced to change their existing hot-water system, when their current one breaks down they will not be able to replace an electric storage hot-water heater with another electric storage heater. So when landlords replace older storage heaters with more efficient heaters, they will replace them with something that will hopefully last longer, and certainly will cost less to run, depending on the types of the new systems.

The RIS assumes the service life of electric storage, gas/LPG storage and heat pump storage is about 10 years and 12 years for the gas/LPG instantaneous solar-electric storage, solar gas with in-tank boost. Solar gas with in-line boost has an expected service life of 14 years.

The secretariat of the Standing Committee on Energy and Resources confirmed with my office that the greenhouse-intensive hot-water phase-out commenced from December 2010. This phase-out is being regulated through state and territory plumbing regulations and, of course, that is what I am seeking to work on in my bill. My office has had some discussion with industry, and I will be seeking further comment on this proposal. I have been encouraged that most people see the advantage of harmonised regulations in this area, and I note that South Australia has had similar regulations in place since 2008.

I invite the minister to share with the Assembly the advice he was given by the Ministerial Council on Energy in December 2010 and whether or not the ACT's position was to support the greenhouse-gas-intensive hot-water phase-out. I assume it was, given the statements in 2009 but, given that the ACT has not acted on this, I am not sure. If the ACT did, as I hope it did, support the national phase-out in 2010, I would have to believe it should be eminently feasible for the Assembly to regulate in 2012 so it can take effect in 2013.

My bill will finish the work we tried to start in 2009. It will implement the national agenda as far as hot-water services are concerned and it will be a step towards cost-efficient reduction of greenhouse gas emissions in the Assembly. It will be a step which will reduce costs for hot water for most people in the ACT and, in particular, low income renters. I commend my bill to the Assembly.

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

## **Retirement Villages Bill 2012**

**Ms Porter**, pursuant to notice, presented the bill and its explanatory statement.

Title read by Clerk.

**MS PORTER** (Ginninderra) (10.33): I move:

That this bill be agreed to in principle.

It is with great pleasure that I today introduce the Retirement Villages Bill 2012 which will create a framework for the regulation of retirement villages in the ACT. As members are aware, the purpose of the bill is to protect the rights of retirement village residents while simultaneously facilitating the growth of the retirement village industry in the ACT. Members will recall that I have previously tabled three other documents in relation to retirement villages; namely, "Retirement villages in the ACT: a discussion paper", the exposure draft of the Retirement Villages Bill 2010 and the Retirement Villages Bill 2011.

As members will remember when I tabled the previous bill, I outlined the extensive consultation I have undertaken in relation to this matter to ensure that this bill meets the needs of all stakeholders. I have undertaken extensive research and consultation with residents of retirement villages, managers of retirement villages, owners of retirement villages, relevant peak bodies and associations and members of the general community on a number of occasions. I have also held a roundtable. This roundtable discussion was with the Retirement Village Residents Association, Retirement Village Association, the ACT Council on the Ageing, Seniors Australia, Aged and Community Services Australia, and I have met with ministers and their advisers responsible for retirement villages in other states as well as having conversations with senior members of the ACT legal community.

Forums were organised at which key stakeholders were invited to comment. Some bodies and individuals also commented in writing upon the exposure draft and many more called into my office to share their experiences and opinions. The outcome of this consultation was broad support from interested parties for legislation to govern retirement villages, though there was some disagreement on the exact operation of the provisions.

When I tabled the 2011 bill, this acted as a prompt for a number of interested parties who had not previously spoken to contact my office. These parties identified a number of issues which had not previously been raised with me. Additionally, representations with more extensive commentary were also submitted by those who had previously made submissions. On the basis of this additional information, I made the decision to table a new bill which is strongly rooted in the legislation in place across the border in New South Wales.

To be clear, the reason for this new bill is community consultation. I have listened to the concerns of all stakeholders and they are fully supportive of this direction. This is the bill that meets the needs of the industry, the residents and the peak bodies.

So that members can understand how this bill differs from the Retirement Villages Bill 2011, I will speak on some of the key differences between the two bills. The 2011 bill provides that the Commissioner for Fair Trading will register villages and will discharge a number of related regulatory functions. In contrast, this bill provides that the operators of the village enter their details on land title records and for negative licensing. This means that the responsibilities of regulatory bodies are more limited.

The 2011 bill emphasised a criminal approach to enforcement. This bill focuses on civil redress, coupled with regulatory enforcement, where necessary. Again, this reduces the regulatory burden and also reduces the duplication of costs.

The 2011 bill does not make provision for the prescription of standard form contracts in the retirement village sector. This bill does. This is particularly important, given the initiative in New South Wales to introduce a standard form of contract which will facilitate great comparability between villages. This is important as currently prospective residents have a great difficulty in comparing products.

The 2011 bill does not provide for village rules. This bill does. For those who are unaware, the village rules allow for villages to agree to a set of rules to govern the day-to-day running of the retirement village and its facilities. From my consultation, I know that village rules are very important to residents and in many cases make the life of the village manager much easier. The 2011 bill does not deal consistently with residential contracts where there is a property interest and where there is no property interest. This bill clearly distinguishes between these types of interests.

This bill replaces the restrictive trust system of the 2011 bill with a more simple financial system which ensures that residents are properly protected. The 21-day cooling-off period of the 2011 bill has been replaced with a seven-day cooling-off period in this bill. The reason for this is that considerable concern was expressed

about the potential for uncertainty created by the longer period and the potential this has to discourage investment in the ACT. The 2011 bill provided that older contracts remain outside the bill where they are not consistent with the provisions of the bill. This bill gives detailed guidance about the operation of the law in relation to older contracts.

The 2011 bill conferred broad jurisdiction to the ACAT in relation to retirement village disputes. This jurisdiction extends to disputes involving the title to land, which are more appropriately dealt with in the ACT by the Supreme Court. This bill details guidance about the jurisdiction of the ACAT. The 2011 bill provided that the ACAT may only hear a retirement village dispute if a matter has gone through pre-litigation and mediation processes. This bill ensures that mediation is only undertaken where necessary. However, it potentially allows for that to happen.

The 2011 bill does not expressly include a number of rights which are granted by the code and the retirement village legislation which is in place in other jurisdictions. These rights include the right to secure and safe premises, access to emergency vehicles and, if requested, provision of an emergency plan, quiet enjoyment, personal autonomy, freedom from intimidation, restriction on management access, requirements for management to answer questions, the facilitation of resident involvement in the budget process, prohibition on contracting out, protection from operators' legal costs, and privacy rights in relation to personal information.

The retirement village industry has experienced strong growth in the ACT in the recent past and is anticipated to continue to grow in the future. There are currently around 1,400 retirement village units in 28 retirement villages in the ACT, with more villages expected to be established in the future.

It is important to remember that the operation of retirement villages not only affects those who live and work in them but also has implications for the wider Canberra community. Members will not be surprised to learn that I have been approached by many constituents who are concerned about a family member or friend who is living in a retirement village.

I think it is important to emphasise that, for the most part, living in a retirement village is a very positive experience for residents. However, it is essential that the ACT government act to ensure that all residents and prospective residents are fully informed and have mechanisms in place to deal with issues, as they arise, in a just and expedient manner.

It should be of interest to members to know that currently the ACT is the only Australian state or territory that does not have legislation in place which governs retirement villages. This is of particular importance in light of the *Caring for older Australians* report handed down by the Productivity Commission. The report suggests that states and territories should retain responsibility for retirement villages but states that they should work together to harmonise existing legislation. In this regard, the ACT cannot be part of the conversation unless it has legislation in place to regulate the retirement village industry. However, I note that harmonisation may be some way

off yet. The close alignment of this bill to that of New South Wales will also provide considerable advantage in this conversation, when it happens. This added importance is in addition to concerns about the effectiveness of the current regulatory scheme.

As many within this place will know, retirement villages in the ACT currently operate under the fair trading (retirement villages industry) code of practice 1999. It is apparent to me that the code is unfortunately unable to ensure fair trading in the retirement village industry and has also, in the experience of many residents, proven it is not able to offer sufficient protection to older Canberrans who choose to reside in retirement villages.

Common criticisms of the code include that it fails to provide an adequate framework to guide the operation of retirement villages, that it does not provide efficient or effective processes for supplying appropriate information to prospective residents and current residents of retirement villages and that it contains no workable guide for the resolution of disputes between retirement village operators and residents. This bill seeks to address these concerns, among others, while simultaneously establishing a structure which will facilitate sustainable growth in the retirement village sector for years to come.

This bill deals with many of the key areas of the operation of a retirement village, with a view to providing a comprehensive framework for retirement villages in the ACT. Areas covered by the legislation include representation and information about retirement villages, entry into a retirement village, retirement village residents' contracts, the management of retirement villages, the financial management, the management of disputes in relation to villages, how residents' contracts can be terminated, how residents can leave a village, and protection for the ongoing contribution paid by residents.

With respect to the representation about retirement villages, this bill establishes a structure for the distribution of information to prospective residents and current residents. Giving information to prospective residents is essential because it assists them to make informed decisions about whether retirement village living is right for them. This prevents buyers' remorse, which often manifests in disputes with management and other residents in a retirement village.

Ensuring that current residents have adequate information gives assurance to residents about their village and they are informed about how it operates. They can feel confident it is operating in a way that suits their needs and allows them to participate in the operation of the village, if they choose to do so.

Regarding entry into a retirement village, this bill regulates the payment, acceptance and repayment of waiting list fees. This ensures that residents and management understand how and when waiting list fees are to be used, minimising disputes and facilitating fair trading.

In relation to residents' contracts, the bedrock of the relationship between the retirement village operator and the retirement village resident, this bill establishes a comprehensive process for making of residents' contracts in relation to retirement

villages. As I said earlier, this bill also establishes a cooling-off period to give people an opportunity to think through their decision and make sure that retirement village living is the right option for them. This cooling-off period is complemented by a settling-in period, which I have been advised has been well received in New South Wales. This provides additional flexibility for residents while also guaranteeing that operators are not financially disadvantaged.

With respect to the management of the financial affairs of retirement villages and the management of villages generally, this bill introduces a number of provisions which seek to guarantee that obligations placed on the management and residents are clearly explained. This bill also introduces a process through which a standard form of retirement village contract can be prescribed in the future, which, as I said before, should assist with the comparability of retirement villages in the ACT with New South Wales.

The management of retirement villages refers to an outline for the operation of retirement villages which is set out in the bill. It covers a broad range of matters, including the rights and obligations of residents and management in relation to retirement villages.

Crucially, the bill also makes provision for village rules, which many people in the community were very keen to have included. Village rules will regulate the day-to-day operations of the retirement village and will be the product of cooperation between management and residents.

The financial management of retirement villages relates to capital maintenance and replacement funds as well as the funding of the day-to-day provision of services to residents of the retirement village, amongst other things.

There is provision for the establishment of a residents committee and it sets out the rules that are essential for the successful management of the residents committee. There is a process for the resolution of retirement village disputes. This is crucial because considerable angst is generated when a dispute arises and cannot be quickly and properly resolved.

The bill establishes a comprehensive framework for the termination of contracts as well as providing a detailed set of rules about how residents can leave a retirement village, including how a retirement village resident can sell their right to live in a village, and the implications of their doing so. It also contains provisions designed to protect the ongoing contribution of residents through creating a charge over retirement village land. Again through my consultation, it became evident that many retirement village residents are concerned about their retirement village ceasing operations and that they were concerned that they could, through this happening, lose their life savings.

I would also like to thank the staff of the Parliamentary Counsel for their assistance in drafting this legislation. Here in the Legislative Assembly, members are fortunate to be supported by a number of dedicated professionals to help us in our work, and I would like to recognise the contribution these individuals have made in this process.

I would like to thank former staff members, Emma Smith, Annika Hutchins and Andrew Hunter, for their work on this very important piece of legislation and the former pieces of legislation and the discussion paper and research that went before this, and my current staff, Monica Vannasy, Murielle Zielonka, Charles Njora and Jack Simpson, particularly Jack, for his ongoing assistance in helping me develop this bill. And of course I appreciate the support of my caucus colleagues, particularly the Attorney-General.

I would especially like to thank all those who consulted with me, and I mentioned them before. There are of course many people—residents, the Retirement Village Residents Association, the Retirement Village Association, Council on the Ageing and Seniors Australia in particular. I would like to thank them all for their ongoing commitment to this process, which has been quite long, and they have stuck with it and been most diligent in the way they have consulted with me every step of the way.

I believe this provides an approach which meets the needs of all stakeholders in the retirement village sector. It is the product of extensive consultation, as I said, and I look forward to the support of other members of this place for this essential piece of legislation.

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

## **Electoral (Limits on Gifts) Amendment Bill 2012**

**Ms Hunter**, pursuant to notice, presented the bill and its explanatory statement.

Title read by Clerk.

**MS HUNTER** (Ginninderra—Parliamentary Leader, ACT Greens) (10.49): I move:

That this bill be agreed to in principle.

Last sitting the Assembly passed some very significant changes to the electoral law, and particularly the way political party campaigns are financed in the ACT. We followed New South Wales and Queensland, although without the scandals as a catalyst for action, to create a new scheme to regulate how political parties can generate and spend money and made some very significant reforms that will improve the quality of our democracy.

However, in passing such significant, complex and, in part, controversial legislation, we did make a couple of mistakes along the way. All this bill does is correct those outstanding issues and ensure that, come 1 July, we have a robust scheme ready to be rolled out for this year's election.

The amendments in the bill relate primarily to two issues: the prohibition on donations by anyone other than ACT electors and anonymous donations.



Unfortunately, in the wash-up of all the respective amendments and Assembly support for only part of amendments, we are left with an act that does not quite cover off everything that it needs to. At the moment new section 205I(4) in the amendment act says:

Also, a receiver other than a third-party campaigner must not accept a gift from a person who is not an individual enrolled to vote in the ACT unless the gift is paid into the federal election account.

This provision was supposed to be the second part of an amendment in which the first section set out the details of the federal election account and gave some context for that section to operate in. As the first part of the amendment was not supported by the Assembly, we now have a clause where, although it can probably be implemented, it would certainly be desirable to clarify exactly what it means and how it works. Further, the enforcement provisions for this section are also unclear, and the bill proposes to establish a clear scheme around the prohibition to ensure that there can be no doubt about what is and is not permissible and what action the Electoral Commissioner can take should a breach occur.

The bill provides a revised obligation of depositing the donation in an account kept only for federal election campaigns and a definition of exactly what such an account can be used for. This amendment ensures that not only is it clear exactly what the obligations are but also that the section is not inconsistent with the commonwealth electoral law and that it is within the legislative capacity of the Assembly.

The new sections are modelled on the New South Wales Election Funding, Expenditure and Disclosures Act 1981 and impose the same penalties and enforcement processes as were created by the Assembly in the amendment act passed last sitting in relation to other limitations on donations.

The next part of the bill deals with anonymous donations and addresses a couple of omissions from both the previous bill and amendments made to it during its passage through the Assembly. The previous bill created a new scheme with new definitions; unfortunately, these were not included in the amendments to section 222 of the act. This bill corrects this and ensures that the new definitions do apply and it is clear how the limitation on anonymous gifts applies to all electoral participants. The amendment act passed last sitting also contains an amended reference to anonymous gifts in section 216, and unfortunately the corresponding amendment was not made to section 222. The bill corrects this error and clarifies that the limit on anonymous donations is \$250.

These are primarily technical amendments that do not introduce any new policy; they simply clarify how the scheme will work. For example, one section currently refers to incorrect section numbers. The passage of the bill would avoid the very undesirable situation of the Electoral Commission having to promote a scheme and then, two months later and only two months before an election, having to put out further advice to clarify exactly what can and cannot be done by electoral participants.

For example, at the moment it is not clear exactly what is and is not an anonymous donation, but the commission could probably apply the limitation only to donations of up to \$1,000, which is clearly not what the Assembly intended but is nevertheless the reality of the act we are left with. So having provided that advice, the commission will be forced to issue new advice to participants if we do not correct the error before the 1 July start date.

In presenting this bill let me be clear that the Greens accept our share of the responsibility for the errors that we are addressing in the bill. The reality is that, given the nature of the previous debate and the uncertainty around the outcomes, it was not possible to get everything right at the time. I think we all recognised then that this would be the case during the debate. This bill is not an occasion to revisit the substantive policy issues debated in the last electoral bill; rather, it is simply an administrative exercise to ensure that we have a properly functioning scheme that creates the fewest possible difficulties for candidates, parties and the Electoral Commission.

The Greens think that resolving these issues is urgent—that to leave it to the August sitting would be too late and that to have to amend the act in the middle of the campaign proper would not be a good outcome. It is important that we resolve these issues during this sitting and so I indicated to both parties last week when I provided them with an advance copy of the bill that we intend to move to debate the bill during this sitting.

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

## **Environment and Construction Occupations Legislation (Wood Heaters) Amendment Bill 2012 Exposure draft**

**MS BRESNAN** (Brindabella), by leave: I present the following papers:

Environment and Construction Occupations Legislation (Wood Heaters)  
Amendment Bill 2012—

Exposure draft.

Addressing Wood Heater Pollution in the ACT—Consultation Paper, dated  
1 June 2012.

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

Leave granted.

**MS BRESNAN:** This exposure draft legislation and the discussion paper are about reducing wood smoke pollution in Canberra. The ACT Greens have introduced this legislation because we are concerned about wood smoke pollution. We want to reduce the pollution, and the corresponding health and environmental problems, and ensure a clean and healthy future for Canberra.

This is an issue we have raised throughout this Assembly term and in other Assemblies. We have brought wood smoke pollution to the Assembly as both a matter of public importance and a motion. I have said many times that I do not believe the current approach to wood smoke pollution in the ACT is adequate, particularly from a health perspective.

I hope that this draft legislation and discussion paper will be the beginning of real, positive changes. We have started a community discussion about the best initiatives to address wood smoke pollution in the territory. I hope that I can have productive discussions with the government and the Liberal Party about how to progress these initiatives.

As an inland region with populated valleys, cold winters and a significant number of residential wood heaters, Canberra is particularly affected by wood smoke pollution. In areas like the Tuggeranong valley, wood smoke becomes trapped by temperature inversions which cause it to linger close to the ground and increases its concentration.

The National Environment Protection Council, which is the federal body responsible for air quality, accepts that Canberra has a winter particle pollution problem due to wood heater emissions. This is clearly demonstrated by continued monitoring of particle pollution which shows that particle levels during the colder months of the year are about three times higher than in the warmer months. Analyses of the air in Tuggeranong, from the Monash air monitoring station, show that the advisory standards for particulate matter pollution have been exceeded on numerous occasions due to wood smoke pollution.

You do not need an air quality monitoring station to know that winter wood smoke pollution is a problem in Canberra. Many people make complaints to the government about the wood smoke. In fact recent data shows that in recent winters the government has received over 100 complaints.

The primary motivation for proposing this legislation and the accompanying recommendations is the health impacts caused by wood smoke pollution in Canberra. Wood smoke contains particle matter pollution, also called PM10 and PM2.5. PM2.5 is now considered the most health-hazardous form of air pollution, and it is thought to be responsible for about 20 times as many premature deaths as the next worst pollutant, ozone.

Wood heaters are responsible for the majority of particulate matter pollution in Canberra. In 2010-11 they produced over 70 per cent of particulate matter pollution, with the remainder mostly coming from motor vehicles. It is well established that particulate matter pollution has serious impacts on human health. These impacts include increased mortality, particularly from respiratory and cardiovascular diseases; inflammation of the lungs; increased respiratory illness, such as bronchitis and asthma; adverse effects on cardiovascular systems; and increased medication use and hospitalisation.

The risks from particulate matter pollution are highest for children, older people, and people with heart disease or a lung disorder. It is estimated that one in five Australians already have a lung disorder, including asthma, chronic bronchitis and emphysema.

Medical experts support this view. For example, Professor Richard Ruffin AM, emeritus professor of medicine, provided me with this comment:

Wood-smoke contains particulate matter and gaseous pollutants such as carbon monoxide and oxides of nitrogen which adversely affect respiratory health.

Wood smoke exposure can cause acute exacerbations in people with asthma and Chronic Obstructive Pulmonary Disease. Further, wood smoke exposure can initiate cough and chronic bronchitis and also may affect the normal lung development in children.

Minimizing wood smoke exposure for Australian communities will have a positive impact on current & future health of those communities.

Perhaps the best way to understand the impacts of wood smoke on Canberrans is to hear the stories from Canberrans themselves. I have had many people talk to me about this and I will read just one story as an example:

Wood fire smoke makes me feel unwell. I live in Campbell and most homes in the neighbourhood have chimneys which belt out smoke on any Autumn and Winter night. What I hate most is waking up in the middle of the night coughing and/or having an asthma attack as the smoke enters my home. This happens every time one of my neighbours lights their fire. My child suffers from asthma and allergies and he is affected as well; his eyes in particular burn and sting. I am not able to seal my home and make it airtight so I have no chance of keeping the smoke out.

In addition to addressing the health issues associated with wood heaters, the Greens' initiatives are intended to make environmental improvements. The methane and soot in wood smoke are an acute problem contributing to climate change. Firewood use also impacts on biodiversity and endangered woodlands, with only five per cent of firewood sold in the ACT coming from sustainable plantations.

One of the issues that is often not considered when it comes to firewood use is that a large amount of firewood comes from Australia's woodlands. Woodlands are some of our most threatened ecological communities, particularly as most have already been extensively cleared for agriculture and have slow growth rates. In addition, removing deadwood is recognised as having serious ecological problems as it destroys essential habitats for a variety of native animals and damages the soil by removing nutrients that are important to its health and the ecosystem.

It is necessary to take action to address wood smoke pollution in the ACT because the current approach is inadequate. Currently, the ACT defers to national standards that govern the use of wood heaters. The ACT mandates that wood heaters for sale must be certified to comply with the national emissions standard, which specifies maximum allowable particle emissions of four grams per kilogram of wood burnt. There is no minimum national efficiency standard.

These national standards are inadequate and do not address the health and environmental problems. They are the same standards that have been in place without change since 1999. The allowable emissions of four grams of particulate matter per one kilogram of wood burned are over four times the emissions standards allowed in leading jurisdictions. The national standards do not meet minimum efficiency levels for heaters, despite leading jurisdictions adopting emissions standards of up to 65 per cent.

Moves to strengthen the national standards have failed, making it imperative that the ACT takes action. We need to ensure that ACT residents receive the health and environmental benefits of improved wood heater standards.

Some other jurisdictions in Australia, and many around the world, have recognised the environmental and health impacts and taken action. Some Australian councils have banned wood heaters, some have limited their installation in certain developments, and some have enacted emission controls over and above the national standard.

New Zealand has already taken action, ignoring the emissions limit in the Australian-New Zealand standard and setting its own standard for wood heater emissions. All wood heaters installed in New Zealand's urban environment must meet a minimum emission standard of 1.5 grams per kilogram and efficiency of at least 65 per cent. Some regions of New Zealand have gone further. In Otago all wood heaters have to meet an emissions rating of 0.7 grams per kilogram and 65 per cent efficiency for new and existing heaters, which means that old, noncompliant heaters have to be removed.

The ACT has run a program since 2004 to provide a rebate to residents who exchange their wood heating for gas heating. While this is a good initiative, it is not sufficient to address the problems posed by wood heater pollution in Canberra. It does not deal with the installation of new wood heaters having appropriate emissions and efficiency standards.

The key proposal in this draft legislation is that it would establish new, stricter emissions and efficiency standards that wood heaters must meet before they can be sold in the ACT or installed in an ACT residence.

Over time this would make an important contribution to reducing the particulate pollution created by wood heaters in the ACT, as well as the amount of wood needed for fuel. The standards would bring the ACT in line with jurisdictions that are leading the way in reducing wood smoke pollution to help address health and environmental issues.

The emission standard proposed is one gram per kilogram. The efficiency standard proposed is 65 per cent. The combination of these standards is expected to reduce pollution significantly over time. The standard is regulated by making it an offence for retailers to sell wood heater models that do not meet this standard and by making it an offence for builders to install models that do not meet the standard.

Retailers and builders will be assisted by the government maintaining a list of compliant models on the legislation register, which will be easy to check.

The legislation also proposes a one-year phase-in time in recognition of adjustments that will need to be made by industry and retailers.

As I have said, this is an exposure draft and a series of proposals. I look forward to discussing the details with stakeholders.

These changes will have an important impact on health and pollution. They are in line with the proposals of wood heater experts. Wood heater expert Professor John Todd writes:

We must develop a new generation of woodheaters that burn cleanly when used in people's homes. The next generation must be  $1 \text{ g kg}^{-1}$  or less in order to achieve acceptable air quality in areas with a high proportion of wood-users ...

I will briefly outline some of the other measures that the discussion paper recommends taking, regardless of whether the draft legislation or other proposed options are implemented.

These include introducing mobile air quality monitoring to inform and improve responses to pollution problems; improving local enforcement options to ensure people use wood heaters correctly; improving the way air quality data and the health effects of wood smoke are communicated to Canberrans; and expanding the wood heater replacement program to include low emissions electric heating, and an increased subsidy. I note with these proposals that these are things which have been done in other jurisdictions also.

This consultation paper also suggests several additional measures for community discussion. These include a variety of options. They are not included in the legislation but could potentially form part of it. These additional proposals include ensuring all new wood heaters are sold with information about the health impacts of wood smoke; phasing out noncompliant wood heaters by setting a date by which all wood heaters in the ACT must meet a standard; phasing out noncompliant wood heaters by requiring their removal upon the sale of the premises; allowing the installation of new wood heaters only when they are replacing existing wood heaters, until such time as a new health-based standard has been developed for real-life emissions; and using market mechanisms to reduce wood heater emissions, such as licensing of wood heaters.

The exposure draft and discussion paper are the first step towards making important improvements to air quality in Canberra. I will be having discussions with stakeholders such as industry, community and health groups. I look forward to progressing this legislation and the accompanying recommendations over the coming months.

## **Health—services**

**MR HANSON** (Molonglo) (11.08): I move:

That this Assembly:

- (1) notes that amongst a number of failures across the management of health in the ACT: (a) the percentage of Emergency Department patients seen on time has deteriorated from 78 percent in 2001 to 58 percent in the latest Australian Institute of Health and Welfare (AIHW) Hospital Statistics report;
  - (b) that due to a conflict of interest, Katy Gallagher MLA recently stood aside from investigations into the falsification of Emergency Department results;
  - (c) the median wait time for elective surgery has grown from 44 days in AIHW Hospital Statistics 2000-01 to 76 days in the latest AIHW report;
  - (d) that in 2011 the Auditor-General found that elective surgery “downgrades of patients’ urgency category, often without documented clinical reasons, raised considerable doubts about the reliability and appropriateness of the clinical classifications for patients on the waiting lists”;
  - (e) the Minister for Health denied, then attempted to cover up, serious complaints of bullying at The Canberra Hospital in 2010;
  - (f) the ACT has become chronically short of general practitioners, bulk billing rates are the lowest in the nation and the cost of visiting a general practitioner is the highest in the nation;
  - (g) the Minister for Health misled the community at the 2008 election over her bungled plans to purchase Calvary Hospital and sell Clare Holland House;
  - (h) the Minister for Health broke her 2008 election promise of three nurse-led walk-in clinics and a secure mental health facility;
  - (i) there has been disruption, delay and cost blowouts across numerous health infrastructure projects; and
  - (j) the ACT Visiting Medical Officers Association lost confidence in Katy Gallagher MLA and called for her to be dismissed as Minister for Health; and
- (2) calls on the Minister for Health to explain to the Assembly why access to health care in the ACT has deteriorated under 11 years of the ACT Labor Government.

**MR HANSON** (Molonglo) (11.09): I welcome this opportunity to talk about health services in the ACT, particularly in light of the budget that was passed yesterday and the conversation that we had at the Press Club this morning. We all know that there is

a \$318 million deficit coming up and that in total it is about \$600 million in deficits that we are going to see over the term of this government. We know that this government is good at spending money. There is no question it can spend money. It is really more a question of asking: is it good at delivering services? Are we getting bang for our buck? We are driving the ACT into ever more debt—\$600 million of deficits over this term. Is the government going to be good at delivering services? The judgement, I think, can only be that it is ineffective and it is negligent.

I will now go through a number of issues to explain why I say that and why it is that we have seen this decade of decline in our health system. The minister needs to answer to that. She needs to answer to the many thousands of Canberrans who have waited longer than anyone else in Australia for elective surgery. She needs to answer to the many Canberra families and pensioners who have not been able to get in to see a GP on time or have waited for hours in an emergency department. Indeed, I got away from the budget breakfast earlier, but I believe there were a number of people wanting to see me so they could tell me the stories of woe that they had about their family members who had waited an inordinate number of hours in emergency.

The question is: why has it got so bad? The minister often criticises us but, whenever we say anything bad about health, it is an attack on the staff. Well, it is not, because in many ways it is the staff that bear the brunt. There are two sides to this. There are the patients and there are the staff. When we make criticisms of our health system, it is a criticism of the minister and her government and her management. It is not a criticism of the front-line staff. She needs to recognise that she is the one who has put our front-line staff, in many cases, in an impossible position.

She needs to explain to the community why we should trust her. At the last election, Madam Deputy Speaker, you will remember that she said, “All my plans are on the table.” On 11 October, if I recall, she said, “All of my plans are on the table.” This was in relation to health. That simply was not true, because she had already signed a heads of agreement with the Little Company of Mary for the purchase of Calvary Public Hospital and the sale of Clare Holland House.

That was not a small thing—\$77 million—to acquire a public hospital and offload Clare Holland House in such a manner. I will not use words like “lying” here because I will need to withdraw them, but you could ask yourself: if the minister knew that she had signed a heads of agreement and said to the public on the eve of an election, “All my plans are on the table,” what was she doing?

She has also broken a couple of promises. You will recall she promised that there would be three nurse-led walk-in centres. She has delivered one. She then tried to do some tricky stuff and make it look like three were coming, but that was never the case. At best, we might see two in the next term of this government. So that was a broken promise.

There was a broken promise on the secure mental health facility. That is meant to be open; that is meant to be up and running, but it is not. We still do not see funding for that. We see funding in the budget for, I think, design, but we still do not see any funding for bricks and mortar on a project that the government promised would be open and operating right now.



What we have seen is a mislead and broken promises. The electorate will question why they should trust this minister. Even if she does go ahead with these projects that she promised, should they trust her that they will be operating on time and on budget? Look at the evidence—be it the women's and children's hospital, the bush healing farm, the Canberra Hospital car park or any number of projects—and ask whether they will be delivered on time or on budget.

She needs to explain to patients why they got lost in the system, and we have seen numerous examples of that. I think she needs to explain why it is that people were bullied in her hospital and she protected the bullies. She needs to explain that. She needs to explain why elective surgery patients were downgraded without reason. She needs to explain why it is that she could not even put emergency department data in the budget that was tabled yesterday, because it has been doctored and falsified. She came in here with last year's budget, all the annual reports and the quarterly reports and, waving them, said, "Look how good emergency departments are." That was all based on a lie. It was based on doctored information. I think she needs to explain that to the community.

Let us go into a little more detail and have a look at the declining state of our health system, the decline over a decade. Let us turn first to the ED. When we say that it has gone from one of the best in the country to one of the worst, let us have a look at the facts. We go to the AIHW and the reports they put out on hospital statistics. If you look at 2000-01 and compare it to the 2011 report, when you look at the total numbers you will see that 78 per cent of patients were seen on time. That was the legacy of the Liberals—78 per cent were seen on time.

It was actually the best in the country. I refer you to it. It is at table 4.11—the best in the country, and by some way, in actual fact. It was 10 per cent better than the next best. Let us see what the sorry state is in the last report. It was 58 per cent, the second worst behind the Northern Territory. So we have gone from the best to the worst. The minister will say, "We haven't." We have. We still do not know what the state is because the figures that have been presented by the minister are dodgy.

Let us talk to that. What a shameful episode. Emergency department figures are not inconsequential. They are life and death. The *Medical Journal of Australia* in 2012 published an article that showed that the cutting of emergency department waiting times in WA had saved lives. What then happened is that AIHW, as I said, came out and showed that we had the worst emergency department times in the history of the ACT and the second worst in the nation behind the Northern Territory. What happened later that day? The minister comes out and goes: "I've got some other figures. Don't worry about the AIHW. I've got some other figures here based on my report. Trust me; they're much better." Let us listen to the quote:

... the figures contained in this report have been superseded by the more recent figures released today as part of the Report Card.

More recent figures that were doctored. Then there was:

... we are now adding an Emergency Department Report Card to provide even more information to the public ...

False information. No doubt the minister would want to leave the chamber while I am saying this. She said:

I'm pleased to see the Report Card for August 2011 showing solid improvements in performance by the Canberra Hospital.

That was not true. That was based on a lie. That was based on doctored information because on 24 April—whoops, whoops—the Health Directorate came forward and said: “It’s all been doctored. This is all based on false information.” A week later the minister—she took a week; I actually had to probe for this and start asking questions—came out and said, “I’m standing aside because the person doing the doctoring has got a close family relationship with my family.” She was stepping aside. The nepotism. This is why you need a change of government. Ultimately, what you have seen with this government is that it has got very close to people in the bureaucracy. We have got to a point where people in the bureaucracy have been doctoring figures and we still do not know why.

So we called on the government to appoint an inquiry under the Inquiries Act. That was blocked—no surprise there—by Meredith Hunter and Katy Gallagher. We know that they met and discussed this issue before it was debated in the Assembly. Before the information was released to the public there was a deal stitched up between Katy and Meredith, no doubt, Madam Deputy Speaker. But the question remains: what results were falsified? Who was involved? Why were they falsified and what political influence, direct or indirect, was there? We wanted a proper board of inquiry to look into this. I am still disappointed that that did not occur but the Auditor-General is investigating.

Let us not forget the human face, because this is not just about statistics. This is about the women, the children and the elderly who have been waiting in our emergency department longer than anybody else in the nation and they have been lied to about it. While they have been waiting there for hours, the minister has been out saying: “No, you haven’t been. You haven’t been waiting that long. You’ve been waiting far less.” It is no wonder they have lost faith in this government. It is not the first time.

I will talk about elective surgery figures. What you will find there, using the same AIHW hospital statistics, is that when this government took over, the median wait time was 44 days. It is now 76 days, against the national average of 36 days, and is the worst in the nation—the longest waiting times in the nation. We are going to have to wait for the next report to see what it is because I and my colleagues—and I think the majority of people in this community—will no longer trust or rely on the latest report card from Katy Gallagher: “Trust me. Don’t listen to the AIHW. Here are some new statistics from Katy Gallagher based on a lie for ED.”

How can we trust the elective surgery result, particularly when you consider what the Auditor-General found in January 2011? I will quote from that report:

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

... 250 patients in Category 1 were reclassified and a significant number of these reclassifications (97 percent) occurred without documented clinical reasons;

And some other select quotes: "no evidence of having been approved by a doctor", "downgrades of a patient's urgency, often without documented clinical reasons", "raised considerable doubts about the reliability and appropriateness of the clinical classifications for patients on the waiting lists". So dodgy elective surgery, dodgy EDs and appalling results—figures that have nearly doubled since this government took office in terms of waiting times. What we are seeing with elective surgery and the emergency department is this big cash splash: "Let's try and make it look better, particularly with elective surgery. Let's shovel it out to the private sector because we've broken the public sector when it comes to elective surgery."

We have had a decade of pain. This was caused by Labor because it was Jon Stanhope in 2003, when he cut funding, who said, "There will be pain." There has been pain. The pain has been suffered and inflicted on the ACT community who wait longer than anyone else in the nation for emergency department treatment or elective surgery.

When the doctors complained—and Katy Gallagher was in here yesterday complaining and saying, "Don't attack the staff"—and came forward and said, "We've been bullied; 13 of our colleagues have resigned because we've been bullied," Katy Gallagher attacked them. She denied there were any problems and then attacked them. Let me quote from Katy Gallagher when these allegations were first aired:

... stop throwing stones and damaging the unit ...

... all I've seen is a lot of mud being slung around and no substantiation.

No substantiation, just mud-slinging. They then attacked the doctors. They threatened them with the Medical Board, dredging through the last 10 years of Medical Board reviews. This is Stanhope: "The external expert reviewer also do an audit of all complaints to the medical boards current and say over the past 10 years." It was a threat. It was seen by the doctors as a threat because that is what it was. But then the clinical review came out and it was damning. It said:

There is evidence of systemic reticence to address staff performance issues ...

an apparent lack of cohesion ...

considerable confusion ...

the chain of command often fails ...

systemic and long-standing reticence by management to address disruptive or inappropriate behaviour ...

... midwifery staff reported they had discussed their concerns ... they did not believe these issues were addressed.

Management team members ... acknowledged that they had received complaints about inappropriate behaviour by a ... clinician ...

But nothing was done. It was just Katy Gallagher denying and then attacking. Even after that report—four days after that report that conclusively said that allegations had been made, that the complaints had been made and ignored—Katy Gallagher came out and said, “You can’t investigate allegations that don’t exist.” She was still denying it after that report. Why was she? It has never come out why she hid it under the Public Interest Disclosure Act. We wanted a board of inquiry. Again, the Greens blocked that. Was there any conflict of interest there, I wonder? The minister was desperate to hide what had gone on in this case; just as she has been with the emergency department doctoring. I could go on with GPs, the Calvary hospital debacle, all the broken promises, the failed infrastructure delivery and the VMOs that have called for her resignation, but I will leave that to my colleagues. (*Time expired.*)

**MS GALLAGHER** (Molonglo—Chief Minister, Minister for Health and Minister for Territory and Municipal Services) (11.24): The government will not be supporting the Liberal Party’s motion today, and I will go through the motion bit by bit.

The motion is really putting on paper the outrageous and offensive advert that the Liberal Party are running in their attempt to damage my credibility. Good luck with that; I know you have to do it and we look forward to that continuing. That very positive campaign that Mr Seselja wanted to see went out the door at the first hurdle.

The issues around the health system are important and do require the Assembly to have the opportunity to debate them, but they also need to be seen in the context of the health system, the rebuild that we are doing of the health system and indeed the demand that has come. If you listened to Mr Hanson, you would not think there had been any increase in demand for health services at all over the course of this government—well, none that he is prepared to acknowledge—nor would you imagine that there had been one single positive improvement to the health system over the last few years, because you never hear that. He gets stuck in the speech—

*Mr Hanson interjecting—*

**MS GALLAGHER:** that we hear time and time again in this place and refuses to acknowledge that the health system in 2012 is completely different from the health system of 2001. And, yes, I have never, ever said that there are—

*Mr Hanson interjecting—*

**MS GALLAGHER:** Madam Deputy Speaker, I listened to Mr Hanson in silence.

**MADAM DEPUTY SPEAKER:** I agree.

**MS GALLAGHER:** I know he is incapable of showing respect to other members in this place—indeed, getting a lecture from him about bullying is laughable—but I would urge members to give other members the respect they deserve and enable them to provide their comments without interruption.

**MADAM DEPUTY SPEAKER:** Yes. Stop the clock, Clerk, please. I was just about to warn you, Mr Hanson, because you were going to start again the same way as you were yesterday. So I ask you, and other members of this place on both sides of the house, not to interrupt Ms Gallagher when she is speaking.

**MS GALLAGHER:** Thank you, Madam Deputy Speaker. This government has worked hard to make the correct investments in the health system, to build the health system that we need for now and into the future, and I have done this consistently as the minister with responsibility for this portfolio area over the last five or six years.

What we know about the emergency department in particular is that we are seeing more and more presentations there every day. This year is building on last year, which is building on the year before. We also know that our less urgent categories, categories 4 and 5, are increasing. They now make up 59 per cent of all of the presentations to the emergency department, and those presentations into the emergency department that do not require admission to an in-patient bed are also much higher here than in the rest of the country.

There are some issues around being a small town with two hospitals serving a region. If you look at every small jurisdiction in terms of how they manage the emergency department there are particular and individual challenges, and the ACT is no different. As we continue to build those services—and we are the major tertiary referral centre for the region—we will continue to see that type of pressure on our emergency departments here.

In addition, the emergency department timeliness is not only about resources in the emergency department; it is around providing extra capacity in the hospital. The further 40 beds, announced yesterday, to be opened across the public hospital system here will build on the 256 beds that we have put into the hospital.

We have seen incredible changes in the health system over the term of this government. I think when we came in the elective surgery load was about 6,000 operations a year; it now exceeds 11,000 and, contrary to what Mr Hanson will say, the majority of that increase has not been seen in the private sector. Probably more than 10½ thousand of those 11,000-odd operations are delivered in the public system. But, yes, we are looking to the private system to help in areas of long waits, low acuity—that is, less serious conditions—and where the volumes can support the private sector being interested.

We are seeing improvements in the median wait time, and importantly we are seeing fewer people on the waiting list. At the moment the waiting list, as a measure of the

numbers of people waiting for surgery as opposed to the median wait time which is the measure of people who have had their surgery, as a proportion of Canberrans is lower than it was in 2001. So that means fewer Canberrans are waiting for their surgery than they were under the previous government. But do not let those numbers get in the way of a good argument!

We have seen a significant reduction in the number of patients waiting for surgery. We have seen a significant reduction in the number of patients waiting longer than the recommended times. And we do this against the background of no consistency in waiting list management data across the country. We know that in some jurisdictions they do not add particular surgical specialties to their waiting list. We know that in New South Wales they treat their category 3 patients quite differently and a number of them are getting access to surgery within five days. We do all of those things against the backdrop that there is no consistency; you cannot measure apples with apples. Indeed, every health minister in the country acknowledges that is the case.

We have built up new services in the emergency department, across the hospital, in the community setting. We are offering more services than ever before. We are building a cancer service here for the region, to reduce the number of patients who need to travel interstate for care. We have got services being offered here and we have seen incredible increases in the numbers of doctors and nurses employed and providing those services here, and that is because we have placed it as a priority.

Running a health system is not without issues. Health ministers do not tend to last very long. Ask any health minister around the country. Many of them relish the opportunity of leaving the portfolio, because of the nature of the portfolio and the challenges that are there. But I, as a Canberran and as someone who is incredibly committed—

*Mr Hanson interjecting—*

**MADAM DEPUTY SPEAKER:** Mr Hanson!

**MS GALLAGHER:** to the health system here and to building a health system that is here for my children and their children, am determined to see through a number of the reforms that I have started. Yes, there will be people who do not like that; the president of the VMOA, who as far as I know is the only doctor that has called for my resignation, is one of those people. I do not think it is any secret to anyone in this place that Dr Hughes does not like me. What a shock. I know the Liberal Party will use that more broadly for their personal vicious attacks on me, and that is fine.

But let us put this in the context of the shortage of general practitioners being levelled at my feet. It is interesting—and, again, do not let figures get in the way of a good argument—that the number of GPs per population has remained stable over the last 10 years. I think it is exactly the same as it was when the Liberals were in power. We are seeing positive improvements there, and with the graduates out of the medical school flowing through into the system there will be continued progress.

**Mr Hanson:** Set up by Tony Abbott—hear, hear!

**MADAM DEPUTY SPEAKER:** Mr Hanson!

**MS GALLAGHER:** Yes, the federal Liberal Party started that, after years of starving medical schools, which led to the shortage.

*Opposition members interjecting—*

**MS GALLAGHER:** Again, do not let the facts get in the way, Mr Hanson. Yes, there was no growth in medical students when there needed to be. They fixed it and Rudd, as Prime Minister, put more effort in there. And now we have got the situation where we will have more doctors than we have training places, but overall it is a positive for the system and we are seeing improvements in the GP rates.

Indeed, Mr Hanson, I think if you go back you will also find that the GP bulk-billing rate was the lowest in the country in 2001 as well—and those are not issues that are within the control of the ACT government or within our responsibility. But, again, do not let a good fact get in the way of a vicious argument.

*Members interjecting—*

**MS GALLAGHER:** It is actually my time to speak at the moment. Mr Doszpot and all of you can have your opportunity. But—

**MADAM DEPUTY SPEAKER:** Ms Gallagher—

**MS GALLAGHER:** in terms of the allegations that Mr Hanson—

**MADAM DEPUTY SPEAKER:** Stop the clock, please. Ms Gallagher, sit down. The noise is incredible and I can hardly hear what Ms Gallagher is saying. Obviously you are not interested in what she is saying. I think other members might be. It is just not acceptable, the way you are behaving. So the next person to interject, loudly or otherwise, across the chamber I will warn, because I have asked you to hear the minister in silence before and you have refused to do this.

**Mr Seselja:** Point—

**MS GALLAGHER:** Sit down, Mr Seselja.

**Mr Seselja:** I am taking a point of order, so thank you for your advice, Ms Gallagher. The point of order, Deputy Speaker, is that no-one actually has interjected since you directed that the Canberra Liberals cannot interject when the Chief Minister is speaking. There was conversation, which is pretty common in this place, and Ms Gallagher was pretty clearly heard. So I am not quite sure what the new standard is when the Chief Minister is upset about people speaking across the chamber, but it does seem extraordinary. Conversations go on in this place all the time. No-one has interjected since you asked us not to. Are you really asking us to accept that the new standard for a sensitive Chief Minister is complete silence when she is speaking?

**MADAM DEPUTY SPEAKER:** Sit down. There is no new standard. All members should be heard in silence when they speak, Mr Seselja, and it is not true that no-one has interjected. Mr Hanson interjected twice directly across the chamber. If you want to check the *Hansard* later, you can see it, I am sure, if it was recorded on *Hansard*. Twice I said “Mr Hanson” quite loudly, to let him know that I had heard his interjection across the chamber; Mr Doszpot, more quietly, but certainly he interjected. He was not having a conversation with anybody; he was directing his remarks across the chamber. Obviously you are having your conversations, quite loudly, with each other, and that is not the way you should behave, speaking across the chamber when someone has got the call. It is most impolite and not respectful at all. People have conversations, but they should be kept to a minimum and kept at a level where other people can actually hear the person speaking. We should be able to hear that person speak. I am sorry to tell you that interjections were continuing, Mr Seselja, and the next person that interjects I will warn.

**MS GALLAGHER:** Thank you, Madam Deputy Speaker. In Mr Hanson’s speech he accused me of being responsible for the data changes at the emergency department in Canberra Hospital. I note that that is not an allegation that he has made outside the chamber. He also accuses me of nepotism. He used the word “nepotism”. As everyone knows, nepotism is defined as showing favouritism to a relative regardless of any merit. Again, Mr Hanson, I would challenge you to say that outside and show any evidence you have for that. What you said is serious. You said that I was responsible for that and that there was nepotism involved—

**Mr Smyth:** That is ridiculous.

**MS GALLAGHER:** Mr Smyth, I am not sure if you were here, but that is what was said, and he has not said it outside the chamber. So what he needs to do is repeat, outside, the speech he has given in here and see what happens, because that is totally unfair.

Have all the fun you would like with this issue, Mr Hanson—have all the fun you would like—but go outside and make those claims that you have just made in here. They are cowardly claims. They are claims that will never be backed up by any evidence.

**Mr Seselja:** Point of order, Madam Deputy Speaker. We know the Chief Minister is particularly sensitive at the moment and she is lashing out, but the term “cowardly” should be withdrawn. She does complain a lot. She has been complaining a lot about the attacks on her. Maybe she should actually stick to the parliamentary standards and withdraw that.

**MADAM DEPUTY SPEAKER:** Mr Seselja, I did not hear Ms Gallagher call—

*Opposition members interjecting—*

**MADAM DEPUTY SPEAKER:** Excuse me. Do you mind if I respond? Stop the clock. I did not actually hear Ms Gallagher say that the person was cowardly. I heard



her say that the claim was cowardly. I am not entirely sure that that is not acceptable. So I will invite you to continue, Ms Gallagher.

**MS GALLAGHER:** Thank you, Madam Deputy Speaker. All of the allegations that Mr Hanson has levelled at me, and indeed at members of my family, are without any evidence or without any merit. There is an Auditor-General's inquiry into the matter around the data changes at the Canberra Hospital. I wrote to the Auditor-General seeking that inquiry. I have provided the Auditor-General with all of the information, if she has not received it already, that has been provided to me over the last 18 months around emergency department data, to show and indicate to her the information that I have been provided with. That matter is active and will be concluded, I understand, hopefully in the not-too-distant future, and that surely will provide Mr Hanson with all of the information that he has been seeking and that he would have us believe that he has been denied; that is simply not correct either.

We have a lot to be proud of in relation to our health system here. It is a health system that will be envied by many Australians. I am not sensitive at all in terms of what the Leader of the Opposition is claiming. I am not sensitive at all. I have been around here for a long time. I understand the game that will be played. I understand the focus that I will attract from the Liberal Party. I understand all of that. That is politics. But actually advertising that we have got the worst health system in the country is equal to Canberra bashing, and that is what they are engaging in. I saw it in Mr Smyth's media release last night attacking the budget—there, in one of the lines was, "We have the worst health system in the country." There it was. They are all putting their hand up. They are all rushing that message out the door.

Whilst you are trying to attack me, by all means—I almost look forward to it—the issue is that we do not have the worst public health system in the country. It is simply not true. On any measure it is not true. If you measure a health system on outcomes, it is not true. For you to take out paid advertising to run that nasty, offensive message is outrageous, and unprecedented I would imagine. In a time when all—

**Mr Doszpot:** The truth hurts, Katy.

**MS GALLAGHER:** It does not hurt, Mr Doszpot. In fact, I was talking with my four-year-old about it last night. She saw the ad and she thought that my outfit was nice, my hair was nice but that the music was very scary. And I said, "Well, that is a pretty reasonable assessment."

*Mr Doszpot interjecting—*

**MADAM DEPUTY SPEAKER:** Mr Doszpot!

**MS GALLAGHER:** It does not hurt.

*Mr Hanson interjecting—*

**MADAM DEPUTY SPEAKER:** Mr Hanson!

**MS GALLAGHER:** In fact, it does not hurt. What bothers me is the constant talking down of the health system. That bothers me. And it does not bother me because I am the Minister for Health or because I am your political opponent; it bothers me because of what it says about confidence in this city—the message that it projects from political leaders inside the ACT to people outside the ACT. That is what bothers me, and it bothers me from the point of view of the staff who work there. And do not for a minute think that that does not affect them. You cannot have those messages going out and it not—(*Time expired.*)

**MR SESELJA** (Molonglo—Leader of the Opposition) (11.42): We see Ms Gallagher now as she leaves the chamber to avoid having a debate. We see Ms Gallagher's standards in action. Katy Gallagher thinks it is all about her, because she is now trying to say that, if you go after her record, you are bashing Canberra. To go after Katy Gallagher and her record over the last six years as health minister and this government's record over the last 11 years is somehow Canberra bashing. I will tell you what, the Labor Party is not Canberra. The people that are Canberra deserve better than they are getting under this government and under this minister.

Katy Gallagher has become an expert at trying to hide behind her staff and hide behind ridiculous notions that to go after her government is to bash Canberra. What an outrage! Do you think we are going to resile from keeping this government accountable? The truth does hurt. It hurts those people who have been suffering in our health system as a result of Katy Gallagher's mismanagement. It is her responsibility.

She tries to hide behind everyone. Yesterday in question time she tried to hide behind her public servants, hide behind the hospital workers. She said, "You are going after them." No, we are going after the minister who is responsible, the minister who has overseen a health system which was about the best in the country, which was amongst the best in the country, and has gone backwards at a rate of knots.

I note that in her ranting question time and in her 15 minutes today, she has not been able to dispute any of the facts. She has not been able to dispute one of the facts. The facts speak for themselves. Emergency times have gone backwards. Elective surgery times have gone backwards. They are the worst in the country. We can ask ourselves why when we see the way this minister hides from responsibility, shirks responsibility, bullies those staff who dare speak out.

**Dr Bourke:** A point of order, Madam Deputy Speaker.

**MR SESELJA:** We saw it—stop the clock, Madam Deputy Speaker, please.

**MADAM DEPUTY SPEAKER:** Mr Seselja, would you sit down please?

**MR SESELJA:** We are just going to run down my time with spurious points of order.

**Dr Bourke:** Madam Deputy Speaker, I believe the allegation of the opposition leader about the Chief Minister bullying staff is unparliamentary and I ask him to withdraw it.

**MR SESELJA:** No, it is not.

**Mr Hanson:** On the point of order, Madam Deputy Speaker, clearly it is not. It is a substantive matter. It is a part of the motion. I think that it is being dealt with appropriately. It has not been used before as unparliamentary language. There has been no precedent for that. We have certain terms that are used such as liar or calling someone a coward. But it is simply raising an issue of bullying, which is not unparliamentary. There is no point of order.

**Dr Bourke:** On the point of order, Madam Deputy Speaker, bullying is an offence under the Work Health and Safety Act—

*Opposition members interjecting—*

**Dr Bourke:** and it is, therefore, alleging unparliamentary behaviour.

**MADAM DEPUTY SPEAKER:** Members! Dr Bourke, are you finished?

**Dr Bourke:** Yes.

**Mrs Dunne:** Yes, he is.

**MADAM DEPUTY SPEAKER:** I do not need your advice. I asked Dr Bourke if he was finished. I did not hear Mr Seselja actually call the health minister a bully. I heard him say that she had bullied other people outside this place but I did not hear him say that she was a bully, but I will keep my ear open for that. Mr Seselja.

**MR SESELJA:** Thank you, Madam Deputy Speaker. That is exactly what has happened. And we saw it from both the current Chief Minister and the former Chief Minister. Mr Hanson outlined it in his speech. When people—doctors—raised legitimate concerns, Katy Gallagher went after them. She went after them publicly. Jon Stanhope threatened to go through a muckraking exercise to see if he could find any dirt on them.

That is how this government treated people who are trying to make the system better. They are whistleblowers, if you like—people who go out there and say something is not right in the system. If you were fair dinkum about fixing it you would have listened to those people. You would not have doctors groups calling for your resignation. That does not happen very often in the ACT. There are many groups who get very concerned with various actions from this government. But it has been very rare, in my experience, to hear of respected industry groups calling for the resignation of a minister, and Katy Gallagher takes that honour as a health minister who has so badly lost the confidence of doctors that they called for her resignation.

Ms Gallagher thinks that it is all about her when the community is lied to. We heard it on radio the other day. We have got this scandal at Canberra Hospital where Canberrans have been lied to about their hospital system. They have been lied to about how long they have to wait. They have been told that their experience is not real

because false figures have been put out by this government and by this minister. What does Katy Gallagher do when she is asked about it? She says: “Yes, it has been very hard on me. It has been very hard on me. Just ask my colleagues. If you spoke to my colleagues you would have seen just how hard it was on me, Katy Gallagher.” Well, it is not about whether it is hard on Katy Gallagher. It is about the patients. It is about the community. It is about how they have been deceived by this government.

Firstly, they get poor treatment and then they get lied to about that poor treatment. Does Katy Gallagher really not get that? Where was the apology to the community? Where was the contrition? Instead of focusing on how she felt about it and how politically it may have hurt her, where is the contrition for what her government had done?

It is not the first time. We have seen other examples. For example, the Auditor-General found that downgrades of patients’ urgency categories, often without documented clinical reasons, raised considerable doubts about the reliability and appropriateness of the clinical classifications of patients on the waiting list.

There is a pattern here, Madam Deputy Speaker. It is a pattern of deception by this government. It is not just one rogue operator because the Auditor-General has already said that there are considerable doubts in other areas. They take their lead from their minister. This is a minister who has gone to elections and said one thing and done the complete opposite after the election. She has hidden the truth at elections. It has become standard for her to do that.

In 2004 there was the infamous school closures promise. We were told that there would be no school closures. Six weeks after the election she broke that promise. I think she beat Julia Gillard to the punch in terms of the speed of that broken promise. No school closures and they closed 23. In 2008, not to be outdone, she was negotiating to buy Calvary. It would have been disastrous. It would have \$77 million thrown away. She said she had put all her health plans on the table but she did not share that one. How is the honesty of this minister?

When we look at why things are wrong here, when we look at why things are not going well in our health system, do we really think it is just one or two rogue operators or are they getting a very strong signal from their minister that hiding the truth, fudging the truth, shifting the truth is acceptable? This minister has done it politically, has she not? She has done it in 2004 on schools. She has done it in 2008 on Calvary Hospital. That is the record in the lead-up to the elections—say anything to get through that news cycle, say anything to get through that election and you can worry about keeping the promise or abandoning the promise later on.

We have got a very strong signal from Katy Gallagher. When we look at the performance of our health system under this government, it does not make for pretty reading. Katy Gallagher does not like it when we talk about it. She would prefer us to talk about the fact that they have invested, they have spent, I think we were told by the Treasurer yesterday, an extra 158 per cent in health. Yet they spend \$10 million on an MRI scanner that sits there for six months.

How well are they spending our money in health? How well are they spending our money? How many other examples are there where they have wasted money because they simply have failed to manage it? They have created dysfunction by bullying doctors. They have covered up that bullying. They have made outrageous decisions in terms of things like that MRI scanner. We heard this week that there was a blackout that interrupted brain surgery at the Canberra Hospital. How is the management from the top on these issues? It is not there and that is why we have seen it go backwards.

They can talk about what they spend but let us talk about the results. The results speak for themselves. We have gone from having one of the best health systems in the country to having the worst when it comes to elective surgery and when it comes to emergency surgery waiting lists. We have seen the 10-year war in obstetrics. We have seen time after time that when people try and fix it they get bullied. There is the leadership from the minister. Those are the moments for leadership. When those doctors spoke out, the moment was there for Katy Gallagher to step up, push through her concerns about some negative publicity, and say: "I want to work with you. I want to work with you to fix it."

That would have been the right response. That would have been a leadership response. But what did Katy do? She attacked them. We know she attacked them unfairly, unfoundedly and we know that their concerns were valid. We know that they had valid concerns and then she proceeded to cover up the inquiry.

Madam Deputy Speaker, this motion should be supported. It should be supported because 11 years is enough of this kind of management of the health system, and it is not about Katy Gallagher. It is her responsibility; it is her responsibility to the community. That community have suffered in this 11 years. They deserve better and that is why this motion should be supported. (*Time expired.*)

**MS BRESNAN** (Brindabella) (11.54): The Greens will not be supporting the motion today. The thing that needs to be emphasised with the ACT health system is that, yes, we do not measure up well in some areas but in others we do. In certain measures we might not be the best in the country but in other areas we are the best, and that is the nature of any health system.

The debate and the portrayal in the media continually go to areas where we can give a number or a figure. The point I have consistently made is that all areas of the health system are important but we focus only on certain areas, at the expense of others. Yes, elective surgery is important. For someone needing particular surgery and having to wait for that when it impacts on their life, that is distressing. Emergency department waiting times are also important. But it is important to acknowledge, which this motion does not, that there is a triage system and that the ACT measures well in some categories but not in others.

I have also expressed my concern, as have many health groups and health professionals, about ED waiting times coming down to four hours and having payments attached to those particular waiting times. This measure and others attached to health tell us very little, almost nothing in some instances, about patient outcomes.

And there have also been concerns expressed around the level of pressure it places on the system itself. That is not just something I have raised but many health professional groups have raised, particularly in relation to the four-hour measure. It is something we have now, which has come in place with supposed hospital reorganisation measures that have come in place federally. But it is something we remain concerned about. And I think that needs to be acknowledged in this debate.

The Greens are concerned about the reasons why the person in the emergency department decided to change the data and want to see the outcome of those investigations that have been undertaken. On that point, the Greens consistently said publicly that the best place for such an inquiry to be conducted was with the Auditor-General, and this is occurring. Contrary to claims as fact by the Liberals that there will be no inquiry, there is an inquiry occurring through the Auditor-General. In fact, the last I heard—and Mr Hanson seemed to suggest it in his speech today—was that the Liberals actually support this inquiry and the terms of the inquiry that have been put forward by the Auditor-General.

The Auditor-General has significant powers, including the ability to compel witnesses and to apply penalties if witnesses do not appear. And I think that needs to be noted. That was why we said the Auditor-General was the best person to conduct this inquiry, because they are an independent body and will conduct the inquiry in an independent way.

This ongoing conspiracy theory from the Liberals about a secret meeting between Ms Hunter and Ms Gallagher is—

**Mr Doszpot:** They didn't deny it.

**MS BRESNAN:** They actually said what they talked about and it was so secret that they walked out in view of other Assembly members and the public. I think what we are seeing here is Mr Hanson continually coming up with these conspiracy theories because they have got nothing to say about the actual issue, how they would address it, and they have no policy on the matter. So we just hear conspiracy theories continually coming up.

On the issue of elective surgery downgrades, yes, this was an issue the Greens saw as being serious, which is why we supported the Liberals in having the Auditor-General look into the matter, which is an inconvenient fact for them to acknowledge. And we had the Auditor-General look into that matter. The Auditor-General did raise some concerns. They have been listed today. But I think it is also important to point out that, again, we have heard some selective information come from that report.

The audit acknowledged that the management of the waiting lists for elective surgery and medical treatments is a complex process that can be influenced by practices of various parties within the system, including doctors, and by a number of factors, some of which are outside the control of ACT Health. The audit also notes that Canberra's public hospitals provide emergency and elective surgery to ACT residents and those in the surrounding areas, most emergency surgeries are conducted at TCH and consequently the pressure of delivering emergency surgery has also impacted on the

delivery of elected surgery. And I think it is also important to note, as I said, there were significant concerns raised there, which is why we supported having the Auditor-General's inquiry into this. As I said, this is one of the many important issues in the health system.

The report from the Auditor-General did also note that ACT Health is implementing the elective surgery access plan 2010-13 to meet the immediate needs of increased demand for elective surgery and is introducing changes in elective surgery management. The success of this plan depends on its effective implementation, which requires adequate resources, engagement of hospital staff and improved communication with, and cooperation from, surgeons and other medical professions. Again the point we have made is that, for this to work, it needs to actually have the buy-in of everybody involved in the health system. It includes the department, it includes staff and it also includes private doctors who will be going in and taking part in that system. I think that needs to be acknowledged as well.

With regard to the bullying issue that has been raised, the Greens proposed, and agreed with other medical and health associations, to have the matter considered through the Public Interest Disclosure Act. We again said, particularly because this was a bullying matter and a very sensitive matter, that dragging people before a public inquiry in cases of bullying was a highly inappropriate way to deal with the issue and it would have done nothing to actually encourage people to come forward, and that was acknowledged by a number of people.

With regard to GPs, this is an area where states and territories have very limited influence and ability to act. Incentives and Medicare payments are controlled by the federal government, as are other factors, such as recognising a region as an area of need for GP places.

I would like to know what the Liberals' views are on how this can actually be changed. Last election they had one initiative related to health cooperatives, and this is a good thing. This is something the Greens agree with. It can have an impact on primary healthcare delivery, something we have said publicly. But what else would you do? This is not an issue of policy, what your policy is on the matter, it is actually about whether or not you can say what you would do when you cannot control the process. As I said, at the last election the initiative they had was about health cooperatives. There was nothing else about how you would effect incentives and the like, but that is the reality of the situation.

Medicare Local, formerly the Division of General Practice, have argued that they believe the shortage of GPs in the ACT has been an issue which has been overstated and that a number of practices are advertising for patients. This is, of course, a thing that needs to be noted, that different areas will, or may, have lower numbers than other particular regions. That, as I said, has to be acknowledged. They have also argued that many GPs will bulk-bill even if it is not the blanket policy of the practice.

There are also, in relation to this, other things that can be done, such as providing space for GPs in community health centres, which is something the Greens supported

through the agreement with the government, and this has been progressed. So there are things that can be done, but there are limited ways in which all states and territories can act in this particular space.

In regard to the nurse practitioner clinics, as I understand it—and this is from talking to various community health organisations—there are delays in it being progressed due to issues raised by medical groups about where they would be located and the scope of practice of the nurse practitioners themselves, which essentially led to the first clinic being located at the Canberra Hospital. I have to say that the Greens would have liked to have seen these clinics progressed by now and located in community settings. It would, most likely I think, have been better if the first clinic was not located at the Canberra Hospital and that the nurse practitioners were able to actually practise the full scope of their practice.

The Greens very much support establishing nurse practitioner led clinics and allowing them to fulfil their full scope of practice, as I have said. It provides another area, along with, as I have already said, space for GPs in community health centres, health cooperatives where the ACT can have an impact on primary healthcare delivery.

I have to say that the Liberals still have not said whether they actually support the concept of nurse practitioner clinics. That is again something which I have not heard. I will stand corrected if they have actually said that, but I have not heard them say whether or not they support that particular concept.

Regarding the secure mental health facility, the delays in this facility are of great concern to the Greens, as we believe this is a service that the ACT needs. There were delays—again this is from my discussions with community organisations—due to different views on what the model and costs were in what was being proposed.

I was very pleased to see that the forward design funding has been refunded in this budget. I think, with this particular service, the way to progress this now, because of some of the differences in views on the previous model that was put forward, is to actually have input and agreement from the mental health community sector and organisations about the model that is pursued. Once again, I think most people agree this is a service we need but the sort of model that is pursued and the costs involved do need agreement from the mental health community so that it is successful.

In terms of delays in health infrastructure projects, the key health project that had a delay, from what I understand, was the mental health unit. Again this is from discussions with community organisations. This was largely due to requests that were made by consumers in terms of getting the design and model of care right.

The other I am aware of is—and again I will stand to be corrected—the birth centre which, again, was also in relation to further consultation with and requests from groups involved with the birth centre, such as Friends of the Birth Centre.

With regard to the claims about the VMOs stating Ms Gallagher should step down, the Visiting Medical Officers Association is, as far as I am aware, the only organisation that has made this request. I have not heard of other groups, such as the



AMA, ASMOF or Medicare Local, formerly the Division of GP, actually making such a statement. I think it is worth making that point in that we essentially have one group, or more likely one person, who has led this call.

In relation to access to overall health care, as I said earlier, there are, like all health systems across the country and across the world, in fact, good things and bad things about the ACT health system. The system is providing more services than it has in the past, and to more people, plus we have a huge number of people from across the border and the region who access the ACT health system.

The point I have also made is that we need to focus more on preventative health. I do wait for the day, and I will not hold my breath, when we have the government and the opposition debating why we do not have more money going into preventative health measures and how we are going to address the infinite growth in the health budget. This has to be addressed—

**Mr Hanson:** Didn't you read my health discussion paper?

**MS BRESNAN:** Your discussion paper posed a lot of questions, no answers, Mr Hanson.

This has to be addressed if we are going to deal with the ever-increasing demands. This need to refocus has been raised by numerous health groups. There are conditions such as heart disease, which is one of the leading chronic conditions and causes of death, diabetes and obesity which are growing, which have an impact on the health system and which are preventable.

There is funding in the budget for some prevention measures but it is insignificant compared to the funding which goes to acute areas. The Greens recognise that you have to meet demand but you have to start taking seriously the need to reduce demand also. This is not an area that will provide a definitive figure, and impacts may not appear for five to 10 years. But when I hear statements such as those that came out by the previous ACT Health Council that there are fears that the next generation may be the first with a reduced life expectancy, that is an area where we need to focus.

Again, the Greens will not be supporting this motion today. As I have outlined in my speech, there are good things and bad things about this system. We have got to recognise all of those and not be selective in the sort of information we are putting forward.

**MRS DUNNE (Ginninderra) (12.08):** Ms Bresnan asks: what have the Canberra Liberals done about GPs? As the Greens spokesman on health, she has a very short memory if she does not remember the inquiry that was called for by Mr Hanson, which immediately resulted in the minister announcing a task force. To the credit of the task force, it has done great work and put forward a range of policy proposals and some initiatives that could be implemented that would do something about the shortage of GPs. But we are in that space with that policy work done because of the work of Mr Hanson. Mr Hanson's motion here today is in many ways the culmination of the work that he has done of bringing to the attention of the ACT community the parlous state of the ACT health system.

I would like to spend a little time reflecting on the ACT health system as a consumer of the ACT health system. I have had 30 years experience of the ACT health system as a mother of two children with cystic fibrosis. I have had an association with the Cystic Fibrosis Association. It has not been as close as I would have liked it to have been in the last few years, but I still keep in contact with them and the great work that they do. The constant theme from the Cystic Fibrosis Association is how services at the hospital have declined in the last few years for cystic fibrosis patients.

I have spent a lot of time in the last little while talking to people about the lack of integration of services for cystic fibrosis patients. There may not be a vast number of cystic fibrosis patients in the ACT but it is the most common chronic inherited disease in the country. While there are not as many patients as there are for diabetes, there are similarities in some of the treatments. The services provided to cystic fibrosis patients and the complaints that I receive from parents and doctors about the services provided need to be addressed.

To the credit of the new head of the women's and children's hospital, last year I made an extensive complaint, after careful consideration, about my son's most recent admission to hospital. I thought for about two months that I would not make the complaint that I eventually did make. But I am glad I did because I have had some very fruitful discussions with the hospital and the doctors at the hospital.

It was most disarming, actually. At the first of a series of meetings I have had with the hospital over cystic fibrosis services in the ACT, one of the senior officials of the hospital said, "Mrs Dunne, I have read your letter of complaint." To her credit, this person had not been at the hospital when the incidents I complained about had actually occurred. She arrived just after my son's last admission to hospital. She said, "It brought me to tears to think that people experience this sort of difficulty." She sat down and said honestly, "The services we provide to cystic fibrosis patients are appalling."

That has been borne out by the complaints of a number of parents of children with cystic fibrosis and adults with the disease. It is borne out by the fact that over the past few years there has been a steady exodus of cystic fibrosis patients away from the Canberra Hospital to Sydney hospitals to receive treatment that they should be receiving here. Not just as a result of my complaint but as a result of the work that has been done by the Cystic Fibrosis Association, there are the beginnings of a turnaround. I am hopeful that we will see better services for those people when it comes about.

But it should not take the sort of complaining and the sort of table thumping that I have seen from the Cystic Fibrosis Association to get these changes. I have had a real eye-opener. One of the things that has really concerned me over the years is that there is a level of service to paediatric patients with cystic fibrosis, but when someone ceases to be a paediatric patient in the ACT, nothing happens.

My elder child has cystic fibrosis. She remained a paediatric patient until she was 19 because there were no other services for her. She recently moved to Sydney and now

lives there. She was in touch with the cystic fibrosis clinic there and has been filled with nothing but praise for the efficiency of service, the sort of service that as a 30-year-old with a chronic life-threatening disease she has never seen before.

The service that they run in Sydney is run very frequently. She has got a very quick turnaround. I would not expect that to happen here because the number of adult patients are not here. But there is no coordination. If any one of them is sick and they need to go to hospital, there are no means by which they can be easily admitted to hospital. The last time my adult daughter was admitted to hospital as a cystic fibrosis patient she was told to turn up at accident and emergency.

She sat in accident and emergency for 15 hours. She had a chest infection and the disease in her chest infection is a disease which is chronic amongst cystic fibrosis patients. But in the middle of winter you do not want someone in accident and emergency with a very easily spreadable chest infection spreading a bacterium that most people in the community do not have and if they get it, it is very bad. It took 15 hours of her sitting in accident and emergency to be admitted to hospital because there is no other means of having people admitted. That is what is wrong with the health system.

I had some interchanges with people on my Facebook page the other day in response to the Liberal Party ad. One of the people wrote to me and said that the ad was very accurate about what is happening in the health system. She recounted the story of when her mother recently had a stroke. She was brought to hospital by ambulance and then sat—sat—in the waiting room for four hours before she saw a doctor. This woman had had a stroke.

These are the things that are wrong with the health system. This is why we say, in addition to all the statistics that Mr Hanson can bring to bear on this, that we had a good health system and it is now a bad health system. We have seen this under the Labor government over the past 11 years. We have had three health ministers in that time: Jon Stanhope, Simon Corbell and, for most of that time, Katy Gallagher.

Katy Gallagher stands here today and says, “You are being really mean to me.” It is not about her. It is about her management of the health system. She is saying that she is not responsible for the doctoring of the statistics. She is the minister, so she is responsible.

I also want to spend a little time focusing on Calvary Hospital, which is a hospital in my electorate. Mr Hanson has touched on this. We have heard the story that Katy Gallagher said at the Press Club, “All our health plans are on the table for the 2008 election.” All of their health plans were on the table except for that deal, that backdoor deal, that they were to do for the sale of Calvary. We saw this mismanaged process where the government wanted to spend in the order of \$70 million or \$80 million to buy an asset because they really just did not like the idea that the Little Company of Mary was running a better hospital than them.

Damage was done by that saga to Calvary Hospital and to the Little Company of Mary. The damage that was done with the connivance of the Greens was when they

basically said, “We believe that all public hospital beds should be managed by the government.” The ACT is different and it has been different since 1975. A large proportion of our public hospital beds have been managed by a non-government organisation. It has been a great fillip to our health system that not all of our public hospital beds have been managed by the government, especially over the last 11 years when they have been so badly mismanaged by this government.

The fact that we have had the Little Company of Mary at Calvary hospital administering a fair proportion of our public hospital beds has meant that the people of Belconnen in particular have been privileged to have a somewhat better service because the management has been better, the management has been tighter, there has been more accountability to keeping the budget on track and ensuring that we have a good hospital system. That would have been thrown out if Katy Gallagher had had her chance.

**MR SMYTH** (Brindabella) (12.18): I thank Mr Hanson for putting this motion on the notice paper for debate this morning, because it is an important debate. It is an important issue. It is an issue that people talk about out in the community. They talk about how our health system has declined. Unlike the Chief Minister, who hides behind the staff of the health system, those of us on this side of the chamber do not blame the staff for the system they work in. We praise them.

All of us who have ever attended the emergency department or who have been hospitalised in the ACT have nothing but admiration, particularly for the front-line staff—the nurses, the doctors, the allied health workers—and the job that they do because they work in very difficult circumstances in a system that actually does not allow them to do the best that they know they can do.

I know that when my boy, who is now six, was young, he got periodic bouts of the croup. When you are sitting in the ED at 2 o’clock in the morning with a sick child because he cannot be admitted, because he cannot be seen by the doctor because the staff are all busy, and the staff regularly come out and apologise and offer their assistance and see if there is anything they can do for you, you know that we have probably got the best staff in the country. But they do work in the worst system in the country.

The statistics go to that. The decline that Mr Hanson pointed out over the last decade, over almost the last 11 years now under three successive health ministers—Mr Stanhope followed by Mr Corbell followed by Ms Gallagher—show that the Labor Party do not understand how health works. The system that they took over 11 years ago was in much better shape than the system that they will leave at the end of this term.

You can look at any of the objective measures—whether it be the elective surgery waiting times, whether it be the wait times in the emergency department, whether it be the rolling out of infrastructure, whether it be the way that the ambulances arrive and leave from the apron there at the hospital—and see that the system has not improved.

Mr Hanson went through some of the history. It is quite telling that the simple answer of the Labor Party before the 2001 election was a \$6 million cash injection. They did that in 2001 and they took it out of the 2002-03 budget. Mr Stanhope, and Mr Hanson quoted the former Chief Minister, said, "This will cause pain." They gutted the elective surgery waiting list funding. That is what they did. They took money out of elective surgery. Stanhope admitted in the estimates committee, I think in responding to questions to me, that it would cause pain. That pain has rippled through the system ever since, because they just do not get it.

We understand that you have to fund health properly. That is why it was a Liberal initiative to put the growth funds in and to keep them there. The Labor Party of the day called them a slush fund. But they live off it now because they were the saving of the health system. We knew that you had to plan for the future and you had to be continually ahead of the game, not constantly catching up because you have ignored the indicators and you have ignored the way that health changes. And health changes dramatically year to year, let alone over a 10-year period.

You can see it simply in the Chief Minister's response to the issue of GPs. Before the 2008 election, when a GP clinic closed at Wanniasa, the then health minister, the present Chief Minister, threw her hands up and said, "There's nothing I can do." The former Liberal health minister said, "Let's have a look at this." We did, and there were numerous things that we could point out that could be done.

Mr Hanson did the same as the GP trough continued under this government. They constantly throw their hands up. Have you ever noticed, Mr Speaker, how it is everybody else's fault? There is no taking of responsibility by most of the ministry, if not all of the ministry. It is always somebody else's fault. It is an external factor; it is something beyond their control; it is another level of government; it is the individual's fault. But it is never their fault. You wonder why they sit on those benches.

Then we had Mr Hanson call for an inquiry. Again, numerous things that could be done came out of that. At the end of the day, GPs want to be part of a system and they understand that they are part of a system. When a GP has a patient in his or her office and they ring and say, "I need an ambulance because I have got this patient here and their condition warrants immediate transport to the hospital and it warrants immediate attention at the hospital," they want to know that they work in a system that works.

Health cannot be silos, as the Chief Minister would have you believe. The health minister would have you believe that she is only responsible for this bit. She is responsible for the health and wellbeing of all Canberrans, no matter where they fall in the system or which part of the system they are using.

This is the party that has stood up for all the system, whether it be for the pharmacists who provide in most cases the most immediate and primary health care, whether it be for the GPs, where people go when they are sick and they are unsure of what is wrong, whether it be for the emergency department, where they go because it is an emergency, or whether it be because they call for an ambulance because it is an emergency.

We understand that it has to be integrated and you just cannot say, “I am only responsible for this bit and, by the way, none of the statistics which you quote back at me matter.” The statistics do matter, Mr Speaker, because they are not just numbers. Every one of those statistics, every one of those bad stories, every one of those people on a list that grows is a person, is a human being with needs, is a citizen that the health minister is responsible for the health and wellbeing of.

When at the end of the day you get doctoring of data, you know there is something fundamentally flawed in a system—whatever the motivation of that person for doctoring the data. We wait for the Auditor-General’s report on what those motivations were, why this occurred and why it occurred for such a long period. It will be interesting to see how long the period truly was and how many records were doctored.

At the end of the day, all of those people, all of those doctored documents, represent a person. What people want is confidence in the system should they need it. Most people will not need it in an emergency. Hopefully, none of us will need it in an emergency, but accidents happen; things happen. But they want some confidence that they will be able to access their health system, which this year will cost about \$1.3 billion—\$1.3 billion!—and that it will work for them.

The point is that, after 11 years of Labor government, it does not work the best that it could for them, their families or their friends when they need it. If we take the holistic approach—Mr Hanson has put some great ideas forward and we will continue to put great ideas forward between now and the election—you cannot say, “I am only responsible for this,” and approach it in a disjointed manner.

Even Ms Bresnan had to stand up and say, “Yes, we do not measure up all that well on some measures.” That is correct and it is an interesting admission from the Greens. I do not think I have ever heard the Greens quite say that. But it is true. What we have to do is develop a system that works, not just for those that have to participate in it due to ill health, but for those who actually are the system.

I refer to the pharmacy assistants, the doctors’ receptionists, the GPs themselves, the specialists, the nurses, the allied health professionals, the public servants that work the system behind those in the front line. They should be able to go to work and say that they enjoy their work. So many of them say to me that the system is not a happy place. When a system is not happy places to work in, you need to look at the leadership in that system.

What we do not have is leadership. What we do have is the old Labor answer to everything: “We put more money into it. Aren’t we good? Things will get better.” They do not seem to be getting better. If you go through the litany that Mr Hanson has in his motion, the percentage of emergency department patients seen on time, for example, has deteriorated from 78 per cent in 2001 to 58 per cent in the latest report. I count that as a fail. When the median wait time for elective surgery has grown from 44 days in 2001-02 to 76 days in the latest AIHW report, I would say that is a fail.

When you find out that we had patients recategorised to make the list look better, I would say that is a fail. When the health minister actually has to stand down when she is caught up in an inquiry into the falsification of emergency data results, I would say that is a fail. *(Time expired.)*

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

**Sitting suspended from 12.29 to 2 pm.**

## **Questions without notice**

### **Hospitals—emergency department**

**MR SESELJA:** My question is to the Minister for Health. The 2012 budget fails to provide emergency department waiting time data because “the results of emergency department performance in the territory are under a formal investigation”. In a briefing provided to Mr Hanson on 26 April, it was stated that corrected emergency department data for the first quarter of this year had been submitted to the commonwealth. Minister, if the information is suitable for the commonwealth, why will you not be accountable to Canberrans and release emergency department waiting times to them?

**MS GALLAGHER:** I do find it rather hypocritical of the Leader of the Opposition that they are criticising the fact that there have been data inconsistencies and then they are calling for data to be provided. We cannot provide at this point in time, while there are a number of different investigations underway, that data in a format of the budget. I do not think that anyone else does not get it, Mr Seselja. There are emergency department data inconsistencies, they are under investigation—

**Mr Seselja:** Why are they given to the commonwealth?

**MS GALLAGHER:** As far as I understand the issue, the information that was provided to the commonwealth in relation to the four-hour rule is different to the way that the triage categories data could have been presented in the budget. It is about a different subset of time. As I understand it, it related to a period of only a couple of months, and those files were gone through and corrected prior to that data being provided to the commonwealth. This relates to a different period of time and requires much broader investigation of the records, which is currently underway. When those investigations are complete, that information will be provided to the Assembly and the community.

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

**MR SESELJA:** Are the emergency department waiting times for the first quarter of this year worse than the waiting times for the same time last year?

**MS GALLAGHER:** I have not got that information before me because of the investigations and audits that are underway.

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

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

**MR HANSON:** Given the record numbers of people that presented to the emergency department during the warmer months of this year, what action are you taking to ensure that people are not waiting longer than ever over the coming winter months?

**MS GALLAGHER:** As there is every year, there is a winter management plan put in place, not just to manage the emergency department. Mr Hanson fails to understand that there are other areas that the health system impacted during the winter months and there is a comprehensive winter management plan that is adopted across all of our health services.

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

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

**MR HARGREAVES:** Chief Minister and Minister for Health, have you received letters of congratulation on the treatment that people have received in the emergency department, particularly in relation to heart issues in recent times?

**MS GALLAGHER:** As Minister for Health I receive a lot of correspondence. It might surprise those opposite but a number of that correspondence relates to compliments about the standard of care that has been provided in our public hospital setting—indeed, in the emergency department as well, where lives are saved every day.

As I said earlier in the debate in the Assembly, the emergency department is for emergency treatment. In terms of category 1 and 2 patients, our results are outstanding. Where there are waits, it is happening in categories 3 and 4, and we are seeing very significant increases in categories 4 and 5. Almost 60 per cent of presentations to the emergency department fall in those categories.

So, yes, I get a number of compliments about the emergency department care at both of the public hospitals. Our staff do an incredible job there in very difficult circumstances. The money outlined in the budget tabled yesterday will improve, and provide additional resources to, the emergency department. Contrary to what Mr Hanson has alleged, that this is last-minute money that is thrown at a problem, over the course of this government we have provided an extra 55 treatment spaces in the emergency department to deal with demand. So this is something that we have been doing every year.

In addition to that, we have provided 256 extra beds, half of those to replace the ones that Mr Smyth took out and the other ones are additional capacity. Again in the budget tabled yesterday, we have another 40 beds going into the system. This is year-on-year growth to deal with the demand. It is transforming the health service into a modern health service that provides outstanding care to the Canberra community.



**Budget—community sector**

**MS HUNTER:** My question is to the Minister for Community Services and concerns the budget and the community sector. Minister, this year's budget allocates, and quite wisely, money to reduce government red tape for business. Could you please explain why the government believes that it is appropriate for the budget to pay for this reform for business but the community sector is being asked to pay for similar reform through its funding?

**MS BURCH:** I thank Ms Hunter for her question. We are working with the community sector on some significant reforms. I think Ms Hunter is well aware of the changes that have been put in place, across the last year or so, across a number of programs.

Ms Hunter would also be aware that this government has committed to fully fund its share of the Fair Work Australia decision that will see pay increases to those that are not paid for the valuable work often that they do across the community. In working through that decision to be able to fully fund our commitment, we worked very closely with the sector and looked at the services and the number of staff that would be involved. We also did a very comprehensive piece of work that looked at the number of staff and their current wages and conditions so that we could see over time the contribution that we would need to make to the sector to fully fund that.

We have moved through that, and the reform has often been a conversation that we need reform across the sector. The sector itself recognises that, and we recognise that.

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

**MR SPEAKER:** Yes, Ms Hunter. One moment, Ms Burch, thank you. Stop the clock, thank you.

**Ms Hunter:** It is about relevance and answering the question directly. The question was: could the minister explain why the government believes it is appropriate for the budget to pay for business reform but the community sector is being asked to pay for similar reform?

**MR SPEAKER:** Minister Burch, would you focus on the question, thank you.

**MS BURCH:** Yes, Mr Speaker. The reforms are part of the conversation. It has been an active conversation between the community sector and government. For some time, and certainly in the Fair Work Australia decision announcement, it has been announced that there would be contribution, a co-payment, if you like, from the community sector into these reforms. That was clearly articulated at the time the decision was made. It is a 3.4 per cent co-payment, co-investment, in these significant reforms. There is a reference advisory group that is working on these transitions to ensure that all the benefits, all the benefits from these reforms, go into the community sector.

For an organisation that has a funding level of \$400,000, the contribution, the co-payment, is \$1,300. This is something that the community sector, over the long conversation that we got to to be able to fully fund the Fair Work Australia announcement, was certainly aware of, and it was certainly welcoming of the opportunity for these reforms.

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

**MS HUNTER:** Minister, is it correct that, of the various projects that the community sector investment fund is supporting, some relate to the ACT government's review of its own contractual agreements and other processes, so it is to do with its own business?

**MS BURCH:** Yes, it is. It is absolutely looking at our government processes and our contracts that we have in place, to see how we can work in partnership with the community sector to reduce that unnecessary red tape or duplication of reporting or other processes. That would seem a very sensible way forward to coordinate that response—to work with the community—and we are looking forward to the community bringing forward examples of where that process can be reduced for them, to be refined, certainly, so their effort, their work, is on the pointy end of service delivery rather than on report recording.

**MS BRESNAN:** A supplementary.

**MR SPEAKER:** Ms Bresnan.

**MS BRESNAN:** Minister, will the efficiency dividend or other savings initiatives proposed in the budget affect the community sector?

**MS BURCH:** Certainly every agency in the government is looking to how they can better do business within the constraints they are facing. But we have committed to an increase to the community sector. There is 0.34 co-payment across a number of organisations, but it does not cover all. Organisations that get \$150,000 or less are exempt, and certainly none of that contribution is from kinship or foster carer payments as well.

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

**MR SPEAKER:** Before you start, Mrs Dunne. Members, if we could just keep the ambient noise down. It is hard to hear the minister. Mrs Dunne, you have the floor.

**MRS DUNNE:** Minister, why is the government using this community sector efficiency dividend to help pay for increases in the cost of the equal pay case for the community sector?

**MS BURCH:** Mrs Dunne has got it completely wrong. We should not be surprised about that because she often does. We have committed to fully fund our share of the

Fair Work Australia decision. In partnership with the sector, we sought reforms. The sector themselves have sought that partnership of reform. The 0.34 per cent across a number of organisations is their co-payment—0.34 per cent.

**Budget—taxation**

**MR HARGREAVES:** A new question.

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

**MR HARGREAVES:** Thanks very much, Mr Speaker. I thought those people had gone to sleep, and I was right. My question is to the Treasurer—surprise, surprise! Can the Treasurer update the Assembly on how the government's 2012-13 budget—the current one, you guys, the one that was just announced yesterday—responds to future challenges, particularly through tax reform?

*Members interjecting—*

**MR SPEAKER:** Order! The Treasurer has the floor.

*Mr Hanson interjecting—*

**MR SPEAKER:** Order, Mr Hanson, thank you.

*Members interjecting—*

**MR SPEAKER:** Members!

*Mr Hargreaves interjecting—*

**MR SPEAKER:** Mr Hargreaves! Mr Barr, you have the floor.

**MR BARR:** I thank Mr Hargreaves for the question. There is no doubt that the tax reform package that we outlined in yesterday's budget is leading the nation in adopting a more efficient tax system, a simpler tax system and a fairer tax system.

*Members interjecting—*

**MR SPEAKER:** Members!

**MR BARR:** I know that those opposite are incredibly sensitive in relation to this matter, because they have no capacity to embrace—

*Mr Coe interjecting—*

**MR SPEAKER:** Order! Mr Coe, thank you.

**MR BARR:** They have no capacity to engage in or embrace significant public policy questions. But you do not need to take my word for it, Mr Speaker, that this is

significant national reform. I will quote CommSec's chief economist, Craig Jones, who has described the decision as a "groundbreaking move with national implications". The Institute of Chartered Accountants have described the ACT's tax reform package as a "big step forward". They state:

What we are seeing from the ACT sets the tone for what can be achieved on state tax reform.

*Members interjecting—*

**MR SPEAKER:** Stop the clock, thank you. Members, I am actually having difficulty hearing Mr Barr. I expect to be able to hear him. Members, let us just tone it down, thank you. Mr Barr, you have the floor.

**MR BARR:** Thank you, Mr Speaker. It might have escaped those opposite that over the course of—

*Members interjecting—*

**MR SPEAKER:** I have just asked; I will start with warnings very shortly and I will start naming people after that. I expect to be able to hear the minister.

**MR BARR:** Over the course of the last few years there has been a significant debate occurring in this country about the need for tax reform. The work that Dr Ken Henry undertook in the *Australia's future tax system* report clearly indicated that there was a need for reform of state and territory taxation. That need was reinforced by the work undertaken in the Quinlan review, which outlined a series of recommendations for reform.

This government has taken on that challenge to move away from inefficient transaction taxes towards a broader base for our tax system. Broaden the base, lower the rates: a very simple philosophy, and one that you would presume that even the shadow treasurer—

*Mr Smyth interjecting—*

**MR SPEAKER:** Mr Smyth.

*Mr Hanson interjecting—*

**MR SPEAKER:** One moment, Mr Barr. Mr Smyth and Mr Hanson, I am now placing both of you on a warning for interjecting. I expect to be able to hear the minister. Mr Barr, you have the floor.

**MR BARR:** Thank you, Mr Speaker. As I was saying, those reforms are universally accepted by all economists as being the right direction for state and territory taxation reform. Across the country people are looking at this reform package as an important first step towards a more efficient tax system. The dead-weight loss that is removed, the burden that is removed from our economy, as a result of the transition away from

inefficient taxes to more efficient taxes will deliver benefits to every single Canberran.

The removal of distortion in economic activity from this transition away from those inefficient taxes to the more efficient tax base has benefits for business, has benefits for households, has benefits for the community sector, has benefits across the board. Our overall economy benefits. Good public policy, evidence-based public policy, should be supported, and I welcome the support that has come from across the business sector in the territory. I welcome the support of the Greens party, who have considered the issues and recognise the need to make this change. So once again—

*Mr Seselja interjecting—*

**MR BARR:** The Leader of the Opposition might interject but it is—(*Time expired.*)

**MR SPEAKER:** Mr Hargreaves, you have a supplementary question.

**MR HARGREAVES:** For the benefit of those people who do not understand economics 101, can the Treasurer please indicate—

**Mr Doszpot:** Aren't you talking to Andrew?

**MR HARGREAVES:** Can I start again, please, Mr Speaker?

**MR SPEAKER:** Just focus on the question, Mr Hargreaves, thank you.

**MR HARGREAVES:** I would like to. I just lost my train of thought because of Mr Doszpot's interjection. Can the Treasurer please indicate how this tax reform will impact on the budget bottom line, and does he have anything else to add to his former answer?

**MR BARR:** Obviously, as you move away from those volatile, inefficient transaction taxes to a broader based land tax for the collection of revenue, revenue certainty increases, the planning of future expenditure decisions is made easier. It is, I think, universally accepted that, for good budgeting, you need to be able to plan the important investments in the community services that this city needs, and this tax change is important.

It is also timely to commence this reform now, rather than wait. We have the opportunity—we are uniquely placed, of all jurisdictions—to undertake this reform and it is important that we do so. It is important because we need to ensure that there are drivers for economic growth in this economy into the future. Taxation is top of the list in terms of areas for reform when small business is surveyed, when we look at the need to remove distortions in terms of efficient housing allocation in the city.

It was not that long ago that those in the Liberal Party actually used to believe in these things but it would appear not. If the Leader of the Opposition's interjection is that the Greens have endorsed it, it shows, I think, that the Greens party have made a significant contribution to this debate, have advanced and have got something to say

on the matter. I think the issue now is that the economic credibility of the Liberal Party in the ACT is in serious question. If you think, Mr Seselja, that being the lone voice against sensible tax reform is a good position to be in and that enhances your economic management skills, I hope you continue to hold that position.

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

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

**MR SMYTH:** Treasurer, will your tax policy as announced lead to equilibrium in the property market or disequilibrium, or are the rapidly announced transition provisions now being considered an indication that you got it wrong?

**MR BARR:** As we have indicated, we are gradually introducing changes, and there is a phased introduction of the stamp duty changes. There is a phased introduction of the homebuyer concession scheme changes. The Leader of the Opposition knows that. We are seeking to send very clear signals around increasing supply in the housing market. We want to put downward pressure on house prices, downward pressure on rents by encouraging new supply of affordable product. So we do not want the same dollars chasing the existing housing stock; we want to add to the housing stock. That is where the alignment of our housing affordability policies, our land release policies and our tax policy settings all encourage—

**Mr Smyth:** On a point of order, Mr Speaker.

**MR SPEAKER:** Yes, Mr Smyth. Stop the clock, thank you.

**Mr Smyth:** The question was: would the policy as announced lead to equilibrium or disequilibrium in the property market? I ask that you bring the minister to the answering the question rather than explaining what the policy is.

**MR SPEAKER:** Minister, you have some time remaining. Focus on the question at hand.

**MR BARR:** We are seeking to improve and increase the supply side of the market. Equilibrium is the intersection of supply and demand, as the shadow treasurer would well know. By increasing supply, we are able to put downward pressure on prices in both the home purchase market and in the rental market. The targeted changes that we have made to our tax policy settings ensure that there is incentive for new supply and that we will see downward pressure.

**Mr Smyth:** And the transition arrangements?

**MR BARR:** The transition arrangements have been designed to ensure that there is a smooth transition from one scheme to the next.

**Mr Coe:** On a point of order, Mr Speaker, the question was about dead weight loss, which is actually unrelated to the demand or supply curve.

**MR SPEAKER:** Unless the Treasurer wishes to add any further comments, the matter is resolved. A further supplementary, Ms Porter.

**MS PORTER:** Treasurer, are there alternative approaches the government could take?

**MR BARR:** Yes, there are a range of alternative approaches that could be adopted. You could of course seek to increase taxes in these areas; that would be an alternative policy approach. You could adopt the head-in-the-sand approach and go, “Oh, this is all just too hard,” which is the approach that we have seen from those opposite. Or, just because someone else has actually done something in the area, you could abandon everything that you previously believed in and just sit there and pontificate about making a significant difference in this area of public policy.

So there is a challenge for the Canberra Liberals. I was very generous when releasing this—

**Mr Smyth:** Point of order, Mr Speaker.

**MR SPEAKER:** Yes.

**Mr Smyth:** Under standing order 118B the minister is not allowed to debate the subject and he is certainly not responsible for the Canberra Liberals’ policy. I would ask you to ask him to answer the question or sit down.

**MR SPEAKER:** Stop the clock. Thank you. The minister was asked if there were alternative approaches. Minister, you are free to canvass alternative approaches, but we do not need a dissertation on Liberal Party policy, thank you.

**MR BARR:** Thank you, Mr Speaker. I accept your ruling. There is no Liberal Party policy, so I cannot really talk about that. The alternative policy options are, I suppose, to also pursue even more inefficient taxation and seek to shift the burden from efficient taxes to inefficient taxes under some guise, perhaps, of thinking that you are doing something to improve the cost of living. You could do a whole range of things that would in fact send public policy in the wrong direction.

What we are seeking to do through these reforms is to shift the taxation base onto more efficient sources of revenue and, importantly, to introduce a progressive element into that change. That is important because the change that we are applying to the rates base means that the burden is more fairly shared.

### **Budget—taxation**

**MR SMYTH:** My question is to the Treasurer. Treasurer, in yesterday’s budget you announced a reform to the taxation system in the ACT. As part of this reform, the revenue that is forgone from abolished transaction taxes will be met from increases in general rates revenue. Treasurer, the budget paper states that in the 2012-13 year, the

average increase in residential property rates will be \$123. What will be the average increase in rates for the years 2013-14, 2014-15 and 2015-16 as insurance duties and stamp duties are phased out?

**MR BARR:** We will continue our reform program and make adjustments to the rates base as appropriate. The indexation of rates will continue at the wage-price index. The variances across each suburb depend on the rolling three-year average of unimproved land values. Of course, as each year progresses, the furthest year back drops off that and the new financial year comes into it. So there are always changes from year to year in terms of the total calculations between different suburbs, depending on changes in the average unimproved value of those suburbs.

In the context of the changes from year to year in the transition from the inefficient taxes to the more efficient taxes, I would draw the member's attention to the tables within the budget paper that indicate the level of revenue transition from year to year. So in the context of insurance duties, it is around a \$10 million a year phase-out, and that transition moves across to the rates base. It will depend, of course, on the split between residential and commercial rates. If the member would like more detail in relation to those elements, he should look at the tax pack.

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

**MR SMYTH:** Treasurer, the \$123 is, of course, an average increase. What is the maximum and minimum that rates will change in the 2012-13 year under the new rates formula and revenue replacement?

**MR BARR:** In relation to an individual property or a suburb?

**Mr Smyth:** You want me to answer your question? I would like the answer to both.

*Members interjecting—*

**MR SPEAKER:** If we can have some flexibility for Mr Smyth to clarify the question, thank you.

**Mr Smyth:** I am happy to have both; the individual and the suburb.

**MR BARR:** In relation to that, the range, as I understand it, is savings in the order of \$200 or \$300 a year for those lower value properties and at the high end it can be up to about \$850 a year. I will take some further advice on the extent of that. That will be an on-average change across the different quintiles. The detail is, of course, within the tax package by AUV quintile.

In relation to the individual properties, that may in fact require me to identify the tax outcomes for an individual household, and there are privacy considerations contained within the taxation administration legislation that would prevent me from doing so.

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



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

**MR COE:** Treasurer, what is the expected average residential rates bill in the 20th year when stamp duty is fully abolished?

**MR BARR:** We have outlined the first five years of the reform process. Where it will be in year 20 will depend on a number of other factors, particularly other changes in federal-state financial relations. The capacity to predict that far ahead exactly what the rates base will be at that point is not possible at this time, noting, however, that, if you were to look in 2012 dollars, members would be aware that the stamp duty across residential and commercial tends to generate around \$300 million a year in revenue, and the commercial and general rates base is around \$200 to \$110 million a year. So if the existing level of volume of transactions and quantity were to continue at around those proportions, then over 20 years the transition would see stamp duty at zero and the rates base move to around \$500 million. But in 20 years time, obviously, that figure will be larger because there will have been inflation in the economy—noting, of course, though, that the reason for a 20-year introduction is to ensure that there is a gradual phase-in and that there are not distortions in the market.

But ultimately that is what a broad-based land tax is: broaden the base and lower the rate. At the moment, nine per cent of households generate 25 per cent of own-source revenue. If the opposition believe that is fair, why did they take a policy to the last election to seek to reduce stamp duty? If they do not believe that anymore, let us hear it from them.

**MR HARGREAVES:** A supplementary.

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

**MR HARGREAVES:** Treasurer, in relation to the abolition of stamp duty, was the Property Council among those people calling for its abolition, and was the Liberal Party among those people calling for its abolition?

**MR BARR:** Yes, the Property Council have been on the public record on a number of occasions, along with the HIA and the MBA and a number of other industry groups, supporting the phase-out of stamp duty. Some want it phased out quicker. I note that the position of the Property Council is that they want the transition to occur over 10 years, not over 20. So they want the entire stamp duty transition to the rates base in 10 years. Some organisations have advocated for an even shorter time frame.

We have recognised that, in order to achieve a fair outcome and to be equitable to all Canberrans, given that the average household pays stamp duty once every seven years, over the course of a 20-year reform they would pay stamp duty two or three times if they remained in the city over that period. On that basis, we want to see the stamp duty that is paid over the 20-year transition period reduced so that the benefits of this change are shared evenly throughout the community.

But the big benefit that comes from this is the capacity to allow people to move more freely from different housing types that meet their needs at different stages in their lives. It leads to greater allocative efficiency of the housing stock, and that is something that should be supported.

### **Roads—Constitution Avenue**

**MS LE COUTEUR:** My question is to the Minister for Territory and Municipal Services and relates to the proposed Constitution Avenue upgrade. Former Chief Minister Jon Stanhope, in estimates in May 2009, described the funding for the upgrade as being due to:

... an explicit understanding between the ACT government and the commonwealth government, which involved the upgrading of Constitution Avenue—we would transfer certain land associated with the roads, road verges to the commonwealth ...

Why does the government describe the \$42 million from the Australian government as a gift, as you have done in your media release on 3 April?

**MS GALLAGHER:** I thank Ms Le Couteur for the question. The word “gift” has been used by the commonwealth to describe the \$42 million funding; it has been packaged from them as part of the centenary gift to the city. But we are all aware of the history of that project. I did not really care how they tag the money as long as it came back to the territory, where it was rightfully due.

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

**MS LE COUTEUR:** What is the government’s position as to which end of Constitution Avenue should be upgraded first, the city end or the Russell end, and why is it taking whichever position it is taking?

**MS GALLAGHER:** We have had the first round of community consultation over the plans for Constitution Avenue. I am getting quite a lot of letters, particularly from the residents of Campbell, around the proposed staging of that work. At the moment the plan is to upgrade the city side. The feedback we are getting, certainly from a lot of community representations, has been around upgrading the road closer to the ASIO building. I have asked that I discuss this with my directorate next week because of the community feedback that I have been getting and the capacity to incorporate some of that feedback into our decisions. So we have not taken those decisions yet.

**MS HUNTER:** A supplementary.

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

**MS HUNTER:** Chief Minister, is the government satisfied that the National Capital Authority upgrade works on the Constitution Avenue intersection with Anzac Parade,

which have already commenced, will be compatible with the rest of the Constitution Avenue upgrade and that all upgrades will provide a safe environment for pedestrians and cyclists?

**MS GALLAGHER:** We are working closely with the NCA on this project, as you would expect. So the answer to the first question is yes. In relation to the question around pedestrian and cycling access, again, those plans are out for community consultation. I have had some mixed responses to that, and we will incorporate all of that community consultation back into the decisions that we take during the final design stage.

**MS BRESNAN:** A supplementary.

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

**MS BRESNAN:** Does the government have a commitment that the upgrade of Constitution Avenue would also allow for the future use of light rail?

**MS GALLAGHER:** As I understand it, yes, but those final design decisions have not been taken. We are out for those first community consultations at the moment and we will be taking some decisions based on that. As I said, we are not getting a large amount of interest from across the community. We are getting quite concentrated interest from the residents in Reid and Campbell and we will look to respond to that.

### **Mental health—in-patient facility**

**MR HANSON:** Mr Speaker, my question is to the Minister for Health. Minister, in 2008, the scheduled date for completion of the adult mental health in-patient facility was September 2010. In 2009 the date was moved to June 2011. In the 2010 budget the date was moved to October 2011. In the 2011 budget the date was moved to December 2011. In January the stated completion date was moved to February 2012. On the 23 March 2012 the facility was officially opened and it was stated that it would be operational on 2 April. On 4 April it was stated that the facility would now be operational on 11 April. Minister, based on this record, how can Canberrans trust that the capital works announced in yesterday's budget will be built on time?

**MS GALLAGHER:** I welcome the opportunity to talk about the state-of-the-art adult mental health unit that has been built on the Canberra Hospital site. Anyone who has visited that facility—indeed, we are getting quite a lot of interest from interstate—will recognise that we have built a state-of-the-art facility for some of our community's most vulnerable residents. It is an enormous credit to everyone that has been involved in the design of that building to get it to this point where it is open and operational and providing people with excellent care in excellent amenity.

As Mr Hanson will know, this project has had a number of revisions made to it from the original date of the construction funding being made to it. We have had to take some decisions along the way. Unfortunately, some of the subcontractors on the site changed at the last minute through going into receivership and that certainly delayed the completion of the mental health unit in those final couple of months.

In relation to the final delay, as I recall it we had some issues with the duress alarm, I think from memory. Then staff made a decision about not wanting to move in over the weekend. We made some decisions that it was preferable to move that back a week. As you would imagine, we were wanting to make sure that the facility was safe for staff and the patients who were staying in there. It was a big change to move seamlessly from the psychiatric unit to the new adult mental health unit.

But it has been done. They have been incredibly busy since. It is working very well and I think we should be very proud of the fact that we have such a wonderful facility operational in the ACT for ACT residents and NSW residents who require mental health in-patient support.

In relation to the capital program more broadly, what the Canberra community can trust is that they will have excellent facilities. By the time this hospital infrastructure program is complete, and people will see those now—the women's and children's hospital, the adult mental health unit, the Belconnen community health centre, the Gungahlin community health centre—

**Mr Hanson:** Mr Speaker, point of order.

**MR SPEAKER:** Yes, one moment, Ms Gallagher.

**Mr Hanson:** Getting to the point of relevance, the minister is referring to what they will get at the completion of the capital works program. My question was specifically how the Canberra public can trust whether they will be built on time. I would ask the minister to get to the point. At the moment she is discussing what they will end up with. But I want to know how the public can trust that these capital works will be built on time.

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

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

**Mr Hargreaves:** Mr Hanson's preamble to his question went through a great litany of delays regarding the mental health facility. It is necessary for the Chief Minister to indicate what was the issue which caused that particular delay. I think she was almost through that particular thing. I would ask you to allow the answer to proceed.

**MR SPEAKER:** On your point, Mr Hargreaves, I think the Chief Minister has had some latitude to address the context in which Mr Hanson set up the question. Chief Minister, could you now focus on the question of timeliness of delivery of the projects, which was the essence of Mr Hanson's question.

**MS GALLAGHER:** His question was actually about trust, Mr Speaker. That was the question he asked. What I am saying is that in the area of trust, what the Canberra community expects and what they get from me as health minister with responsibility for this program is that I am determined to deliver this infrastructure program. If there

are changes, if there are delays, those delays quite often are outside the control of many individuals. If there are delays, we will be up-front about those delays and why those delays occurred.

This is a very, very large project. It is complex. It is about rebuilding a hospital in relation to this site whilst we maintain 24 hours a day, seven days a week operations. That is very, very complex and difficult to deliver. But what the Canberra community can expect and will get, and why they do trust me, Mr Hanson—even though it irritates you enormously—is that when there are changes, when there are delays, we will tell them, and we will tell them why.

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

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

**MR HANSON:** At the opening on 23 March it was stated that the PSU was grossly inadequate to treat people with mental illness. Given the gross inadequacies of the PSU, how do you justify the delays in constructing this facility?

**MS GALLAGHER:** It was grossly inadequate, and it was a legacy of, I think, Mr Smyth's last time in government as well that nothing was done about the state of the psychiatric unit.

We had been planning the new adult mental health unit. We made some commitments around that and then, based on consumer feedback about not wanting to have the secure unit located on the same site as the adult mental health unit, we changed that. We revised that. We rescoped; we redesigned. We have built a state-of-the-art facility so that governments—I will not say of all political persuasions, because I do not see any reason why there would be a change—in the future will have a very good adult mental health unit.

Mr Hanson, you should be congratulating that—that society's most vulnerable have a mental health unit that is second to none in the country. That is what we have got. And we have got people coming and visiting here to look at these facilities. Yes, it took some time to get here, but we are not about trying to shorten a process for some political expediency. We are about building infrastructure for the long term, infrastructure for the economic benefit and social benefit of this city. At times, that means that you look at the original plans and you revise them. That is what we have done with the adult mental health unit, and it has been to the project's benefit.

**MS PORTER:** A supplementary.

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

**MS PORTER:** Minister, has there been community feedback about the new facility? I am particularly interested in the visitors to the centre and the feedback you have had from them.

**MS GALLAGHER:** We worked very closely with consumers and carers through the design of this building. Indeed, for those at the opening they will have heard consumer and carer representatives talk about the success of being involved in a project like this and how involved they were from the beginning. That has been essential in designing a building that is the state-of-the-art facility that it currently is.

As we know, people come into the mental health unit at the acute end of an episode of illness. Most of their recovery happens in the community with community-based mental health services, whether they be delivered through the public or community service sector. This budget continues our commitment to growing the community-based side of mental health services. The acute side has had incredible injections of resources going into it both in infrastructure and in additional staff. The work will continue on making sure our community-based mental health services are as good as they can be as well.

**MR SESELJA:** A supplementary.

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

**MR SESELJA:** Minister, which ACT Health infrastructure projects have been delivered late and/or over budget during your time as health minister?

**MS GALLAGHER:** If I go through all of them, because I am sure Mr Seselja is just as interested in the projects overall that have been built, we have had additional operating theatres, we have had a second cardiac lab, we have had extra treatment spaces, we have had 256 extra beds—and, when you say that, there is a component there of construction, to provide the capacity for extra beds. There are projects underway at the moment. The community health system—

**Mr Seselja:** A point of order.

**MR SPEAKER:** Yes. Stop the clocks, thank you.

**Mr Seselja:** Mr Speaker, I know she does not want to answer the question.

**MS GALLAGHER:** I'm getting there.

**Mr Seselja:** Well, you're not. If you could ask her to be directly relevant, as she is going the opposite of what the question was. Could she tell us which ones are late and/or over budget.

**MR SPEAKER:** Yes. Chief Minister, the question was specific. Could you, in your remaining time, answer Mr Seselja's question.

**Mr Hanson:** If you need help, I can provide you with some answers on that, Katy.

**MS GALLAGHER:** Thank you.

**MR SPEAKER:** We will just hear from the Chief Minister, thank you.

**MS GALLAGHER:** It will be a dark day when I need Mr Hanson's help, I tell you. We will all be running for cover.

The projects that could have been over budget and over time would have been the adult mental health unit and the women's and children's hospital. But I also remind people that we have changed the scope of those projects within the time of construction. For example—

**Mr Seselja:** Was the car park over budget?

**MS GALLAGHER:** No, the car park was not, Mr Seselja. I can hear your quiet inquiry. No, it was not. The project that was funded was for an 1,800-space car park on the southern block side of the Canberra Hospital. If you go and speak to Hindmarsh, they will tell you that they built it on time and on budget. Indeed it came in under budget, from memory, and they were able to put some additional resources elsewhere. With the women's and children's, we took some decisions half-way through that project, and that has contributed to the cost. (*Time expired.*)

### **Canberra Hospital—birthing centre**

**MS BRESNAN:** My question is to the Minister for Health and concerns the birth centre at the Canberra Hospital. Minister, I understand the new birth centre, to be opened later this year, will increase the number of birthing rooms from three to five. However, extra midwifery staff have not been provided to match the increase in rooms. Minister, is the increase in birthing rooms intended to increase the number of women who can birth there with that midwifery model, and, if yes, how will it do that, given there is no increase in staff?

**MS GALLAGHER:** I am sorry, Mr Speaker, because of Mr Seselja and Mr Smyth, I could not hear the question that Ms Bresnan asked. If you could just repeat the last part, Ms Bresnan.

**MR SPEAKER:** We will just have the question again from Ms Bresnan.

**MS BRESNAN:** Minister, is the increase in birthing rooms intended to increase the number of women who can birth there with that midwifery model, and, if yes, how will it do that, given there is no increase in staff?

**MS GALLAGHER:** My understanding of that is that there is some extra money going in for bringing on the services in the women's and children's hospital and to start a continuity of care program at Calvary, on the north side, which has been a priority for me because they actually do not have a service like Canberra Hospital does.

In relation to the birthing centre and the number of suites, it is expected that we will be able to deliver more babies there from the fact that the birth centre will not be fully

occupied. But there is additional capacity for women who have not been able to birth because the three birthing suites have been utilised and they have had to birth in the delivery suites. So the extra capacity will allow us to manage some of that.

In terms of priority in this budget, and with the resources available, it was money for the neonatal intensive care unit, extra staff in that, because it was a new model of care. The midwives at Calvary have lobbied me quite heavily on having a program of continuity of care for midwifery for women on the north side of Canberra, and this budget delivers that.

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

**MS BRESNAN:** Minister, of all the models of birthing provided by ACT Health, does the birth centre have the highest level of unmet demand?

**MS GALLAGHER:** Yes, it would, in terms of a waiting list. There is a waiting list for the community midwives program. Women who come through the public system on the CatCH or through the general antenatal program are all seen through those programs. So, yes, there is a waiting list. Again, it is balancing the available resources to manage demand. I have to say that at Canberra Hospital we have the community midwives program and we have the CatCH program. At Calvary we had neither of those programs. In this budget, when we looked at the money available, the priority was to provide a continuity model on the north side of Canberra.

**MS HUNTER:** Supplementary.

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

**MS HUNTER:** Minister, is it true that women have to book the birth centre before they are five weeks pregnant if they are to secure a place?

**MS GALLAGHER:** I have not heard that it is five weeks, but I was aware that you were having to try to get a spot certainly within your first trimester of pregnancy.

I would love to see this model of care grow, and when resources are available we will do that. We have put extra midwives into the Canberra Hospital. We have started up the CatCH program, we have now expanded the birth centre, and we have now started continuity of care with midwives on the north side of Canberra. So I think you can see our commitment to midwifery-led models of care for women who are wanting that service. But there is always more to be done; you could always put additional resources into those models of care.

The challenge in the ACT is also managing the different types of care that are required—the foetal medical unit, the high-risk pregnancy group, the antenatal program, those women who want to use the delivery suite, the community midwife program, the continuity of care program. And then of course there is the private system as well.



I think that to a large extent the public health system, complemented by the private health system, does support a range of choices for women, but if there was an area you would continue to grow it would be the community midwives program. That certainly would be popular with women.

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

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

**MR HANSON:** Minister, how much over budget is the women's and children's hospital? How late is it? And when it will be fully operational?

**MS GALLAGHER:** The budget for the women's and children's is \$121 million. That was based on some changes that we made. Specifically, the most expensive component of that was to move from 50 per cent of the rooms being single rooms to 80 per cent of them being single rooms. So now parents can actually stay the night with their children in a room on their own—or 80 per cent of them can; the rest are more in high dependency areas. It was putting in the infrastructure associated with that. Each of those rooms will have a bed for a parent. They will all have their own ensuite. This will be infrastructure that this city has never seen. It is for women and children. I think we should be incredibly proud of that. That has been the major impact on that. That was a conscious decision we made after I visited a hospital in Norway, where 80 per cent of their rooms were single-patient rooms.

In relation to when it will be opened, it is about a year overdue. It was due to be opened in May. The wet weather contributed, as did some quarantine seizure of some windows—or quarantine examined some window treatments. The handover date, as I was advised recently, is 20 July. It will take about a month to commission and we are expecting to have it open in late August.

### **Children and young people—care and protection**

**MRS DUNNE:** My question is to the Minister for Community Services. Minister, on 18 October last year you said in the Assembly that your director-general intended to go to a public tender for the provision of supervised transport services in the care and protection system. That was partly to address problems with late payments to service providers and partly to put the on-demand supervised transport services on a more formal footing. Minister, has the tender been called? If yes, when was it called? If not, why not and when will it be called?

**MS BURCH:** I thank Mrs Dunne for her question. We have not gone to tender on that. There has been an ongoing conversation with a number of the service providers to see what the model should be. We have worked through a process of standardising—what are the expectations, what are we actually after, what are the standards, what are the costs involved in various transport services? So this has not gone out, but we have spoken with the providers, and we continue that work.

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

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

**MRS DUNNE:** Minister, how many NGOs have been providing on-demand supervised transfer services in the territory over the past two years?

**MS BURCH:** There are not a lot. I think there are less than five.

**MR SMYTH:** A supplementary.

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

**MR SMYTH:** Minister, have the invoices of all supervised transport service providers been paid within the agreed terms in the last two years? If no, why, and what was the highest total owing to all service providers during that time?

**MS BURCH:** I clearly do not have that level of information in front of me, but CSD is committed to making sure that the community sector is supported. That includes payment of invoices.

**MS HUNTER:** Supplementary.

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

**MS HUNTER:** Minister, what is the time line for having those discussions, finalising the tender specs and putting it out to tender?

**MS BURCH:** We are very close to finalising what will be the proposed schedule of fees and expectations within that suite of services. I think the next conversation is about whether you go to those organisations that currently provide it, almost as a select tender approach rather than a public tender approach. So that is the conversation that we need to have: how do we go about securing and procuring those services?

### **Mental health—in-patient facility**

**MR COE:** My question is directed to the Minister for Health. In the 2008 election you promised to build a secure mental health facility. Funding was provided in the 2008 budget. In the 2009 and 2010 budgets the funding was rolled over and the project was cancelled in 2011 due to cost blow-outs. In 2012 you have funded “forward design” work for the project. Based on your previous record on this facility, can you guarantee that this facility will be built?

**MS GALLAGHER:** Yes, the facility will be built. Again, if I can just remind members of the history of this project, the secure mental health facility was originally to be co-located with the adult mental health unit on the site of the Canberra Hospital. After some very significant concerns were raised with me by consumers and carers about that approach, the government decided to separate the projects. The funding that

had been allocated for the secure mental health unit had been predicated on the fact of sharing a whole number of facilities with the adult mental health unit. All of the staff facilities and obviously the kitchen facilities had been seen as a shared infrastructure cost. When those were separated, there would have been additional costs.

We then did some site selection. The former Quamby site was chosen as the secure mental health unit preferred site. That has some additional costs in terms of the site itself; it is quite difficult to build on. The costs came back at about \$30 million, from memory, to build that. We only had budget approval for about, from memory, between \$11 million and \$15 million. I returned that money to the budget while further work was being done. That work has been done now, in terms of commissioning some advice around the level of demand and potential models and, particularly for small secure units like the one we are talking of here, which was only a 15-bed facility, some of the challenges that have come with that.

With respect to where we have got to, that work is in. We will build a new secure mental health unit. We have provided \$2 million to design that facility. Once that is designed, we will allocate construction funding. At this point in time we do not have a figure on what the budget of the designed facility would be. But by allowing \$2 million for design—the rough rule-of-thumb is that design constitutes about 10 per cent of your cost—we are sending a message that we would like to see a building design in the vicinity of \$20 million, not \$30 million or \$35 million.

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

**MR COE:** Chief Minister, the original completion date for the facility was September 2010. What is the rescheduled estimated completion date and can you guarantee that it will be completed on time?

**MS GALLAGHER:** Having just given Mr Coe the history lesson of that project, I am sure he can understand why that date has changed. Again, we often hear those opposite criticise projects when budgets are allocated and then, through their implementation, costs are exceeded. What we are doing at this time is sending the design money, and then, when that design is complete, the construction funding and the timetable will be allocated.

I should also say that forensic mental health services have been enhanced during this time. We have got court liaison services, we have got forensic community outreach services operating, and, of course, we have got services going into the Alexander Maconochie Centre and the Bimberi Youth Justice Centre. So it is not as if services are not being provided. In addition, the new adult mental health unit has a high secure area within it. Those facilities are available in the meantime.

One of the challenges for running a secure unit is the number of people whom you would expect to use a facility like that. The feedback we have got—I am happy to release the reports once they are finalised; I have not got the final reports with me—is that one of the challenges in running a small unit has been attracting staff to a unit like that where the numbers are so small. These are all matters that we have to consider in the decisions that we take about the secure unit.

**MR HANSON:** Supplementary.

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

**MR HANSON:** Minister, the 2012 budget states that this facility will be on a stand-alone site. Where is this site?

**MS GALLAGHER:** The preferred site for the secure unit has not changed.

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

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

**MR HANSON:** Minister, estimates for this facility have ranged from \$11 million to \$37 million. How do you now estimate the cost to be approximately \$20 million?

**MS GALLAGHER:** Because of the changes that we will bring in terms of the design. One of the concerns I had with the \$35 million proposal was that it seemed to have some very generous outdoor areas. The model of care that had been developed had increased the costs of the facility overall. The cabinet have sent, I think, a message by saying that we are providing \$2 million for this facility, roughly being 10 per cent of the cost, and we would expect a facility to be designed in the order of \$20 million.

### **Budget—students with disabilities**

**MR DOSZPOT:** My question is to the minister for education. Minister, the budget outlines additional money to support students with a disability in non-government schools, which will come from quarantined funds in the interest subsidy scheme. Can the minister outline how this initiative is intended to be maintained in the outyears?

**DR BOURKE:** I thank the member for his question. Of course this government is proud to have delivered record funding to Catholic and non-government schools in the ACT. In this budget, as Mr Doszpot has correctly noticed, we have committed \$2 million for students within non-government schools. This is, as he correctly points out, for the next financial year.

**Mr Doszpot:** The question was not answered, Mr Speaker.

**MR SPEAKER:** Mr Doszpot, you have a supplementary question.

**MR DOSZPOT:** Given that the average cost of a student with a disability in a mainstream school is \$28,506 per annum, how will the additional \$2 million provide appropriate support for the nearly 500 students in non-government schools? And this is a serious question, minister.

**DR BOURKE:** I thank the member for his question. This support is on top of the already significant amounts of funding that the ACT government provides—provides—for non-government schools in the ACT. The member will also recollect

that the Gonski review particularly focused on an equitable outcome and transparent outcome for disability funding and said that this is something that should be delivered in the future through commonwealth government legislation. The actual funding will be delivered according to a formula which has already been put together and previously utilised by the directorate.

**MR SESELJA:** Supplementary.

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

**MR SESELJA:** Minister, how will students with disabilities in non-government schools be supported once the funds in 2012-13 are expended?

**DR BOURKE:** I thank the member for his question. That will be a matter for the next budget.

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

**MS HUNTER:** Minister, will the SCAN assessment process be used to help allocate these funds?

**DR BOURKE:** I thank the member for her question. Yes.

### **Budget—employment**

**MS PORTER:** My question is to the Chief Minister. Minister, can you indicate how the government is supporting our economy and jobs through investing in high quality services?

**MS GALLAGHER:** I thank Ms Porter for the question. Yesterday's budget is a responsible budget and it is a measured budget. It supports the economy and it supports jobs. It invests in high quality services and it invests in infrastructure. It targets assistance to our most vulnerable and it undertakes much-needed structural tax reform. It is a good budget, a good Labor budget from a good Labor government.

At this time of challenge it is important to invest in services that help us meet the challenges we confront as a community. By investing in services we keep up our activity levels, we keep up our business confidence levels and we keep the city out of a recession. Keeping up activity keeps people in jobs. By keeping people in jobs we keep food on the tables and we keep money circulating through local business. All this helps protect the wages earned by Canberra workers which, on average, are 15 per cent higher than in the rest of the country.

Under our plan we have a return to surplus that is measured and responsible. We have also taken a decision to carry out once-in-a-generation tax reform. Many families end up with more money in their pockets and all Canberra households end up with better services, better infrastructure and better cities.

**Mr Smyth:** It is kind of embarrassing, really.

**MS GALLAGHER:** I do not find it embarrassing at all, Mr Smyth—at all. This is a budget that we are very proud of. What have we heard from those opposite? Nothing; just the same old tired speech that they give at the end of every budget every year, the same slides perhaps with the dates changed. There is not a single alternative. There is not even a view about whether tax reform is a good idea—a view that it might be a good idea but “we just haven’t thought about it yet”.

**Mr Smyth:** On a point of order, Mr Speaker, I think the standing orders say that the minister cannot debate the subject.

**MR SPEAKER:** Minister, let us again focus on the question Ms Porter asked and less on the Liberal Party, thank you.

**MS GALLAGHER:** This is a budget that invests in the local economy. We want to make sure that we are doing everything we can as a government to make sure that confidence levels are maintained, that those in our community who are doing it tough get an extra hand and that we reform some of the unsustainable tax system that is in place at the moment.

I should add that the changes that we have announced will benefit governments of all political persuasions from now and into the future. Anyone who sits here and does not think that these changes should happen obviously is not of the view that they will ever form government and be responsible for putting together a budget that delivers services that this community wants and expects and, indeed, deserves.

We have a very strong budget. We have a very strong balance sheet. We have a AAA credit rating.

*Mr Smyth interjecting—*

**MS GALLAGHER:** Mr Smyth, you can keep talking it down. You can keep talking it down all the way to October. We are here to ensure confidence in the city. When you walk around and talk with people—you talk to the community sector, you talk to the business community—everyone, except the Canberra Liberals, wants to work together to see this city through the next couple of years. Every single person I have spoken to says, “How can we work together to move our city into its next century but at the same time make it even stronger and make it even better?”

These are people that genuinely care about the city. They are not the people that wake up with a smile on their face every morning because they have found another problem to run, another service to talk down, another public servant to attack or another health system to ridicule. This is not the approach that this government supports. (*Time expired.*)

**MR SPEAKER:** Supplementary question, Ms Porter.

*Opposition members interjecting—*

**MR SPEAKER:** Order! Ms Porter has the floor, thank you.

**MS PORTER:** Chief Minister, can you indicate how this commitment to high quality service is consistent with the government's measured plan to return to surplus?

*Opposition members interjecting—*

**MR SPEAKER:** Order! Before you start, Chief Minister, I remind members that at least two members are on a warning. Let us minimise the interjections, thank you.

**MS GALLAGHER:** The government will return the budget to surplus. We will do it on our original timetable of 2015-16. One of the things I said as Treasurer and indeed in the budgets that I brought down was that the budget plan allowed flexibility. It allowed us to respond to changing circumstances. When we thought we could bring the budget surplus forward, we did. But at that point we were not aware of some of the global uncertainty and, indeed, some of the intentions of the commonwealth. Now that those positions have become clearer and we have the strength of our balance sheet and the health of our budget overall, we have taken a decision to return to our original plan of 2015-16.

We have taken the decision up-front to return to our original plan to protect growth and to protect jobs. If we had not invested in the infrastructure program, in the spending that this budget contains, we would not have seen the predictions for growth in our economy over the next financial year that we have estimated. Indeed, we welcome the figures today in the national accounts that show that the ACT economy was, I think, the third fastest. It had the third highest growth in the country.

That is good news, Mr Smyth. We look forward to your press release welcoming that growth. We are happy that growth in the economy actually means jobs. It instils confidence in the city. That is what we are here to do. That is what this budget allows us to do. We are investing in jobs, we are investing in the local economy and we are investing, importantly, in confidence in our city. We welcome the support of those principles by other members of this Assembly.

**MR SESELJA:** Supplementary.

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

**MR SESELJA:** Minister, how will the lease variation charge impact on jobs in the construction sector?

**MS GALLAGHER:** I welcome the opportunity to talk about lease variation charge, the charge that the Liberals hold entirely responsible for anything—anything bad that happens in the city is down to lease variation charge.

**Mrs Dunne:** Point of order, Mr Speaker.

**MR SPEAKER:** Yes. One moment, Chief Minister. Stop the clock.

**Mrs Dunne:** Mr Seselja's question was quite specific. It was about the impact of the lease variation charge on jobs. It was not an opportunity for the Chief Minister to talk about the lease variation charge in general. She needs to answer the question directly.

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

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

**Mr Hargreaves:** Mr Speaker, I think it is reasonable for you to rule that the Chief Minister has a little bit more than 14 seconds to put context around her answer.

**MR SPEAKER:** Yes, there is some latitude for the Chief Minister to frame her answer. But the question is quite specific, and I trust you will get to it in your time, Chief Minister.

**MS GALLAGHER:** I think it is surprising that the Leader of the Opposition continues to attack lease variation charge. I think it constitutes between one and two per cent of our own source revenue—a very, very, very small part of the overall revenue collected from property across the ACT—yet it is entirely responsible for everything that occurs in the ACT, I think, if you look at Mr Seselja's media releases over lease variation charge.

Lease variation charge will continue to be an important part of own-source revenue, even though it is small, as the city grows and develops. It is right that the community gets a return from development rights that are granted.

**Mr Seselja:** Point of order.

**MR SPEAKER:** One moment, Chief Minister.

**Mr Seselja:** As much as we love the exposition on it, the question was very specific in terms of its impact on jobs and I would ask you to ask the minister to be directly relevant.

**MR SPEAKER:** Minister, we are getting to the time frame where you need to get to the specific question, please.

**MS GALLAGHER:** If they stopped "point of ordering" I could actually answer the question. The answer to the question is that this budget supports jobs and it does it through our infrastructure program, our urban improvement program. Look at all the jobs contained there: \$900 million being invested through there.

**Mr Hanson:** Mr Speaker—

**MR SPEAKER:** Order! Stop the clocks, thank you.

**Mr Hanson:** Again, we have raised this point of order three times, I think. The question was about the effects of the lease variation charge on jobs, not about the



impact of the budget on jobs, and I would ask that the minister get to the point of the question, which is about the impact on jobs of the lease variation tax.

**MR SPEAKER:** Members, we are well in the grey zone here, where the minister does need to address the topic but she does not need to address it in exactly the manner in which Mr Seselja seeks. So, minister, I would ask you to keep focused on the specific matter. I think you were getting there in your last section—

**MS GALLAGHER:** I was trying to.

**MR SPEAKER:** Use the remaining time to try and address the question, thank you.

**MS GALLAGHER:** I will. Thank you, Mr Speaker. The government believes that lease variation charge is a charge that is fair and reasonable, and in terms of our role in supporting jobs in the territory it is done through our infrastructure spend, through our employment, of 18,000 jobs across the territory and growing, and in terms of the urban improvement fund, the construction industry, the housing supply—they are all about jobs. But, yes, we believe that lease variation charge, a return to the community for development rights, is a legitimate policy. And what are you going to do, Mr Seselja? Are you going to abolish it? (*Time expired.*)

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

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

**MR SMYTH:** Chief Minister, both the Property Council and now the Master Builders Association have said that your tax changes will drive away investment—

**MR SPEAKER:** Mr Smyth, let us frame it straight to a question, thank you.

**MR SMYTH:** Why have you delivered a tax policy that will drive away investment and jobs?

**MS GALLAGHER:** It will not. Indeed, as the Treasurer has outlined today, where there are legitimate issues around transition, the government is happy to look at those. But in terms of moving to a sustainable tax base, this budget starts that journey. It is the right thing to do at this time. In terms of our own capacity to invest in our community, to support jobs, we are doing that. This entire budget is focused on that. It is focused on our own employment through the public service; indeed it is focused through our infrastructure program on supporting construction.

The MBA have not raised concerns with me around driving away investment. Maybe there is an element in the budget that they do not like. Indeed the discussions I have had with them in the last 24 hours have been largely positive. They have been very happy to see us hold our nerve and invest in the construction industry, because that is jobs for their industry, and it has been very positive.

In relation to the Property Council, I understand that there are a couple of instances where they are concerned at one end, in one scale of stamp duty in the commercial

sector over a certain amount of money. But for the other parts, they are broadly supportive as well.

This budget gets it right. It focuses on jobs, it focuses on infrastructure, it focuses on confidence. And that is exactly what this city needs at the moment. It does not need those opposite continually talking it down and smiling from ear to ear whenever there is a bad news story relating to Canberra.

*Mr Seselja interjecting—*

**MS GALLAGHER:** Stop the Canberra bashing, Mr Seselja. You can do it.

**Budget—Canberra Hospital emergency department**

**MR SPEAKER:** Mr Smyth.

**MR SMYTH:** Mr Speaker, my question is to the Minister for Health.

**Mr Hargreaves:** No more questions, Mr Speaker.

**MR SPEAKER:** The Chief Minister sat down.

**MR SMYTH:** The Canberra Hospital car park was delivered 18 months late and \$13.5 million over budget. The acute adult mental health in-patient facility at Canberra Hospital was delivered 16 months late. Based on this record, can you guarantee that the Canberra Hospital emergency department redevelopment in the 2012 budget will be delivered on time, on scope and on budget?

**MS GALLAGHER:** Yes, and my apologies to the Assembly, Mr Speaker. I was distracted at the end of that question, and I should have risen. It is my fault that I did not. But the answer to the question Mr Smyth asked is yes.

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

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

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

**MR SMYTH:** You cannot do it; you have to wait until the end of the question. Mr Speaker—

**MR SPEAKER:** Order, Mr Smyth. One moment, please.

**Mrs Dunne:** The standing orders say he is entitled to a supplementary question.

**MR SPEAKER:** I think now the question has been started we will proceed, Mr Smyth.

**MR SMYTH:** Minister, how will this redevelopment assist those Canberrans who today are experiencing the longest emergency waiting times in the country?

**MS GALLAGHER:** They are not, depending on how you present. If you present with the most serious, the most urgent, emergency condition, you will be seen on time. For those with less urgent conditions, there may be a wait, particularly on a busy day.

**MR HARGREAVES:** A supplementary.

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

**MR HARGREAVES:** Chief Minister, in the redeveloped hospital will the coronary care unit save far more lives of people suffering heart attacks in the future?

**MS GALLAGHER:** Part of the focus of the extra money into the emergency department is for four extra cardiac care beds. Whilst we have very good results in terms of getting cardiac patients into the emergency department quickly and into the cardiac catheter labs, the second of which has been built in the last couple of years, what it will allow is for those patients to be treated in addition to other patients coming through the emergency department.

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

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

**MR HANSON:** Minister, given the record numbers of people who have presented to the emergency department in the first quarter of this year and the fact that your government is only now looking at redevelopment, will waiting times this year be even worse than last year?

**MS GALLAGHER:** Mr Hanson is wrong; we have increased capacity in the emergency department by 55 treatment spaces.

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

## **Personal explanation**

**MRS DUNNE:** I wish to make a personal explanation.

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

**MRS DUNNE:** In question time today I asked Minister Burch as a supplementary, “Why is the government using the community sector efficiency dividend to pay for the increased costs in the equal pay case?” Minister Burch stood up and said, “Mrs Dunne does not know what she is talking about.”

I refer members to page 129 of budget paper 3, where the initiative called “Implementation of equal remuneration case outcomes and related ACT community sector reforms” shows \$448,000 in the first year as expenses. It says:

This initiative will provide support to the ACT community sector in response to the ACT Government's commitment to fully fund the outcomes of the equal remuneration case, and will manage a series of community—

**Mr Hargreaves:** Point of order, Mr Speaker.

**MRS DUNNE:** I am making a personal explanation for which I have leave, Mr Speaker.

**Mr Hargreaves:** I am raising a point of order.

**MR SPEAKER:** One moment, Mrs Dunne. Yes, Mr Hargreaves.

**Mr Hargreaves:** My understanding, Mr Speaker, is that the standing order refers to issues where a member has been misrepresented. So far Mrs Dunne has not indicated in the chamber how she has been misrepresented.

**MRS DUNNE:** I made it perfectly clear that Minister Burch claimed that I did not know what I was talking about in relation to this initiative, and I am quoting from the budget papers to demonstrate.

**MR SPEAKER:** Yes. Mrs Dunne, you have the floor; you can continue.

**MRS DUNNE:** I will just conclude, so as not to be accused of misquoting. The section goes on:

... and will manage a series of community sector reform projects.

There is a note on that page—I will just scroll down—which says—

**MR SPEAKER:** I think the point is made, Mrs Dunne, thank you.

**MRS DUNNE:** The note says it is an initiative where there is a levy of 0.34 per cent being charged on the community sector.

## **Health—services**

Debate resumed.

**MR HANSON** (Molonglo) (3.23), in reply: In closing, I would like to thank members for their contributions to this debate. Mr Seselja again showed a depth of knowledge across a broad range of portfolios and a knowledge of the health portfolio that gives me great comfort, and should give members of our community great comfort, that should he be the Chief Minister in October he has a great understanding of the issues affecting them, in particular in the health system. I thank him for his contribution.

Mrs Dunne's contribution was quite moving. She presented a human side and talked about her family experience. Mrs Dunne has about three decades of experience as a

health consumer visiting the Canberra Hospital with her family. People that know Mrs Dunne would know that she has children with a number of serious health issues. The story of her daughter being stuck in the emergency department waiting room for 15 hours was extraordinary but, sadly, it is the sort of experience that is shared by many across our community.

I thank Mr Smyth in particular for his contribution with regard to our health staff. As much as Ms Gallagher and her team try to turn any criticism that we make of the health system, or indeed any other part of the government, into a Liberal attack on staff, they are not. We want to see the best health system that we can have in the ACT. We indeed want to see the best health system in Australia, which we used to have. I think that the health staff on the front line would share the Canberra Liberals' ambition. Many health professionals that I talk to, be they nurses, allied health professionals or doctors, share the concern at the neglect that they have seen of our health system over the last decade.

I am again not surprised that the Greens will not be supporting this motion, although I see nothing in it that is not supportable. There is nothing in my motion that is not anything other than factual. Again, we saw from Amanda Bresnan: "What have you done? We need to move towards a more preventative health model." She would know that back in 2010 I presented a health paper that actually had a number of bits of evidence that supported that proposition.

Since then we have had a number of community forums—six, in fact: primary health; mental health; allied health; seniors health, and I note and acknowledge Mr Seselja's participation in that forum; women's health, and I acknowledge Mrs Dunne's participation in that forum; and men's health. They have been very well attended by community organisations. And we have heard from many members of the community, both individuals and those representing peak organisations, about their shared concerns about our health system, and indeed about the management of this government.

In terms of GPs, that is an issue that came up. Again we heard from Ms Bresnan, "What have the Canberra Liberals done?" We moved for an inquiry in this place that led to the government task force that resulted in approximately 40 recommendations to government, probably the most substantive body of work regarding primary health since self-government. That is the sort of thing that we have been doing since we have been in opposition.

We also instigated the elective surgery review of the Auditor-General that found that elective surgery was being mismanaged by this government and provided a way forward for this government. I was told by a very senior bureaucrat—a very senior bureaucrat—that the reason that this government was starting to move in a number of areas on elective surgery was the pressure that was being applied by the opposition. I think you will find that that is the case, and it is the case across the floor.

What we have been doing, in addition to providing that positive agenda to push the government in the right direction—which we have done on GPs, on elective surgery, through our health forums, and through the paper that we put out in 2010—is hold this government to account. That is the principal job of an opposition.

On emergency departments, we have identified serious problems that have been exposed to the public. We have not only litigated the case against this government on performance, where we have seen ourselves swept from being the best in the country to being the worst in the country, but also litigated the case about a senior health administrator who was doctoring the figures, and called for a proper review.

With elective surgery, we have held this government to account. We have seen negligence from the minister, who has said on many occasions that waiting times in the emergency department and elective surgery are just one measure of reporting outcomes for a health system. But if you are a patient waiting for elective surgery and you are waiting longer than anyone else in the nation, you want to know that your minister is out there fighting for you. When you hear, “They are just one measure, just a number,” you realise that is the sort of reason that people in our community are sick to death—literally sick to death—of this government.

In 2010 we also saw the very disturbing case of doctors who came forward with allegations of bullying. Thirteen doctors resigned. They said that they were being bullied. The health minister came out and initially denied that. Then, when it became evident that that position was untenable, she attacked the doctors and she threatened, with the Chief Minister at the time, to trawl through 10 years of health records. Then the report came back—the clinical review, because we never got to see the bullying review. She said we would see it, but of course we knew at the time that it was part of the cover-up of the way she operates—a deny-and-attack cover-up, where the final stage that she gets to is to blame the department. What we saw was a minister who refused to tell this place what was going on in the hospital, who attacked the doctors and covered it up.

We are coming up to an election, Mr Speaker. The people of the ACT will ask the question: can we trust this minister? This time, when she stands up in front of the community and says, “Trust me; all my plans are on the table,” I think it is fair to say that the community will be a bit sceptical. As I have said in my opening remarks, this is a minister who signed a heads of agreement with the Little Company of Mary—

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

**MR HANSON:** Can you stop the clocks, please?

**MR SPEAKER:** Yes. The clock, thank you.

**Ms Gallagher:** Just previously, about a minute ago, Mr Hanson alleged that I covered up a report into health. It is clearly an imputation against me. There is no evidence to support that.

*Members interjecting—*

**Ms Gallagher:** The report was made under public interest disclosure legislation. I have not seen the report, Mr Speaker. It is incorrect to allege that I covered up and refused to release the report.

**MR HANSON:** On the point of order, Mr Speaker.

**MR SPEAKER:** On the point of order, Mr Hanson.

**MR HANSON:** I consider it a debating point. When this first came to fruition in the parliament, we said that the process that the minister was deliberately following—she is the one that set up this process—was an attempt to cover up the release of the document. I understand that the decision to release the report, the Public Interest Disclosure Act report, is not hers. But my point, and I stand by it, is that the decision she took to instigate a review under the Public Interest Disclosure Act rather than the Inquiries Act was a deliberate attempt to cover up the results. That has been proven and I do not think that that is anything other than a debating point.

**MR SPEAKER:** Chief Minister, on the point of order.

**Ms Gallagher:** On the point of order, Mr Hanson gets himself into more trouble. I did not choose the public interest disclosure process. That is not a process that ministers choose. Have a look at the legislation. Now he has alleged that I chose public interest disclosure and subsequently that I covered it up. Those are both incorrect. He has no evidence to support that. It is an imputation against my character and he should correct the record.

**MR HANSON:** Mr Speaker, on the point of order—

**MR SPEAKER:** One moment, Mr Hanson. We are having quite a debate now. We are having quite a debate now about how the legislation works. That is not really a point of order. Unless there is something quite specific on the standing orders, I do not want to have a debate about how the Public Interest Disclosure Act works. On the basis of the original point of order, I am just going to take some advice.

Thank you, members. The point of order is upheld. I think that the suggestion of a cover-up is an imputation in this context and so I ask you to withdraw, Mr Hanson.

**MR HANSON:** Mr Speaker, I will just refer you, on the point of order, to the motion. Subparagraph (e) says:

... the Minister for Health denied, then attempted to cover up, serious complaints of bullying at The Canberra Hospital in 2010;

It is part of the debate for today, Mr Speaker. It may be a debating point, but the minister could have covered this in her initial remarks. But given that this is actually part of the motion, I fail to understand how it could be out of order.

**MR SPEAKER:** Thank you, Mr Hanson. I stand corrected, Mr Hanson. I had not seen that part of the motion. On the basis of the additional information given to me, it is in the substantive motion and therefore the point of order is not upheld. You have the floor to continue.

**MR HANSON:** Thanks. I get back to my point: this was an attempt by the minister to cover it up. She never wanted this to come to light. She denied that there were any complaints made. She attacked the doctors. The report came out that said that quite clearly there had been bullying, quite clearly people had been making complaints, and then she continued to deny it.

We called for an open, accountable process under the Inquiries Act, which she voted against. She voted against it, knowing that under the Public Interest Disclosure Act the truth would never come to fruition. That was her deliberate attempt—and successful attempt, I might add—to cover up what had gone on on this bullying issue. And I still have a question mark as to why.

I go further on the broken promises. At the last election this minister promised a number of things and then failed to deliver them. She promised that she would deliver three nurse-led walk-in clinics. She promised that she would deliver a secure adult mental health facility. Does anyone know where they are? Has anybody seen them? If that is not the case, they are broken promises. We have a minister that covered things up. We have a minister that went to an election saying that all her claims were on the table when they were not. We have a minister who promised things and broke those promises. And this is now a minister standing up saying: “Yes, we have delivered the worst health results in the ACT’s history. Yes, we have taken it from amongst the best to now the worst. But trust me. Trust me, everybody; everything is going to be apples.” It is quite fair for the ACT community not to trust this minister. When you look at the facts, there is a big difference between what comes out of Katy Gallagher’s mouth and what gets delivered in the community.

Go down to the emergency department tonight, Mr Speaker, and talk to the families there that have been waiting. Tell them that they are not waiting long because they have got the facts that have been distorted by this government. I think that you will get the truth out of them, which is that they have had enough of this government. And the only thing that is going to change both the truthfulness and the results is a change of government.

Question put:

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

The Assembly voted—

Ayes 6

Mr Coe	Mr Smyth
Mr Doszpot	
Mrs Dunne	
Mr Hanson	
Mr Seselja	

Noes 11

Mr Barr	Mr Hargreaves
Dr Bourke	Ms Hunter
Ms Bresnan	Ms Le Couteur
Ms Burch	Ms Porter
Mr Corbell	Mr Rattenbury
Ms Gallagher	

Question so resolved in the negative.



## **Official Visitor Bill 2012 (No 2)**

Debate resumed from 2 May 2012, on motion by **Ms Bresnan**:

That this bill be agreed to in principle.

**MR CORBELL** (Molonglo—Attorney-General, Minister for Police and Emergency Services and Minister for the Environment and Sustainable Development) (3.40): Mr Speaker, the government will not be supporting this bill today. The amendments proposed in this bill will radically alter the current framework for official visitors. While the government does not propose to reform this area, the amendments suggested by the Greens in this bill illustrate a lack of understanding of the role of official visitors and are inappropriate for implementation in the ACT's legislative framework. The government believes the approach taken in this bill undermines the operation of the official visitors scheme and the effectiveness of official visitors themselves.

This bill is deficient in several respects. It proposes to establish a new official visitor for people with disabilities. In commenting on the exposure draft bill, the government indicated that the official visitor model is not an appropriate model to assist people with disabilities. We remain of this view for several reasons.

Firstly, the majority of support services for people with a disability are provided to people in their own homes or in shared accommodation. These services are not subject to court order, tribunal decision, legislation or other administrative requirements. The Greens' proposals do not provide relevant or necessary authority to either ensure compliance or facilitate improvements in care or services provided in disability settings. The bill suffers from a similar problem in relation to the introduction of a new official visitor for homelessness.

In addition, the Greens' proposed amendments to introduce an official visitor for people with disabilities do not take into account the work already underway within the Community Services Directorate. That directorate is currently consulting on a co-designed community visitor scheme for people with a disability in the community.

The community visitor scheme will offer additional avenues for people with a disability and their families to resolve their issues and personal concerns about treatment and services. The role of the community visitor will be independent of any organisation and will be tailored to provide greater protection for people with a disability in the community.

The bill also seeks to redefine and standardise the powers and functions of official visitors. This proposal fails to appreciate the different responses and functions that are necessary and appropriate in each of the existing three unique environments. For example, the official visitors for corrections will invariably work in circumstances and be required to perform functions that are different from the official visitor for mental health. The logical response to this is to tailor the powers and functions of each

official visitor to suit the different role they are required to play in each setting. This is the current legislative framework. The Greens' bill reverses this position and attempts to apply a blanket framework to all official visitors.

The bill will also undermine the strength of the official visitors—that of being able to resolve complaints informally without having to comply with constricting legislative procedures. Members will be aware that the ACT Mental Health Consumer Network as well as the corrections official visitor made submissions on the Greens' exposure draft that emphasised how the absence of prescriptive legislative processes is fundamental to the official visitors' ability to fix problems and issues where and when they arise.

There are also major resource concerns with the Greens' proposal requiring official visitors to speak with other interested people or people speaking on behalf of an entitled person. Firstly, it is conceivable that a diverse and possibly large group of people may seek to speak to an official visitor on behalf of an entitled person. This is particularly the case as the majority of entitled people will be amongst the community's most vulnerable citizens. The consequence of this proposal is the imposition of an unreasonable workload on official visitors. They are already working in areas that can be difficult and complex. The Greens apparently think we need to increase their workload.

In this context, it is important to note that official visitors currently fit their visitor duties within their work life. There is a volunteering component to some of the OV roles, reflecting the personal commitment of appointees to raising the standards of care and support in the communities in which they work. The ability to attract and retain high quality, committed volunteers may be undermined by the imposition of unnecessary resource and time-intensive requirements on official visitors.

It is also worth noting that the requirement for official visitors to speak to other interested people raises a range of complex privacy, guardianship and power of attorney issues which have not been fully explored or analysed.

The bill proposes a number of changes that seek to improve the independence of official visitors. While the exposure draft bill proposed to insert a reporting duty to the office of the Public Advocate, the bill before the Assembly today includes amendments to break the direct relationship that currently exists between official visitors and their appointing ministers. This, it is argued, is to address the alleged position that the current arrangements inherently compromise official visitors' independence.

The result of the proposed amendments would be that official visitors will be appointed by one minister but, in most cases, report to another. It is not clear how this will achieve greater independence for OVs. The government does not agree that the current process threatens the independence of an official visitor. The government believes the direct reporting relationship that an official visitor has with a minister sufficiently entrenches their independence and ensures that the official visitor is not subject to undue influence by the bureaucracy. The government believes the independence measures contained in the Greens' bill are both ineffective and unnecessary.

A further concern the government has about the bill relates to the elements providing that an entitled person may ask to make a complaint to an official visitor with no-one else present and to an official visitor of the same gender. There is an obvious risk for the official visitor associated with such an entitlement, particularly to an official visitor working in closed environments, as people detained in mental health facilities, correctional facilities or child and youth justice rehabilitation facilities may pose a risk to themselves or to others. This risk is exacerbated by the fact that the proposed entitlement does not contemplate giving an official visitor the discretion to refuse to see a person without adequate safety measures or to refuse to see a frivolous or vexatious complainant. The government has both safety and logistical concerns about the proposal.

The bill's stated minimum number of official visitors may not provide sufficient diversity to satisfy the gender requirement. In particular, there is currently only one female official visitor for children and young people, meaning that there would be no official visitor to hear complaints from entitled males, as required by the bill. As each official visitor has a different environment to work in, it would not be possible for official visitors from one area to prop up or fill gaps in another area simply to satisfy the gender requirement.

The bill proposes a number of new offences, liabilities and obligations that may not meet requirements for proportionality under the territory's Human Rights Act. Under the bill a person in charge of an operating entity will be guilty of an offence if the person refuses or neglects to render assistance to the official visitor, fails to answer any question if asked by an official visitor, obstructs or hinders the official visitor in the exercise of the official visitor's functions or fails to keep a record of each visit by an official visitor.

The existing scheme already requires various individuals to assist the official visitor in the exercise of the OV's functions. For example, corrections officers have a duty to provide assistance to an OV while staff at mental health facilities have a duty to answer questions and produce documents if requested by the OV. The objective, therefore, of the new offence provisions is unclear. There has been no suggestion that these duties are not being met under the existing scheme. Furthermore, attaching criminal penalties to these duties is unnecessary to ensure compliance. The penalties may not satisfy the requirements of section 28 of the Human Rights Act that the limitation of any right must not be arbitrary and must be the least restrictive means to achieve the policy objective.

The Greens' bill also makes the operational directorate responsible for breaches that may have occurred at facility level. In the case of the mental health official visitor scheme, it breaks the direct relationship between the mental health facility and the OV, and locates the OV's powers outside the particular facility. The government believes removing the OV's direct relationship with the person in charge of the facility will adversely impact on the effectiveness of those functions they are tasked with carrying out.

Finally, it is worth noting that a number of official visitors have expressed serious concerns about this bill and do not support it. Therefore, the bill before the Assembly today worsens rather than improves the territory's official visitor framework, and the government cannot support it.

**MRS DUNNE** (Ginninderra) (3.51): The Canberra Liberals will be supporting this bill today, and we have put in a process of considerable consideration in making this decision. In supporting this bill today, we do so with reservations. I believe many of the points made by the Attorney-General about changing the fundamental relationship of the official visitor are valid and are worthy of consideration. I think there are some policy concerns about the notion of an official visitor being in a corrections or mental health facility or a youth justice environment—that is, a visitor who deals with complaints and grievances—in an area where people do not have a right to liberty and someone has made a choice for them that they will be there. The role of an official visitor in that place is very important. The issues that give me most concern about this bill are the blurring of that distinction and the extension of the official visitor scheme into areas where people have more autonomy than is the case with the current official visitor scheme in the corrections, mental health and youth justice systems.

This bill will create the appointment of seven official visitors across five distinct areas, including the three existing positions in youth justice, corrections and mental health. Under the bill, youth justice and corrections will each have two official visitors. In each case, one of the officials must be of Aboriginal or Torres Strait Islander descent. The three remaining will be in mental health, disability and homelessness. I note that being an official visitor to homeless people provides some real challenges, but I think these are issues that are worthy of consideration.

On balance, the Canberra Liberals have decided that they will support this bill because there has been a substantial outcry and support from the community. When we went out and talked to the community about this, we got nothing but positive feedback. This is an indication that although our initial policy approach was to think that this may not be a very good idea and that there were significant flaws with the bill—I believe there are significant flaws with the bill—the overall response from the wider community is that the people involved—especially disability services—are crying out for a complaints mechanism. The message is that they do not trust this government to provide them with a complaints mechanism.

The very strong message is that they do not trust the community visitor system funded in the budget that was brought down yesterday. They do not trust the minister; they do not trust the department; therefore, they are calling on the Legislative Assembly to adopt this as a better approach. On the basis of that and that alone, the Canberra Liberals have decided that we will support this bill here today.

In saying that, I think there are flaws with the bill. I am not absolutely convinced that we need a legislative scheme for complaints mechanisms for disability housing, and the fact that we have got to the situation where there is so little trust in the community that we have to legislate a scheme, that the scheme cannot rely upon goodwill, is a sorry indictment of this government and this minister in particular.

The Canberra Liberals are supporting this scheme because it is the best that is on offer at the moment. We believe this is better than the government's proposal for a community visitors scheme. I had a briefing the other day from the government, and I was told, "We're about to do a community visitors scheme and it's much better than this." But when you actually look at what the community visitors scheme does and what this does, there is very little to pull between it.

I suppose it is with some reluctance that we are supporting this. It is unfortunate that we have to legislate a complaints mechanism in the disability services area in particular. I work closely with Mr Doszpot who has responsibility for disability services. I work closely with the care and protection area, and there is a lot of crossover between the client groups. Everywhere I go and everywhere Mr Doszpot goes we are told that the community wants a proper complaints system for the Community Services Directorate. No-one believes that the model put forward by the government will answer their needs.

When you look at, say, the Public Advocate's reports into the care and protection system, it shows that the Community Services Directorate is failing. It is not listening to the community. The feedback I have received in relation to that report, as I touched on yesterday, is that a number of people have said to me that the complaints they have been making year on year have been vindicated by this report but that they could not get through.

I have spent some time in the last little while reviewing what members of this place, for instance, have been told in answers to questions without notice in here and in estimates in relation to the care and protection system, remembering that two years ago almost to the day Marion Le AO went into the estimates committee and accused the care and protection system of institutionalised abuse of the children that they care for and institutionalised abuse of the carers, of kinship carers. That was pooh-poohed by the government with the minister saying, "My officials are very offended at that." But when you go back and look at what Ms Le said then and you look at the questions that have been asked by Mr Smyth and Mr Seselja and Mr Coe and me in successive estimates hearings, and then you look at the issues raised by the Public Advocate in her report brought down last Thursday, you see that the things that we were told, the things that were being complained about in the Community Services Directorate, have been borne out. It shows that there is a high level of need in the community for a proper complaints mechanism.

The people I talk to and the people Mr Doszpot and Mr Seselja talk to in these areas have said to us: "We do not trust the government to deliver that service. We need some arm's length from this. We need some independence for a complaints mechanism." There is a crying need in the community—literally a crying need in the community—for a complaints mechanism in the Community Services Directorate. Given that Ms Brennan's bill goes most of the way to delivering that, we will be supporting this bill.

We note for instance that this bill does not come into operation until March next year. Between now and March next year I think there will be some conversation with the

community about how this bill might be tweaked to be really effective. But what we are doing today is telling the disability community in particular and the homelessness community—the overall community dealing with the Community Services Directorate—that we will provide them with an effective complaints mechanism. As I have said before, I do not believe Ms Bresnan's bill is perfect, but it is better than what has been put on the table by the government, and that is the basis on which we in the Canberra Liberals will be supporting it.

The minister made a point about breaking the nexus between the relationship between an official visitor and the appointing minister by having the attorney appoint all of them. I thought at first blush that that was a convincing argument. But when you think about the level of bullying that we have seen from the Community Services Directorate of people who criticise them and the attempted bullying of the Public Advocate by the Community Services Directorate, I think there is actually some very good argument why we should have some breaking of the link between the appointing minister and the minister they report to. At first blush I thought that that was not a very good idea, but the more I have thought about it in the context of the complaints that we received and the clear lobbying we received on this, I think there is some merit in the appointments being done this way.

This is a difficult path. I often say in relation to Greens legislation that the Greens like to legislate where an administrative scheme might work, but I suppose that is the problem with not being directly in government. It also perhaps shows to some extent that the relationship with government can be ineffective on the part of the Greens from time to time. I personally would not see the need to legislate, and I know the government does not want to legislate in this place, but I suppose we have got to a point where we are saying to the government: "The community does not trust you. The community does not trust this minister and does not trust the Community Services directorate to be fair, to not bully, and to deal with people appropriately." That is why we will be supporting this bill.

**DR BOURKE** (Ginninderra—Minister for Education and Training, Minister for Aboriginal and Torres Strait Islander Affairs, Minister for Industrial Relations and Minister for Corrections) (4.02): The government cannot support the Greens' Official Visitor Bill. This bill, despite the Greens' good intentions for the protection of the vulnerable in our community, has wandered down the path that would leave not only the people it seeks to help but also the official visitors themselves in a worse position.

The Greens' bill proposes to redefine and alter the official visitor schemes through a standardised complaints management function for all official visitors, irrespective of the differences in each environment. The bill also proposes to prematurely create official visitors for disability and homelessness, which is not appropriate for the official visitor schemes and which ignores a collaborative national exercise that is already underway in relation to homelessness services.

This government has a proud record of initiatives to advance the principles of the Human Rights Act 2004. The official visitor schemes reflect this government's commitment to protect the rights of children and young people, people in prison or in detention facilities and mentally ill people, some of the most vulnerable people in our

community. The official visitor schemes under the Children and Young People Act 2008, the Corrections Management Act 2007 and the Mental Health (Treatment and Care) Act 1994 operate effectively to assist and protect the vulnerable people detained in facilities established under each act. The Greens have not demonstrated any practical, actual problems with any official visitor scheme.

This government does not support changes that would threaten the effectiveness and responsiveness of the existing schemes for the protection of vulnerable people in closed environments; that is, children and young people in corrections rehabilitation detention facilities, people in adult corrections facilities and people in mental health facilities. This is where the Greens' bill goes astray. Closed environments are operated for the purposes of the rehabilitation and care of young offenders, the remand and rehabilitation of adults who have committed an offence for which they are serving a period of detention and the treatment and care of people with a mental illness. These closed environments are not alike. Their issues, requirements, services and responses are also different. They are serviced by official visitors with different experience and expertise.

Official visitors work directly within correctional facilities, child and youth justice rehabilitation facilities and mental health facilities to assist and protect vulnerable people by facilitating early resolution of issues with service providers. If issues are not resolved, an official visitor can raise the matter directly with their minister and refer it to the appropriate complaints body, such as the Human Rights Commission or the ACT Ombudsman. They can also seek the support of the Public Advocate.

It could be suggested that the government is taking an "if it ain't broke, don't fix it" approach. This is not true. The government considers proposals and is open to those that improve the protection of particularly vulnerable people.

The government proposes to present legislation to amend the Corrections Management Act 2007 to establish a formal role for an Aboriginal and Torres Strait Islander official visitor for corrections and to amend the Children and Young People Act 2008 to establish an official visitor for Aboriginal and Torres Strait Islander children and young people. The government will also consider other non-legislative improvements to the official visitor schemes which will not compromise the effectiveness of the existing schemes.

The government is concerned that the Greens' proposed reform, for all its good intent, takes several wrong directions. It removes deliberate scheme variations which are essential for servicing different closed environments. It duplicates existing formal complaints management services provided by the Ombudsman, the Human Rights Commission and the Office of the Public Advocate. It ignores work already underway within the Community Services Directorate to co-design a community visitor scheme for people with disabilities. It ignores national collaborative work already underway to develop a targeted service for people who are homeless or at risk of becoming homeless. And it fails to recognise official visitors' direct reporting relationships with their ministers as the source of their independence from the systems in which they operate. Despite failing to identify problems in the existing schemes, the bill proposes

disproportionate criminal penalties and significantly increases the duties of visitors, for little or no benefit, burdening a group who are already working in often difficult areas.

This government takes very seriously its duty to protect our most vulnerable people. While the government appreciates the intentions of the Greens towards people in closed environments, any proposal for change must demonstrate an understanding of the character, objectives and risks of the official visitor schemes. With this bill, essential protections for human beings are at risk, and that risk must not be dismissed or overlooked.

This government is not about creating barriers to reform. The government remains fully committed to genuine reform of an already effective and responsive scheme. Nor does the government doubt the sincerity of the Greens in proposing this bill. However, the risks posed by the scheme are far too great for the government to let them go unanswered. This bill does not present an effective and responsive scheme and should be opposed. I urge members to support the government in opposing this bill.

**MS BRESNAN** (Brindabella) (4.08), in reply: I have to say, first, I do not know whether it is frustration or confusion that I have heard from the ministers today. I did think that they were perhaps given the letter and comments we received as we have been going through the consultation process on this. It appeared to me they were looking at the exposure draft legislation and not the new bill. That is clearly evident today from the comments that I have heard from both ministers. Also, I was somewhat confused by some of the comments that Dr Bourke made that do not seem to relate to either of the pieces of legislation.

The standardised processes and other issues have all been changed in the new legislation. That is, as I said, where my frustration comes through. We have been trying to get the government's feedback on the current legislation, and that is not what we have got. We are continually getting comments which seem to relate to the exposure draft itself.

I will go to some of the comments on the reporting process. I do apologise if my comments are a bit all over the place here. Again, the comments seemed to relate to the exposure draft. Because of the concerns that were raised by some of the official visitors with the initial draft—and I will just say that it was only some of them—we actually took them into account and changed the processes in the new legislation. They will still report to the minister. That is not changing. It is just changing the processes through which they receive funding and through which they are able to go about their work.

I think the thing I should point out too is that what we are proposing here with our legislation is done in other jurisdictions. The primary ones we looked at, Queensland, Victoria and New South Wales, all have the official visitor either sitting within the public advocate or the ombudsman's office. So what we are proposing here is not something radical, something we have just come up with, which often people like to portray our ideas as being. This is something which is done in other jurisdictions. We



have actually spoken to official visitors and others who have been involved in the other jurisdictions as well to seek their feedback. It is just something the ACT, for whatever historical reason, does not have here. And we believe it is something important.

Dr Bourke said, “If it ain’t broke, don’t fix it.” I know he qualified that statement, but the perception of independence, particularly from people who make complaints to official visitors, is important. I think it is important that the people who are making those complaints and the official visitors, who are set up to assist, actually have that view. I think that has become one of the clear things as to why we do need this.

To make it clear again—and this is primarily in relation to some of the comments that Dr Bourke has made—the primary reason we have official visitors here is to assist consumers and ensure they are being treated fairly, not just to be the eyes and ears of government and the minister. Yes, it is important that they report directly to the minister—and that provision is still there in our current bill—but the official visitors need to be there to assist the vulnerable people that they are set up to assist, and that is what we are making sure occurs with this bill.

I have a couple of points on what Mrs Dunne raised. She did say she had concerns about why we need to legislate. Again, the only role that is not legislated in the ACT currently is the Aboriginal and Torres Strait Islander official visitor, which will now occur with this bill. Again, as I have pointed out, this is something which is in place in other jurisdictions. So it is important to point that out.

The reason why it has been legislated in the past and why we feel it needs to be legislated is to ensure that we have that security, I guess, that that role will exist, that it is there in legislation, but it is also able to—I think these were the words used—provide the teeth to official visitors if they require it. That is the important reason why we have legislative roles already for the other official visitors and why we believe it is important to have those roles for disability and homelessness.

On the government’s comments about the official visitor for disability, particularly comments Mr Corbell made that they still did not think it was appropriate to have an official visitor for disability and that they were setting up the community visitor scheme, I went along to the first information session that was held by the department about having the community visitor scheme and it was quite clear, as Mrs Dunne has said, that the two schemes were practically identical. When someone asked what was the difference, basically the departmental representative’s answered, “It’s just a difference in name only.” I do have to say that I am somewhat cynical because for probably about a decade we have had the government saying, “No, we don’t need a disability official visitor,” and when the Greens’ bill came forward the government then started developing a community visitor scheme.

It is quite clear, from being at the information session, that they borrowed quite a lot from the Greens’ paper. A lot of the information put forward was actually from the Greens’ paper. In fact, there was not a model in mind that they had, when we had been consulting quite extensively with a number of groups about the sort of model they wanted. And that is what we have come forward with in this legislation.

On the points that Mr Corbell made, as I said, we have spoken to all the official visitors in relation to the exposure draft, which is why we came forward with the bill we are now debating today. They did not raise the concerns that Mr Corbell has raised today around workload, attracting staff or gender issues. On the issue raised about an entitled person requesting to speak directly to someone, the official visitor can refuse that. So those concerns that have been raised about this putting people in danger are not accurate.

As to the offence provisions that Mr Corbell raised, they currently relate to the mental health official visitor. They are in existence and are now being applied to all other official visitors. Again, this is not something that we have put forward that is coming up with a solution or coming up with something which will occur. It is something we already have in operation.

I will go into more detail about some of the things that have been raised. The government has said that each official visitor is different and we cannot have standardised complaints processes. The Greens listened to these views through the consultation process and amended the legislation, which does not propose any standardised processes. It does allow for the minister to make guidelines about the complaints process so that if standardisation did occur it would be because the minister did that at a later stage. The government argument does not make any sense as such. As I have said, I can only assume that the original bill was what was being referred to.

I have already mentioned the community visitor scheme. The community visitor scheme that the government was proposing, as has already been noted, was not in legislation and we believed, therefore, it did not offer the certainty that should be required and that is provided with other official visitors here in the ACT; nor again, the independence that is needed for this role and the strength that legislation has provided. As I have already said in relation to some of the concerns Mrs Dunne raised, the reason we put forward legislation and favour that, and the reason that legislation was provided for other roles, is that it does have teeth if it is required and it provides greater certainty and strength to what the official visitors need to do.

There are two other issues on corrections. The government have indicated today in their speeches and had indicated to us that they would have come back to legislate for the Aboriginal and Torres Strait Islander components of the Official Visitor Bill. Again, I think we go to that. We have got the legislation here today. We do thank the Liberals for supporting it but the government could have supported it and had that role already put in place today in legislation.

We also had some information put to us by the government about the costings, which we did challenge. The government costed the official visitor scheme at \$520,840 for recurrent costs in 2012-13. This included administrative support for rent and \$206,400 for one-off fit-out and relocation costs. As I said, we challenged the costs in that the scheme would place an additional cost, we determined, of about \$215,648 recurrent and \$68,000 one-off capital costs. I think we do need to note that funding is actually allocated in this year's budget for the official visitor scheme.

Mrs Dunne did mention that the legislation also creates an official visitor for homeless people. This is a role which government has not had previously and not indicated that it would look into. Again, this is a role that exists in other jurisdictions. We are not proposing anything that has not been done before, that there has not been a need for, and we do see that there is a need for that here in the ACT.

I should have addressed this earlier but Mr Corbell said the official visitors did not support this. That is not what we have been told. We have been told the official visitors do support the current legislation. Mrs Dunne noted to me that that was the same feedback she had received. There were issues raised with the first draft, as I have already said, by some of the official visitors. That was with some of them, not all of them. Again, as I have pointed out, we made those changes in relation to the concerns that had been expressed to us.

I thank the Canberra Liberals for supporting this bill. Mrs Dunne did say that she had some concerns with the legislation. I would just note this has been out for consultation for quite a few months now and we did encourage both the government and the Canberra Liberals to come forward if they had any suggested changes or concerns. That is something that could have occurred. But we have gone through a very thorough consultation process on this with the official visitors, with the Public Advocate, with the Human Rights Commission, with consumers, with carers and with groups representing people with disability across the board. We did, as Mrs Dunne has said, have overwhelming support from the sector for this to occur.

The reason we are bringing this in, as I said, is that this is something that has been recommended for over a decade. It is a role we believe we need here in the ACT. We believe it is important that we are doing what other jurisdictions are doing in terms of where the official visitors sit. Again, it is something that has been called for from the sector. It is not making, which might be slightly different to what Mrs Dunne is saying, any accusations as such. It is something we believe we need here in the ACT. We need to be up to date with what other jurisdictions are doing and it is about that issue, as I have said, about the perception. Perception is important. It is important that the people whom the official visitor is there to oversee and to take complaints from have confidence in the system and how it works.

I should note, which I did not note before, that, from talking to the official visitors, the key reason to have them placed with the Public Advocate and to have that administrative support is that there is a collegiate model. That was one thing that was clear from all of them. Particularly in relation to even the exposure draft, they often did feel that they were quite alone in the roles that they had, particularly those that were on their own. There are a number of mental health official visitors. They were able to offer that support. It was clear from all of them that this was something they were very much in favour of, which is why it has come about in the bill we have today.

Again, as I said, I am somewhat frustrated with what I have heard from the government today—and it is a shame that we were not able to come to agreement on it—but I do thank the Canberra Liberals for supporting the bill. I believe this is an important bill for the ACT, particularly for vulnerable people in the ACT.

Question put:

That this bill be agreed to in principle.

The Assembly voted—

Ayes 10

Noes 7

Ms Bresnan	Ms Hunter	Mr Barr	Mr Hargreaves
Mr Coe	Ms Le Couteur	Dr Bourke	Ms Porter
Mr Doszpot	Mr Rattenbury	Ms Burch	
Mrs Dunne	Mr Seselja	Mr Corbell	
Mr Hanson	Mr Smyth	Ms Gallagher	

Question so resolved in the affirmative.

Bill agreed to in principle.

### Detail stage

Bill, by leave, taken as a whole.

**MR CORBELL** (Molonglo—Attorney-General, Minister for Police and Emergency Services and Minister for the Environment and Sustainable Development) (4.26): I move amendment No 1 circulated in my name [*see schedule 1 at page 2783*].

This amendment will delay the commencement of the bulk of the bill until 1 July 2013. Whilst the government has indicated its opposition to the bill as a whole, as the Assembly has determined to support the bill in principle we believe that the Assembly must give consideration to the issue of its commencement date. The initiatives in the bill will require funding for additional official visitors, for additional functions to be given to those visitors, for additional visits and potentially for accommodation. There is currently no funding for any of these functions.

The bill will also require significant changes to current practices. Given these reasons, the government proposes that time be provided for within the bill to allow for these implementation issues to be addressed prior to the bill's commencement, and that is why I propose the amendment circulated in my name.

**MS BRESNAN** (Brindabella) (4.27): I do take Mr Corbell's point on this, and we will support the amendment. It does not cause a substantial delay to the scheme. It is three months, which will change, and at least we will be getting this scheme here in the ACT, so that is the positive thing with that. As I said earlier in my speech, we did dispute some of the costs that the government had put forward. Nevertheless we will support this amendment.

**MRS DUNNE** (Ginninderra) (4.28): The Canberra Liberals will support the attorney's amendment in this instance. It does give some time to iron out some tweaks. As the aspiring minister for community services, I look forward to the challenge of fixing up the scheme and implementing it on time.

Amendment agreed to.

**MS BRESNAN** (Brindabella) (4.28): by leave: I move amendments Nos 1 to 3 circulated in my name together [*see schedule 2 at page 2783*].

Amendments 1 and 2 are minor and correct an error in the bill where it should say “director-general” instead of “minister” and I do note that this was highlighted by Mrs Dunne’s office. Amendment 3 corrects an unintentional drafting error. We intended that the official visitors for mental health would be required to visit only those mental health facilities operated by the territory at least once a month and for the official visitors for mental health to have the discretion as to how often they inspected community mental health facilities.

Amendments agreed to.

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

Bill, as amended, agreed to.

## **Electoral (Donation Limit) Amendment Bill 2011**

Clause 1.

Debate resumed from 29 June 2011.

**MR CORBELL** (Molonglo—Attorney-General, Minister for Police and Emergency Services and Minister for the Environment and Sustainable Development) (4.30): When this bill was presented on 22 June last year I indicated that the government would be opposing the bill. I will reiterate some of those reasons later in my speech, but to begin with I would like to add a few more.

When this bill was first brought to the attention of the Assembly it sparked a vigorous debate about the funding of parties, candidates and elections. Members will recall that since then several things have occurred. First of all, the standing committee’s report on campaign finance has been handed down. The government has provided its response and there has been debate and the passage of the Electoral Amendment Act 2012. This act reflects the will of the Assembly, at the time when the legislation was passed, on the questions of campaign finance. That amendment act dealt primarily with part 14 of the amending act. It was about limiting political gifts, donations and expenditure and setting up further accountability mechanisms for parties, MLAs, candidates and the operations of the Electoral Commission. Mr Smyth and indeed other members of the Canberra Liberals did not move for cognate debate of this bill with that bill when it was passed in May this year. Further, elements of Mr Smyth’s bill were sought to be incorporated into the act through amendments proposed by Mrs Dunne. They have been debated and decided upon accordingly in this place.

Each of the parties represented here had its own package of changes, its own aspirations for the operations of campaign finance law. The result was, in essence, a compromise. Whatever level of satisfaction members may have with the outcome of the debate, it is the concluded view of this Assembly after a detailed and lengthy

discussion. It is, therefore, in the government's view, completely inappropriate for this bill to be listed for debate so soon after the issues of campaign finance and expenditure have been debated thoroughly and decided upon in this place.

Of course there is the further thoroughly objectionable component of Mr Smyth's bill that attempts to retrospectively impose a criminal liability on people or entities in the territory. I will re-examine the circumstances in which this legislation came before the Assembly.

In his presentation speech Mr Smyth clearly sought to hunt down and punish a particular prospective political donation. He was not explicit about either his quarry or the specific conduct to which he obviously took and apparently still takes offence. While subsequent discussion did reveal more of Mr Smyth's intent, it was necessary at the time of presentation to glean some of it from what Mr Smyth said when he was tabling his bill, which was not accompanied, I should add, by an explanatory statement. Mr Smyth said:

The basis for this bill arises from the concerns raised by members of the community with me about a certain organisation which, it is understood, could be considering arranging to make a substantial donation to a political party operating in the ACT. The manner of this donation is reputed to be of such a significant size, and to be contemplated in such a way, as to raise the concern that it is a deliberate attempt to circumvent the inquiry into campaign finance reform, which is being conducted by the justice and community safety committee of this Assembly.

In the lead-up to the prospect of long-term campaign finance reform following the report of the justice and community safety committee, this bill has a very simple objective. It is to ensure that donations which are made to political parties in the ACT do not exceed \$50,000. It includes situations where the same source, be this an individual or an organisation, provides a number of donations which aggregate to \$50,000.

... We see this as an interim measure, until such time as the Assembly's committee report has been dealt with by this place.

The Assembly committee's report has been dealt with by this place, and the Assembly has adopted an act accordingly. If this bill was to proceed to passage on the basis of Mr Smyth's shallow presentation, it would be an exploitation of the goodwill and proper processes of this Assembly and it would make a mockery of the changes that this Assembly has just concluded debate on.

The committee's report has been dealt with by this Assembly and the legislation has been passed. That ship has sailed, Mr Smyth. When the bill was presented it was already anticipated that the recommendations of the inquiry into campaign funding would include the issue of capping political donations, and that issue has been addressed. The issue was debated extensively on 10 May this year, yet Mr Smyth seeks to raise it again today.

The government is deeply concerned about the retrospective nature of this legislation, which attempts to create offences, with significant penalties, to apply from the date of

the announcement of the intention to do so. I remind members that this bill has not yet been debated and passed in full and that at the time of presentation its effect was retrospective; left unamended, that remains the case.

Apart from the procedural and administrative dilemma the provisions would instantly create within and outside the territory, it is utterly abhorrent to create a criminal offence out of an activity that may well have been legitimately conducted at the moment that Mr Smyth presented the bill. People could not, and still may not, know that they were being shoehorned into possible criminal charges by Mr Smyth's bill. The offence in proposed section 216B is triggered if a party receives one or more gifts from a single person or entity of more than \$50,000. The penalty for this offence is substantial. Depending on the definition of "receive", it may be possible that this offence could lead to a party being caught by this offence, unwittingly, simply by being given an amount that led to this section being contravened.

It is not good enough to assume that managing legal risk should involve watching Mr Smyth's every move in this place. People should have reasonable notice of a potential breach of the law. While I can appreciate the common sense in requiring the benefit received from a substantial gift to be disclosed, I cannot see any sense in making the person who donated the gift a criminal, even on an interim basis.

As a further example, as the offence treats a range of entities as one party, it may be possible for someone to receive an amount of less than \$50,000 without knowing that this amount, combined with other amounts received by other people, has caused the cap to be breached. There is no defence that can be relied on in Mr Smyth's bill.

The bill, in substance and by its retrospectivity, trammels the rights of citizens. I remind members again that section 17 of the Human Rights Act expressly protects the right of a person to engage in public affairs. That is a right that should be restricted only with some caution, and I see no such caution in Mr Smyth's bill. Further, section 25 of the Human Rights Act is very clear on the issue of retrospective offence provisions. It says:

No-one may be held guilty of a criminal offence because of conduct that was not a criminal offence under Territory law when it was engaged in.

The government continues to express its concerns in relation to the technical correctness of this bill also. For example, the use of the word "gift" in the proposed offence provisions raises the issue of whether payments are covered by these offences. "Gift" is defined in section 198 of the Electoral Act to mean:

... a disposition of property made by a person to another person, being a disposition made without consideration in money or money's worth or with inadequate consideration, and includes the provision of a service (other than volunteer labour) for no consideration or for inadequate consideration ...

There is a strong argument that it would be relatively easy for donors to find ways to give money to political parties which do not fall within this definition of "gift", which is now at odds with the new definition of "gift" adopted by the Assembly in May.

The government also has concerns about proposed section 221C. It would appear that it is intended to apply to accumulated payments over \$49,500 that are approaching the \$50,000 threshold, which is a very narrow window of opportunity. The intention is again hard to deduce because, as we know, there is no explanatory statement for this bill. And, again, the bill is at odds with what has already been debated and agreed to by this Assembly in May.

In conclusion, the government continues to oppose this bill. It is unnecessary, it is hastily drafted, it is contrary to the outcomes of two Assembly inquiries and it is contrary to legislation adopted by this place in May on campaign finance matters. It has not been refined or reviewed in the light of recent amendments to the Electoral Act. It flies in the face of significant human rights considerations, it has no explanatory statement and it makes no attempt to engage with and discuss the impact of the proposed law on human rights in the territory. The bill is, quite simply, an abuse of the parliamentary process. It is a misuse of the time of this Assembly, it is an embarrassment and it should not be supported.

**MS HUNTER** (Ginninderra—Parliamentary Leader, ACT Greens) (4.40): This bill was for all intents and purposes dealt with during the debate on the Electoral Amendment Bill during the last sitting. Mrs Dunne's amendments to that bill were designed to achieve the same outcome as is being proposed in the bill today. The Greens did not support those amendments, nor will we support the bill today.

Let me be very clear. We did support the bill in principle, because we could not vote against the principle that there should be a limit on donations. As everyone knows, this is an issue that the Greens have very longstanding and strongly held views on. Limiting political donations is good for democracy. During that debate we also recognised that we did not want a situation where the committee inquiry and potential reforms were frustrated during the process.

I was very clear at that time that the Greens' view was that there would need to be amendments to the bill before it could be passed. Effectively those changes were made during the passage of the Electoral Amendment Bill, which is a far better scheme than what is proposed in this bill.

I am somewhat surprised that the Liberals want to debate this bill today. But I think the fact that they want us to pass a bill that is completely incompatible with the rest of the act and would leave us in a farcical position of having a scheme that is completely inconsistent and totally unenforceable speaks volumes about the Liberals' motivations and genuineness on this issue.

I did not even bother to draft amendments to try and make it work. Apart from the fact that the bill is totally inconsistent with the rest of the scheme and that it would be an embarrassment for this Assembly if it did ever end up before a court, the proposal is totally unenforceable. I have spoken about this before, but the reality is that we are limited in our ability to regulate electoral activity and we have to be very careful to delineate between commonwealth and ACT electoral activity.



We cannot regulate donations for federal campaigns. This bill makes no attempt to distinguish between the different donations and as such it is more than likely that it is inconsistent with the Commonwealth Electoral Act. The commonwealth act permits donations to fund commonwealth electoral activity, and we cannot act inconsistently with that. Even if we did pass the bill it would inevitably end up in court, it would most likely be found to be invalid and the Assembly would have to suffer the indignity and embarrassment of having a totally inconsistent and almost nonsensical scheme debated in the courts.

Those issues aside, let us be clear what is happening here. When you boil it all down, this is the Liberals trying to take money away from Labor. The Greens' view is that there are real problems with any political party being part of a commercial activity. Equally, you have to ask the question whether it is appropriate that the Liberal Party make most of their money from property assets, so vigorously oppose any increases in property taxes.

In the last sitting we passed a new scheme to properly address the broader issue of campaign finance. In the lead-up to and during that debate we were very clear that we thought it was far better to deal with the issue in a single bill. We were also very clear during that debate, and particularly in response to the amendments moved by Mrs Dunne, that we thought it was not appropriate to go down this path, for all the reasons I have just outlined. The Greens' view remains the same and we will not be supporting the bill today.

**MRS DUNNE** (Ginninderra) (4.45): I thank Mr Smyth for bringing this bill on today because it is an important piece of legislation and it is an important lesson to the community about how duplicitous the Greens can be when it comes to self-interest.

What we saw last year was an attempt by Mr Smyth to bring to the attention of the community a concern that some organisations would attempt to circumvent campaign finance reform by transferring a whole lot of money ahead of the deal and then saying: "Well, it does not matter. We have got the money across there so we can agree to anything you like."

We had intelligence that this was happening. We introduced this bill and we had the Chief Minister and the Attorney-General standing up here saying: "This is outrageous. This is not happening. How dare anyone intimate that the Labor Club or the Labor Party might be trying to circumvent these things! There is not an ounce of evidence. This is not happening."

You could say that the Chief Minister was out of the loop and you could think that the Attorney-General himself was out of the loop except when you consider that the president of the Labor Party at that stage worked in the Chief Minister's office and an office-bearer of the Labor Club worked in the Attorney-General's office. There is no way that they did not know that this was going on.

What have we now learnt? We do not know how much money has been transferred. We know that a substantial amount of money was transferred, apparently after

Mr Smyth gave them the idea on 22 June—between then and the end of the financial year. We know this because the Labor Club reports actually point to the fact that they may face a penalty, a criminal penalty. It shows that they did not care. They saw that that penalty was the cost of doing business.

During the campaign finance reform discussions after I introduced my bill and after the government introduced their less useful bill, I had a number of discussions with Ms Hunter about what she was going to do about Mr Smyth's bill. Firstly, she said she did not want to discuss it. Then I was told—not by Ms Hunter directly, but indirectly by her staff—that anything that we needed to do needed to be dealt with in one bill. Then Ms Hunter said to me in a discussion, "We cannot do anything about Mr Smyth's bill because the horse has bolted on that one."

The fact is that the Labor Party was given notice—as, too, were the Greens, the Canberra community party, the Canberra Liberals and any other registered organisation in the ACT—that as of a particular day, as of a date in June, if they transferred or received a gift of more than \$50,000, they would be subject to fines. There was no retrospectivity about that—none at all.

Mr Corbell gets up on his high horse. I have heard him rehearse these arguments before. I was in his office when he told me just how wicked this was—how this was unconscionable and this was retrospective legislation. It is not, Mr Assistant Speaker. There is no way that this is retrospective legislation.

I will give the example that I have given before. There are many occasions when budgets are passed when people are given notice by means of a press release that, as of the day that the budget is introduced, there will be a particular change in a revenue measure. That is designed so that people cannot, in an interregnum, diddle the system. Mr Smyth did not do that. He did not put out a press release and say, "I am going to introduce a piece of legislation in the future that will make this illegal." He said: "Here is my legislation. As of today, if you do these things, that will be a problem and you will attract a fine of up to \$50,000."

The Labor Club knew that and they put it in their annual report as a risk. They were actually quite prudent in a strange way. They were up-front with their members and said: "We think we might have broken the law. If we have broken the law, the cost is up to \$50,000 and you need to know that." The only reason that today we know that Mr Smyth's legislation was circumvented is that the Labor Club actually had a decent annual report. Congratulations to the Labor Club for actually writing a decent annual report.

What actually happened was that everything that Mr Smyth predicted happened. The Greens thought it was a terrible idea that what Mr Smyth was predicting might happen might happen, but when it happened they sort of sat there and went: "I can't really do anything about it. The horse has bolted on that one."

What the Greens are saying today is: "It's all right to break the law, because we are too ineffectual to stand up to the Labor Party on this." It raises the question of what

the Greens get out of this. How many large donations did the Greens get in that period that made them think: “Perhaps this is not a very good idea after all. Perhaps Mr Smyth’s prescience does not actually serve our purpose at all.”

It is not the case, as the attorney said, that we cannot debate this and that we should not be able to debate this today because it is the same in substance as the amendments I brought in the other day. If that were the case, he would have moved and asked the Speaker to rule against it today. But he did not.

For instance, Ms Hunter tabled a bill this morning which I think would offend the same rule somewhat substantially. I think I will be asking the Speaker for a ruling on that because, although Ms Hunter says that she is just doing a fix-up, she is not doing a fix-up; she is revisiting things that she lost in the debate last month.

Mr Assistant Speaker, this is an important issue about transparency, about honesty, about changing the environment in which we fund elections. What we are seeing here today is the Greens and the Labor Party colluding to allow the warfare to continue. The arms race of election funding will be allowed to continue.

We do not know how much money has been transferred out of the Labor Club into the Labor Party, and in what form, and we will not know until the Labor Club reports again in about September this year. By that time, I think that we will have found that there would have been a number of potential breaches of Mr Smyth’s legislation, which has been agreed to in principle by this place.

The only people who are sticking to their principles today are the Canberra Liberals. The Greens have abandoned their principles, and I wonder what they were paid to do that.

**MR ASSISTANT SPEAKER** (Mr Hargreaves): Before I proceed, Mr Smyth—Mrs Dunne, in relation to that last question that you posed to the chamber, I urge you to reflect on the way in which you put that, because that could be regarded as a reflection upon a group, and an adverse one. I am not going to rule it out of order at the moment, but I would just ask you to reflect on it, please.

**MR SMYTH** (Brindabella) (4.52): It is an interesting world that we live in where one day you can have in-principle support for a bill and then, in a period later, that in-principle support disappears. The things that drove the in-principle support to be given actually came to being, came to fruition. But then the Greens go weak at the knees and refuse to enforce the law that they believe should come into place.

Let me address Mr Corbell and this notion that somehow it is unconscionable, inappropriate and retrospective. Retrospectivity says that today I will do something that makes something that happened last week, last month or last year a criminal act. That is not what I did. I said, “From the day that I table my bill, 22 June, should this happen, it will be considered to have been a breach of the law.” That is not retrospective in any way, shape or form.

I know that the palaver that we so often get from Mr Corbell is to assuage, I guess, his guilt, perhaps, or his remorse over what has happened, although I doubt it is remorse. The problem is that what I said came to fruition. The things that I said were going to happen happened. The money I said would be transferred has been transferred. Indeed, the Labor Club, in their annual report, said they knew this—if they proceeded. They had not done the transfers when I tabled my bill, so the events that my bill would capture occurred after my bill was tabled, and indeed after it was agreed to in principle by this place. So in no way is it retrospective.

We have a period from 22 June last year until 30 June this year when there was not a cap on donations. My bill put that cap in place. It is something that apparently the Greens believe in, but their belief does not cover from 22 June last year until 30 June this year. They believe it. Ms Hunter tells us that they have campaigned hard for it. They wanted it, but they will not enforce it. One can only assume that either they are under pressure from their Greens-Labor colleagues in the Greens-Labor alliance or, perhaps, they have had donations of more than \$50,000 in that area themselves and do not want to be caught. We will get the returns—we will get the Labor Club return and we will get the political party returns—at the appropriate time, later on this year, and we will find out then who got what.

The people of the ACT have been let down by this place. What we said would happen happened. This place believed that if big donations over \$50,000 over that 12-month period occurred, they should be stopped. But the Greens do not have the political will, the guts, the wherewithal or the honesty to deal with this today. You can fabricate as many excuses as you like—“We’re too busy to have an amendment”; “I do not believe it needs an amendment”; “It is retrospective”, though it is not; or “We have moved on”—but it is still an offence.

You are not willing to put it to the test. You are not willing to back up what you believed on 29 June last year. People will know you for what you are, Ms Hunter—and your Greens colleagues. You are willing to say whatever you have to say, but you never come through and deliver on it. I have said this before, and I know there will be sniggers: they said they would be third-party insurance for the community; all they have turned out to be is third-party insurance for the Labor Party. I wonder how cheaply that policy was bought.

The problem with this is that we have members of the board of the Labor Club who signed off on their annual report saying: “We’ll transfer this money and we’ll cop the fine. It’s just the cost of doing business.” If a property developer did that, the Greens would be all over it like a fat kid over a doughnut. They would be salivating about getting all those dirty property developers for breaching the law and paying the fine as the cost of doing business. But when it comes to holding their Labor Party colleagues to it, they say: “Oh, no, we can’t do that. We’re not going to hold the Labor Party to account, because they’re the Labor Party and we always back the Labor Party.” And they always do back the Labor Party, because they want Labor governments. And they want to be in government with the Labor Party after the election later this year.

What we have got is the most monumental backflip from the Greens in the period of the last 12 months. What we see is their intent—their in-principle support—just disappear. It was almost embarrassing to hear the speech that Ms Hunter gave, saying, “Well, we’ve addressed this.” You have not addressed the period. The period 22 June to 30 June this year has not been addressed by what you have done. You have left a gaping hole, and somebody will drive a truck through that hole. We already know that it is a truck about \$5.2 million big that you have allowed to escape the system.

Don’t stand here and say “we fought long and hard to get a cap in place and electoral funding with integrity” when you just let them off the hook in this manner. That is all you are doing. You are letting your Greens-Labor alliance colleagues off the hook because that suits you. To simply say that the horse has bolted is ridiculous. The horse had not bolted. The transaction had not occurred. The thing that you agreed to in principle did occur, and you have sold your principles down the river, as so often happens.

For those who were not there at the breakfast this morning, let me say that I challenged Ms Hunter. She was lamenting that there were going to be job cuts to the public service. I said: “Perhaps you should talk to your Labor colleagues. Perhaps you should talk to your federal colleagues and not pass the federal budget.” We had the curious instance of the Chief Minister running interference for the convenor of the Greens in a public forum. I have to tell you that the feedback I have had from the breakfast this morning about that little incident has opened the eyes of a lot of people to how the Greens-Labor alliance operates in this place.

But let us get to Mr Corbell. Mr Corbell had this list on what had occurred since I tabled my bill. The only—

*Members interjecting—*

**MR ASSISTANT SPEAKER** (Mr Hargreaves): Order, members! Mr Smyth has the floor.

**MR SMYTH:** Mr Corbell forgot the transfer of \$5.2 million through cash and property to the Labor Party. That is what he forgot. The little thing on the list that sort of completed the list was the big item that the Labor Party and the Greens do not want to talk about—\$5.2 million worth of breaching what was the intent of my bill, which the Greens agreed to in principle. Mr Corbell forgot that.

We all understand why Mr Corbell forgot that. He said that we should have had a cognate debate. I will choose the timing of my bills, thank you, and when they are discussed—not you, Mr Corbell. He then tried to make this case about how it was completely inappropriate. What is completely inappropriate is that everything I predicted came true. I said there was talk that a party was going to transfer the funds, and they did. There was talk that it would happen before the reports were delivered, and it did. And there was talk that this would occur before the act was adjusted, and it happened. Everything I said happened.

What has not happened is this: the Greens have not got the wherewithal and the guts to stand up to their colleagues—actually, stand up for the people of the ACT, stand up for their principles and the things that they claim to be dear to them—and support this bill today.

This bill should be supported today. It is not retrospective. It was never retrospective. It is a piece of legislation attempting to put a cap on those payments—a cap about which the Greens now just say, “The horse has bolted and we shouldn’t do anything about it.” The Greens will be known for what they are, for what they say and for how they act in this place when it comes to holding the government to account—something they very rarely do.

Question put:

That clause 1 be agreed to.

The Assembly voted—

Ayes 6

Noes 11

Mr Coe  
Mr Doszpot  
Mrs Dunne  
Mr Hanson  
Mr Seselja

Mr Smyth

Mr Barr  
Dr Bourke  
Ms Bresnan  
Ms Burch  
Mr Corbell  
Ms Gallagher

Mr Hargreaves  
Ms Hunter  
Ms Le Couteur  
Ms Porter  
Mr Rattenbury

Question so resolved in the negative.

Remainder of bill, by leave, taken as a whole and negatived.

Bill negatived.

## **Notice—postponement**

*Ordered that Notice No 6 be postponed until a later hour.*

## **Crimes (Offences Against Police) Amendment Bill 2012**

Debate resumed from 15 February 2012, on motion by **Mr Seselja**:

That this bill be agreed to in principle.

**MR CORBELL** (Molonglo—Attorney-General, Minister for Police and Emergency Services and Minister for the Environment and Sustainable Development) (5.06): The government will not be supporting this bill. The Crimes (Offences Against Police) Amendment Bill 2012 would create an aggravated penalty for 15 serious offences against the person to apply where the victim is a police officer. The bill makes the penalties for these aggravated offences up to 50 per cent higher than the current penalties for the basic offence.

I will outline the grounds for government opposition to this bill. Firstly, the government has traditionally resisted offences such as those proposed by the Liberals because punishing an offence against one class of person more severely than others risks sending a message that some people or groups of people in the community are more valued than others. It is not appropriate in the ACT legislative context for aggravated offences with higher penalties to single out particular classes of victims. What the Liberals' bill does is single out all police officers above similar emergency service workers, such as paramedics or firefighters.

I am not suggesting that police officers do not bear the brunt of inexcusable behaviour from members of the community, because they do. But I would also like to recognise that there are other professions in the territory that also see this type of behaviour. These professions include people like paramedics and firefighters. But through the Liberals' bill it is proposed that police should deserve more protection than, say, another form of emergency response worker who puts themselves in dangerous circumstances to help another person.

The government is of the view that existing penalties adequately address the most serious examples of offences against the person, in particular following amendments made in late 2011 to the Crimes Act. Offences including intentionally inflicting grievous bodily harm, recklessly inflicting grievous bodily harm and negligently causing grievous bodily harm were all amended to ensure the penalties reflected the seriousness of the criminal behaviour. These amendments were made with the support of the opposition. If the maximum penalties for these offences are insufficient to reflect the seriousness of the offences then they are insufficient for all victims, not just a select few or even just a single group.

The report of the Standing Committee on Justice and Community Safety's inquiry refers to the submission of the ACT Human Rights Commission on this subject, which notes that the bill's explanatory statement assumes that if an offence may carry a higher penalty when committed against a pregnant woman, it can equally be reasonably classified as "aggravated" when committed against a police officer. The bill relies on the assumption that offences committed against a police officer are always more serious than if the same offence were committed against another person. This assumption is not correct.

Secondly, the bill places a reverse legal burden of proof on the defendant charged with an aggravated offence. The defendant must prove, on the balance of probabilities, that they did not know that the victim was a police officer. Such a reverse legal burden on the defendant engages the presumption of innocence which must be afforded to all defendants in our legal system.

By requiring the defendant to prove, at the higher standard, that they did not know that the victim was a police officer, the bill offends the fundamental principle of criminal law which requires the prosecution to prove each element of an offence beyond reasonable doubt. I am not satisfied, with reference to the evidence available, that such a provision is reasonably justified in these circumstances and I do not think other members should be either.

I note that this view was supported by the Standing Committee on Justice and Community Safety in its report, which states that a majority of the committee considered that the bill had significant flaws and that the most important of these was the reversal of the burden of proof away from the prosecution case and onto the defendant. The committee notes that this could give rise to unjust outcomes in criminal cases and that such limits placed on human rights by the bill are not reasonable. The committee recommended that the Assembly not support the bill on this basis.

Finally, the committee noted in its report that evidence tendered suggests that higher penalties will not prove effective in deterring assaults against police, for the most part, because they are not premeditated. This was supported in evidence given to the committee, including evidence from the Chief Police Officer. I agree with the committee and the Chief Police Officer on this point. The bill will have no effect on assaults on police in this regard as it does not address the real issue, which is that a defendant can still rely on the defence of self-defence where a police officer is acting in good faith.

The New South Wales Bureau of Crime Statistics and Research published the findings of a study in the February 2012 crime and justice bulletin which suggests that increasing the length of stay in prison beyond current levels is less likely to impact on crime rates than factors such as increasing the likelihood of arrest and the simple fact of imprisonment. The study supports the view that any deterrent value or effect flowing from an increase to maximum penalties for offences against police is dependent on first successfully arresting and prosecuting such offences. This bill is a blunt instrument of punishment for what is a complex issue faced by police in the field. The explanatory statement to the opposition's bill states:

The current laws have been proven inadequate or at least unworkable when dealing with assaults upon police ...

And further:

... practical concerns and the desire of the community to provide extra protection for police officers when carrying out their duty.

The Liberals' bill does not achieve these outcomes. It will not afford police officers greater protection. It might appear to the public that the Liberals are doing something in this space, but their bill is ineffective. The evidence of the police themselves and of other witnesses is clear in this regard. The bill is ineffective and assumes a simplistic and knee-jerk reaction from the public rather than the thoughtful and considered views that have been put forward in the committee inquiry. The government will not be supporting this bill today.

**MR RATTENBURY** (Molonglo) (5.13): The Greens will not be supporting this bill. As I said in a letter to the Australian Federal Police Association earlier this year, the Greens' decision making on this issue is guided by what will work to reduce assaults



against police. We are open to consider any initiative or law reform that will reduce violence against officers who act in the public interest and, unfortunately, have to put themselves in dangerous situations.

However, what we will not support are initiatives that play into a simplistic approach to law and order. Promising to lock up offenders for longer and longer in prison after they commit an offence may deliver a headline in the *Canberra Times*, but it will not deliver any greater protection for police officers. At worst, this bill is an empty gesture to police because it promises to better protect police but does nothing to actually deliver on that promise.

One lawyer put it very succinctly when he appeared before the justice and community safety committee inquiry into this bill. He said:

It is just a nonsense. It is a bit of window-dressing that does not achieve anything that cannot be and is not achieved by the current legislation.

The Chief Police Officer also had his doubts about the deterrent effect that this bill would have. He told the committee:

I do not believe that increased penalties, particularly in the range of those proposed, would act as a deterrent effect on offenders assaulting police. I say that because in the vast majority of cases those offences are committed by people in a very spontaneous and impulsive manner. Quite often those people are affected by alcohol, drugs or some emotional disposition which was existent prior to police turning up at the scene.

I could go on with more of the evidence provided to the recent committee in hearings, both orally and in submissions. There are some very telling remarks made by people who attended and gave evidence. I will just conclude with one final comment which reads:

It is the tough on crime type of thing that potentially is able to get votes. It is the emperor's new clothes. There is nothing to it. It does not achieve anything, other than lead to possible injustice, complication and more work for various of us here—

at which point he is referring to the lawyers giving evidence—

as we try to deal with what would be an unjust situation that is unnecessary.

The committee brought all the information together in quite a succinct summary and concluded that the measure proposed in this bill was unlikely to deter assaults on police and that the Assembly should, therefore, not support it. The bill, unfortunately, appears to fail at the very first hurdle because it will not achieve its stated aim of reducing assaults against police. The Greens will be accepting the advice of the committee and not supporting the bill.

Even if there had been evidence provided to the committee that the bill would have some effect on reducing assaults against police, I think there is a second major issue

with this bill. It is one the attorney has spoken about to some extent already. And that is the unanswered question: what about all the other jobs in the ACT where people go out and do work that is in the public interest but put themselves in danger? I particularly think about ambulance drivers and paramedics but also nurses and even teachers. These are all jobs that are vulnerable to abuse by members of the public.

The proposed bill effectively picks and chooses winners by saying that where police are the victim the offence is 25 per cent worse and the offender should go to prison for longer. What does that say about those other jobs? What about the ambulance staff who are assaulted late at night when they go into dangerous situations? Again, should they be put in the same category as police? Some have even suggested the police are in fact better protected because of their training and the equipment they carry to protect themselves in such situations. You get into some very interesting comparative discussions here.

The Australian Federal Police Association were one organisation who were supportive of the bill at the inquiry. As the association representing the interests of police officers, their views on this are important. The committee clearly listened and took on board the evidence from the AFPA but ultimately decided that the new law would not achieve its aim and reduce assaults against police. One unresolved issue raised at the inquiry by the AFPA is whether an alternative approach to this issue should be explored. The comment made by those giving evidence on behalf of the AFPA was:

The AFPA is of the opinion that the ACT legislature must seriously consider the creation of a specific offence of assaulting an officer of the Crown.

This is a completely different pathway for the ACT to head down and would not work in conjunction with the current proposal from Mr Seselja. It really does need to be one or the other and it does not seem that it can be both. As the AFPA suggest, I too think this is an issue that the Assembly should seriously consider. The Greens would be guided by the same overarching principle of what will work to reduce assaults against police. If there is evidence that the alternative approach could reduce assaults, we would also be interested to explore whether a broader definition could be used which would capture other jobs that are working in the public interest. I have already touched on the example of paramedics. My door is certainly open to discuss the issue with the AFPA. I have written to them on the matter and am hopeful of arranging a meeting to discuss the issue. But the issue for decision today is the bill before us. As I said, the Greens will not be supporting the bill for the simple reason that it will not achieve what it sets out to do.

I would like to conclude by making some comments on the number of assaults against police because there have at times been claims that assaults are on the rise. The evidence and data provided to the committee by the Chief Police Officer paints quite a different picture. The Greens do want the facts to get in the way of a good story on this occasion. What the Chief Police Officer told the committee was that assaults on police in the ACT were relatively stable and that in recent years they have been declining by small numbers.

Conversely, there is a rise in OH&S statistics. There was discussion at the committee and in previous hearings of the JACS committee about increasing severity of some of the assaults against police. This is where the response of the police and parliaments is so important. The best approach to these statistics is to drill down into them and determine what types of assaults are occurring, how they are occurring, when they are occurring and what events lead up to the assault. When you have this type of evidence and analysis, police are able to put in place operational strategies that reduce the risk faced by police.

A very simple but practical example has been the recent rollout of spit hoods. These are a response to incidents of police being spat on. Clearly, a police officer being spat on has some potentially very serious consequences with regard to the transmission of diseases as well as the emotional stress that is placed on a police officer while they are forced to wait for the results of tests as to whether that transmission has in fact taken place. In response, police have started placing a spit hood on the alleged offenders, which physically prevents the act of spitting from occurring. It is not a perfect solution, but it is certainly a step in the right direction and gives police a real and immediate protection from that potential assault. This is the kind of approach that should be adopted.

I was heartened to see the comments from the Chief Police Officer to the committee that ACT Policing have developed a good statistical compilation of how injuries and assaults are occurring. This will equip them so much better to put in place strategies to reduce the risk. This is where the Greens believe real improvements can be made for police, not in empty promises to lock up offenders for longer and longer after the crime has occurred.

I think it is wise for us to take the advice of police on these matters and for the Assembly to consider what steps we might need to take to complement those changes to operational strategies. I understand from discussions that it can be matters of equipment, training and approach. I think these are matters where we can make real improvements in minimising assaults on police, given the dangerous situations we regularly ask them to walk into.

Having made those remarks, I simply conclude by once again confirming that the Greens will not be supporting this bill today.

**MR HANSON** (Molonglo) (5.21): I rise today in support of Mr Seselja's bill. In doing so I would like to acknowledge Mr Seselja's passion in this area, his interest and the work he has done with my office in driving this. He has taken on this issue as Leader of the Opposition, and that reflects the fact that he views the safety of our police—who are out there on the streets as we speak—as an issue that should be debated with the highest degree of importance in this chamber and that any measures this place can take to provide effective support and protection for our police should be put at the top of the list. I think it is fantastic that he has done that.

This is not a silver bullet; this is not a single issue that is going to resolve the disgusting number of assaults and the nature of assaults that we see on our police. But

what Mr Seselja has done is show leadership in this area and show to the community the way that the Canberra Liberals stand up for our police whilst what we see, disappointingly, from the Greens and from Labor is that they will not.

In their speeches both Mr Rattenbury and Mr Corbell raised the issue of: “Well, why police? Why not others? Why not ambulance drivers or paramedics?” I make this distinction: whilst other public servants like paramedics, nurses and perhaps teachers will occasionally be confronted by criminality and will be subject to assault, it is not the core nature of their duties to go out and, in essence, seek trouble, to take on the criminals, to go into Civic by night and deal with the people who are causing disturbances, to deal with the drunks, to deal with the gangs that are out there. So there is a difference; there is a distinction. Mr Seselja has sought to make that distinction to make sure we provide protection to the people putting themselves at risk on a daily basis.

If Mr Rattenbury or Mr Corbell felt seriously about this matter—it is quite clear they do not—I am sure we would consider any amendment that expanded the intent of Mr Seselja’s bill so that aggravated assault and other offences were included for paramedics, ambulance drivers or other members of the public service. But there has been no mention of that, because they are not genuine. They are just trying to find an excuse not to support this bill.

What they are saying is, essentially, that this bill does not go far enough, “So we’re not going to support it.” It is a ridiculous argument. The point is that this bill will provide a level of protection to our police. It will send a very clear message, both to the judiciary and to the community, that assaulting police and the other offences included are unacceptable. But what we have from the Greens and from Labor today is a rejection of that proposition. I think that is extraordinarily disappointing.

The Attorney-General also said that he philosophically disagrees with the principle of creating a category or a class of person different to another category or class of person. But my understanding—I would certainly review this—is that there is already an aggravated offence, and that aggravated offence is assault on a pregnant woman. The Attorney-General already has as part of his legislative framework an aggravated offence, but he stood up here today and said, “I don’t support aggravated offences.” If that is his other excuse—because he has only come up with two reasons not to support this bill—then I will be expecting to see a bill from Mr Corbell to remove the aggravated offence against pregnant women unless, again, he does not understand his own legislation, he does not know his own legislation and he is just using it as a further excuse.

There was a committee inquiry into this piece of legislation and various views were put forward by various people. But the view that is most relevant to this debate is that of the police themselves as represented by the Australian Federal Police Association. It is quite clear that the Australian Federal Police Association support this legislation. That is clear if you go out onto the street, if you go down into Civic on the weekend and you speak to police officers, or if you bump into them in the Woden shopping centre, down in Tuggeranong or up at Belconnen or Gungahlin, as we do on a regular

basis. We talk to them about this serious issue our police face with violence and assault in Civic. We tell them what the Canberra Liberals are trying to achieve. Not one police officer I have spoken to out on the beat thinks it is a bad idea. All of them support it. The AFP support it. So the people in the know support it. I am sure the police families would support it. So who does not? Who does not want these extra protections for police? Who does not think it is a good idea? I will tell you who does not—the Greens, and the government.

I am very disappointed that this legislation will not get up today. I think it would have sent a very clear message to our community and to our police that we support them, that we think the people out there that are assaulting them, that are stalking them, that are committing other criminal offences like affray, need to be sent a message that the people who keep us safe while we sit comfortable at nights in places like this, the people who are out there on the street putting their lives in danger to support us, have every right to be protected. There was an opportunity here today for us to make those police out on the street safer, and that opportunity has been rejected by Mr Corbell and Mr Rattenbury.

I commend Mr Seselja's bill. I commend his leadership in this area and his passion. I think it is a damn shame that a very good piece of legislation is going to be knocked back by the Greens and by the Labor Party. But we will continue to fight. I know Mr Seselja will continue to fight on this issue. We will no doubt take it forward to the election and we will give the people the choice—do you support the police or do you not support the police? Do you want to protect those that keep us safe or do you want to keep them in a position where they continue to be in harm's way? That is the choice we have here tonight, and that will be the choice for people in October.

**MR SESELJA** (Molonglo—Leader of the Opposition) (5.28), in reply: It was as a result of a number of discussions that we had with police themselves that we brought this legislation forward. The feedback we were getting from police was that the current legislation was inadequate and that they were concerned about the increasing number of assaults. We have outlined some of the figures in relation to police assaults, and they are disgraceful. The feedback we got from our police was that they are underreported, because under the current regime police often do not even bother to report assaults against them because they do not feel they are going to be backed up in any serious way. They are sick to death of criminals and violent offenders getting away with assaults on police officers and getting nothing more than a slap on the wrist.

The Canberra Liberals do not believe that is a tenable position to put our police officers in, a position where they are not given the backup they need, and they are not given by this place the respect and backup they deserve while doing one of the most difficult jobs in our community. It is disingenuous in the extreme to say, "Well, why not others?" If you feel passionate about it, bring that forward. But we would say this: why not the police? What is the argument against the police getting this kind of protection? We ask police officers to face the most violent and dangerous people in our community. It is police officers who go and face them; it is not politicians. Politicians do not have to go out there at night and take on drug-affected people, violent people, people who, in some cases, want to do harm to others. We ask our police to do that job, and we should give them the backup when they do that.

There could be all sorts of arguments put up as to what kind of a deterrent it will be. Of course, we could take away any penalties for virtually any offence on the basis that it is not going to be a deterrent. We could say, "Well, we don't need an offence for assault because people are unlikely to be thinking about the offence when they assault someone." But we as a community have serious penalties in some cases for assaults, and when it comes to assaults on police officers we believe they should be treated as aggravated offences to demonstrate their seriousness.

There can be all sorts of arguments about whether or not you make it a special offence for assaults against police or whether you make it an aggravated offence. But, in the end, there is a fundamental question, and the Assembly is making a fundamental decision here: do you want to support police with tougher penalties for a range of offences against police or not? We hear, unfortunately, from the Labor Party and the Greens that they do not want to. They can make all sorts of spurious arguments. They can put all sorts of furrphies out there, but, in the end, what are they going to do to actually back up our police officers?

We are very disappointed that this legislation will not be supported today. It defies logic that we have a situation where two parties in this place are saying they are satisfied with the level of support our police are getting from the law. Go and speak to the police who are out on the front line and see what kind of response you get if you put that to them. I have spoken to many of them in various forms, and many of them have approached me specifically. When we put forward this legislation we had police officers stopping us in the street and thanking us for doing it.

We should respect the role police play. This would be a very important way to do it. Would it stop all assaults on police? Well, no, it would not. Would it mean that when someone commits an assault they are more likely to get a serious punishment, the kind of punishment it actually deserves? Yes, it would. That is what it would have done. Over time we believe that would provide a level of protection for our police.

I am very disappointed. I commend the bill to the Assembly. I think it should be supported. It deserves to be supported, and our police officers deserve the support of this Assembly. They will continue to have it from the Canberra Liberals. We will find other ways to make sure they get the kind of protection they deserve.

Question put:

That this bill be agreed to in principle.

The Assembly voted—

Ayes 6

Mr Coe  
Mr Doszpot  
Mrs Dunne  
Mr Hanson  
Mr Seselja  
Mr Smyth

Noes 11

Mr Barr	Mr Hargreaves
Dr Bourke	Ms Hunter
Ms Bresnan	Ms Le Couteur
Ms Burch	Ms Porter
Mr Corbell	Mr Rattenbury
Ms Gallagher	

Question so resolved in the negative.

## **Bail Amendment Bill 2012**

Debate resumed from 9 May 2012, on motion by **Ms Hunter**:

That this bill be agreed to in principle.

**MR CORBELL** (Molonglo—Attorney-General, Minister for Police and Emergency Services and Minister for the Environment and Sustainable Development) (5.38): The government will not be supporting this bill. Currently, a police officer may arrest a person, including a young person, without a warrant where the police officer believes on reasonable grounds that the person has failed to comply with a bail condition or will not comply with a bail condition. Once arrested, the person must be brought before the court as soon as practicable. The court may then deal with the person according to the requirements in the Bail Act.

What Ms Hunter's bill seeks to do is to amend the Bail Act to place additional requirements on police officers when they are exercising their discretion and deciding whether to arrest a child, including a young person, for breach of a bail condition. The bill provides that in these circumstances, the officer may only arrest the child if the officer believes on reasonable grounds that the arrest is in the best interests of the child and in accordance with the youth justice principles in the Children and Young People Act 2008.

The bill also provides that if a police officer does not believe on reasonable grounds the arrest is in the best interests of the child and in accordance with the youth justice principles, they may refer the child to any relevant service such as the after-hours bail support service. The explanatory statement states:

The bill seeks to provide for greater use of diversionary pathways for children and to prevent unnecessary contact with the criminal justice system.

The government is not supporting this bill because it will not achieve these aims. If anything, the amendments proposed by the bill will create confusion and uncertainty around the application and enforcement of bail laws as they relate to children and young people. The Bail Act already requires the court and police to consider the best interests of the child or young person in granting bail.

The Bail Act governs the decision-making process police must adhere to when considering whether or not to release a young person from police custody. The options available to police on arrest in the first instance are to release the young person from police custody on unconditional bail, with an undertaking to appear at court; release the young person from police custody on bail with conditions; or detain the young person in police custody by refusing bail.

Exercising this last option requires the police to transport the young person to the ACT Children's Court for the bail decision to be reviewed by a magistrate. The Bail Act requires the court or authorised person to have regard to the youth justice principles set out in section 94 of the Children and Young People Act, both when deciding whether to grant bail and when setting conditions of bail.

The Bail Act also requires the court or authorised person to consider, as a primary consideration, the best interests of the child. This approach is consistent with article 3 of the UN Convention on the Rights of the Child 1989. Article 37(b) of this convention states:

No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time.

What Ms Hunter's bill would do is inappropriately limit a police officer's discretion to arrest a young person where they are in breach of bail. The amendments in the bill will significantly restrict police discretion. It would be difficult for a police officer on the street to feel confident about or have sufficient information to determine what would be in the best interests of the child.

Furthermore, while the amendments may appropriately divert some young people, the amendments would also likely lead to inappropriate decisions not to arrest a young person believed to be in breach of bail. Where a young person is arrested in relation to a breach of bail, the amendments would also likely lead to allegations that police failed to properly consider the young person's best interests or the youth justice principles which, in turn, would likely lead to complaints against police for civil damages because an unlawful arrest had been made.

Such claims would not be in the best interest of justice in the territory and are surely not the intended result of this bill. It appears that the Greens have not considered the possible negative consequences of their amendments. Another reason why the government is not supporting the Bail Amendment Bill is because no Australian jurisdiction imposes a restriction on a police officer's ability to arrest a person for a breach of bail in the way proposed by Ms Hunter. This bill is simply not an advance.

The approach suggested has not been adopted in other human rights jurisdictions like New Zealand or the United Kingdom. In other Australian jurisdictions and the United Kingdom, police apply the same test for adults and young people when deciding whether to arrest for breach of bail, and that is the matter in question here.

Currently in New Zealand, police can only arrest a person under 17 years of age for breach of bail conditions if it is necessary to stop them absconding, interfering with witnesses or offending. This law is in the process of being amended so that police will have the ability to arrest a young defendant under 17 where the defendant has significantly or repeatedly breached any condition of bail. This will bring the law closer into line with the test for adults.

Making policy considerations in highly contentious areas such as bail should also only occur following consideration by and engagement with stakeholders. The Bail Act is a cornerstone of the criminal justice system and any reform should be done in a considered manner. The government has recognised this, in fact, in the approach that I have proposed in the final government response to the declaration of incompatibility of section 9C of the Bail Act.



In that instance, I am seeking the views of justice stakeholders on a legislative proposal so that all aspects of the amendments can be considered. I am particularly interested in seeking the views of stakeholders about how they believe the proposed amendments would in fact operate in the context of bail and what considerations the court should have regard to when considering the granting of bail. This same approach has not been adopted by Ms Hunter when it comes to the development of her bill.

The Minister for Community Services has announced the government's commitment to develop and implement a blueprint for youth justice that will take forward the key elements of a quality youth justice system. The blueprint will provide the direction and priority actions to ensure that change in the ACT youth justice system is properly integrated with a whole-of-government and community focus.

The government is aware that concerns have been raised in a number of jurisdictions, including the ACT, about the appropriateness and complexity of bail conditions imposed by courts and police on young people, and the appropriateness of proactive policing strategies targeting people in breach of bail conditions.

The government is committed to bail laws that properly balance the right of the community to be safe and for justice to be upheld, together with the presumption of innocence. The proposed amendments in the Greens' bill would disturb this balance and the government just cannot support it, no matter how well intentioned it is. In this area of justice, trying hard is not enough. There needs to be a carefully considered response. We do not believe this bill meets those tests, and we cannot support it today.

**MRS DUNNE** (Ginninderra) (5.45): The Canberra Liberals will not be supporting this bill today. I think that the minister has made a thorough exposition of the problems with this bill. I think that the bill is motivated by good intent, by the concerns that there are a lot of young people who are being churned through the system, being picked up for breaches of bail—sometimes minor breaches of bail.

I think that the most important point about this is that there is a level of discretion—not that I do not believe that police can exercise this discretion—which this proposal would impose upon them that is contrary to their duties. For instance, if a police officer knows that someone is in breach of their bail, they have a duty to arrest them, take them to the watch-house et cetera. It is quite clear that if there is court-imposed bail and there is a breach, they have no alternative but to hold this person in custody until a court can deal with that court-imposed breach of bail.

The Greens' bill wishes to address the issue of people being picked up and being taken to Bimberi and being churned through Bimberi for quite short periods of time. I think that that is laudable but I do not believe that this is the approach that is necessary. We need to address quite clearly the propensity for young people to breach their bail and reinforce that this is a highly risky activity which will eventually involve them being in remand for long periods of time.

But the Canberra Liberals take a very strong view on bail. While we believe that it is an important part of our justice system and that there is a presumption in favour of

bail in the first instance, if people cannot comply with their bail conditions, will not comply with their bail conditions or commit offences while on bail, the right to bail should be rescinded.

If they do not do that, there needs to be a very good reason why that right to bail is not being rescinded. The police and the court system have to act in the best interests of not just the bailed person but the wider community. There are instances where we have seen that young people have been bailed and they have gone out and reoffended, and reoffended in very serious ways. That gives me great concern about the operation of the bail system. This is a well-intentioned fix, but it does not do the job. The Canberra Liberals will not be supporting this bill.

**MS HUNTER** (Ginninderra—Parliamentary Leader, ACT Greens) (5.48), in reply: This is a simple and practical amendment to the Bail Act 1992. It is my intention that this amendment will assist in reducing the historically high numbers of young Canberrans remanded for minor breaches of bail and will strengthen the work currently undertaken by the after-hours bail support service.

This bill also responds to a recommendation presented in the government's "Towards a diversionary framework" discussion paper that said:

Consideration should therefore be given to whether there should be more guidance in relation to action to be taken by police and the Chief Executive regarding an alleged breach of a bail condition/s by a young person.

The Minister for Community Services released this discussion paper on 14 February 2011. The Community Services Directorate undertook consultation on the discussion paper during March and April 2011 and the Minister for Community Services hosted a roundtable meeting. In spite of the recognition that this is the best course of action, there has been little action taken.

Until recently, and in contrast to other Australian jurisdictions, the ACT did not have specific bail assessment and support programs. The recent introduction of the after-hours bail support service has now provided children, families, police and community service providers with a possible alternative to short periods of remand based on breaches of bail conditions. It provides a service for young people who are at risk of being remanded in custody, to assist them to remain in the community. Whilst the after-hours bail service has been created and is working as best it can within its scope, it can only do so much to address a very common issue in relation to bail breaches for children, namely, safe and secure accommodation. The lack of any real increase in crisis accommodation beds highlights the need for more practical action to be taken.

On 29 July 2011 the ACT Human Rights Commission presented to the Attorney-General its report into Bimberi and the broader youth justice system. The Human Rights Commission's report included positive or promising practice examples, concerns and research and presented ways to improve the system, with many clear recommendations. The report highlighted the fact that for many young people bail conditions were often unmanageable and had led to greater and early involvement with the justice system. It was also concerning that short periods of remand had

increased to 73 per cent of young people in Bimberi at the time, compared to only 21 per cent of young people on remand nationally. Both these reports clearly highlighted a range of issues that needed to be addressed.

The ACT Greens have been waiting for the minister to present legislative changes in line with the government's own discussion paper recommendations and those contained in the Human Rights Commission's report into youth justice, and we have been waiting for about a year now. A week after I presented this amendment bill it was pleasing to see that finally the issue of use of force and strip searches at the Bimberi Youth Justice Centre will be addressed. Whilst I welcome these amendments, it is unfortunate that these important but relatively minor amendments have taken this long to be presented to the Assembly.

In regard to my bill, it is important to understand what is already on the statute book. The youth justice principles are currently referred to in sections 23 and 26 of the Bail Act 1992 in relation to granting bail to children. They are in the Children and Young People Act 2008, they are referred to in the Crimes (Sentence Administration) Act 2005 and they have clear linkages with the ACT Human Rights Act 2004. The nine principles outline key things a decision maker must consider when deciding what is in the best interests of a child or young person facing criminal matters. The key principle to consider today is:

- (f) a child or young person may only be detained in custody for an offence (whether on arrest, on remand or under sentence) as a last resort and for the minimum time necessary ...

It is clear that the Children and Young People Act states that detention of any sort should be considered as an absolute last resort. The reason detention is so clearly spelled out as a last resort for decision makers is that for years, in many countries, in many states and even here within the ACT, experts and researchers have been telling us that there are many negative impacts on children entering the criminal justice system. Whilst there may always be cases where, for the benefit of the community and ultimately for the benefit of the young person, detention is the most appropriate response, remand for remand's sake is not one.

I would also like to reiterate that the insertion of the principles in the Bail Act do not and are not intended to interfere with police officers' interactions with a child who is in the act of committing fresh offences or who may have committed fresh offences and by doing so has breached their bail. This insertion is primarily concerned with minor breaches of bail and does not prevent police taking a child into custody if the circumstances, taking into account consideration of the principles, warrant such action.

Recent research into trends in legal proceedings for breach of bail, juvenile remand and crime found that most young people who breach bail were arrested not for further offences while on bail but commonly for breaching curfew conditions and for not being in the company of an adult such as a parent.

It is also clear from data here in the ACT that there are many periods of remand for breaches of bail. Recent statistics show that in the first three months of this year 59

young people were remanded in Bimberi and, of those, 39 were for the charge of “against justice procedure and government operations”. This charge most commonly refers to breaches of bail and bond.

This clearly illustrates that, whilst 20 young people may have breached their bail conditions by committing a fresh offence and were subsequently remanded in Bimberi, 39 were most likely remanded for a short period for breaching bail and community-based orders, not for committing any other or new offences.

The bill would create consistency across various acts that deal with children’s interactions with the criminal justice system. This amendment to the Bail Act is intended to facilitate a reduction in remand periods for children in the ACT in cases where remand periods would be far more detrimental than a community-based response.

Repeated exposure to the criminal justice system has been shown time and time again to have negative outcomes for children, for young people and ultimately for the whole community. It is costly, ineffective and counter to local, national and international research. So the community should quite rightly question if it is the best use of police and government resources and further question if this is the best response we can provide to these children.

Today the ACT Greens are acting to prevent completely unnecessary and counterproductive remand periods for children and young people. I had hoped that all parties would support this bill and by doing so ensure that the best interests of vulnerable children and young people were considered paramount, especially those engaged in our youth justice system. I am, therefore, very disappointed that the Labor Party and the Canberra Liberals will not be supporting this bill. Mrs Dunne recently, when I gave a briefing on the issue, said she understood that the proposed amendments were quite straightforward and she did not have an issue with them, but that obviously has not been the final result of discussions within the Canberra Liberals.

We need to look at how we can improve the diversionary framework. We need to see how we can ensure that we have more people being diverted out of the system. We do have restorative justice. We do have a range of other programs. The drug court is up as well. But we need to get serious about the diversion programs. As I said, that diversionary framework paper went out in February of last year, so we are nearly 18 months down the track.

It could be said that everything is waiting on the justice blueprint, but I think there are things that we could be moving forward with. Obviously the government had started to move forward. If they were going to put together a paper and put it out there, they must have had some idea of where they could move and what sort of time line they would like to move on, on this. I am a little concerned, because I think the blueprint was scheduled to come out mid this year. We are now looking at later this year. I do not want it to be rushed; I do want a proper job to be done. In fact part of that was putting through the motion to ensure that experts on issues around juvenile justice, around trauma of children and young people and so forth, would be able to participate in that process. To have that expert advice and input will certainly help what comes out the other end, but I do think it is important that we get moving.

Mr Corbell appears to have overcomplicated and misunderstood the new test this bill requires law enforcement officials to consider. What this bill asks is: can a police officer reasonably believe that this is the best course of action measured against these two principles? It is by no means a great stretch of current duties, considering that these very principles are already considered in dealing with children in many other and similar situations. The Children and Young People Act, the overarching legislation that ensures that children and young people are provided with a safe and nurturing environment by organisations and people who directly or indirectly provide for their wellbeing, care and protection, lists the very same youth justice principles.

By opposing this bill the attorney is in effect arguing that other laws, such as section 56A(2)(b), that allow police to arrest children who they believe have not complied with the bail condition are problematic and leave the government open to similar compensation claims because they give police a discretion and responsibility to make a decision.

This amendment bill would create greater clarity for police when considering a course of action that might include arresting a child for breaches of the Bail Act and strengthen the role of the after-hours bail support service as well as other related and relevant community services.

This is a shame, because, as I have said, this bill is only intended to create consistency across various acts, is only concerned with minor breaches of bail and does not prevent police taking a child into custody if the circumstances, along with the consideration of the principles, warrant such action.

*At approximately 6 pm, in accordance with standing order 34, the debate was interrupted. The motion for the adjournment of the Assembly having been put and negatived, the debate was resumed.*

**MS HUNTER:** At some stage the other parties in this place are going to have to find new ways of thinking and learn to listen to the overwhelming weight of evidence and research that exists in the youth justice field. The Greens are here today because we know what the evidence is. We know what needs to be done to make legislative change. We know what is important and why we need to move in this area.

The bill before the Assembly will, I believe, make a big difference to many lives, to so many young people who are caught up in our youth justice system. These are usually, as I said, for very minor breaches of bail. What happens is that they get taken out to Bimberi. They need to be admitted. Usually that will involve a strip search. It means putting them in a bed for the night, getting them back in a van and taking them into the courts in the morning, only for them to be bailed again. I think we can do a heck of a lot better in this town in the way that we deal with that particular situation. We know that it is no good for those young people and that in the longer term it is no good for everybody in the community, because the sort of criminal behaviour can escalate, and we do not want that to happen. We know that Bimberi and the youth justice system are set up to be focused on rehabilitation, to provide opportunities, to point young people in a different direction and provide the support for them to take steps in a different direction.

I understand the blueprint is being developed. I look forward to that work coming out. But in the meantime I do not think we need to be standing by and waiting when we could be taking significant and important steps to address many of the issues that are faced by these young people in our criminal justice system.

Question put:

That the bill be agreed to in principle.

The Assembly voted—

Ayes 4

Noes 13

Ms Bresnan  
Ms Hunter  
Ms Le Couteur

Mr Rattenbury

Mr Barr  
Dr Bourke  
Ms Burch  
Mr Coe  
Mr Corbell  
Mr Doszpot  
Mrs Dunne

Ms Gallagher  
Mr Hanson  
Mr Hargreaves  
Ms Porter  
Mr Seselja  
Mr Smyth

Question so resolved in the negative.

## **National Energy Retail Law (Consequential Amendments) Bill 2012**

### **Rescission and reconsideration**

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

That, in relation to the National Energy Retail Law (Consequential Amendments) Bill 2012, the Assembly:

- (1) rescind the resolution of the Assembly to dispense with the detail stage and that the Bill be agreed to; and
- (2) recommit the Bill at the detail stage.

### **Detail stage**

Bill, by leave, taken as a whole.

**MR CORBELL** (Molonglo—Attorney-General, Minister for Police and Emergency Services and Minister for the Environment and Sustainable Development) (6.06): Pursuant to standing order 182A(b), I seek leave to move an amendment of a minor and technical nature to this bill.

Leave granted.

**MR CORBELL:** I move amendment No 1 circulated in my name [*see schedule 3 at page 2784*] and table a supplementary explanatory statement to the amendment.

Yesterday the Assembly passed the National Energy Retail Law (ACT) Bill 2012. This law, once it commences, will implement the national energy customer framework in the ACT. The Assembly also passed the National Energy Retail Law (Consequential Amendments) Bill 2012, which will make necessary changes to existing ACT legislation to implement this national framework.

As mentioned previously, under NECF the ACT retail energy licensing regime will be transitioned to a national authorisation scheme. This now necessitates some minor amendments to the energy efficiency improvement scheme. These amendments will ensure retailers continue to comply with this scheme under NECF, despite the ceasing of the local licensing regime.

These amendments, which are minor in nature, result in changing references to “retailers” under the Utilities Act, who are defined as suppliers, to “any retailers under the new national energy retail laws”. I have to apologise to the Assembly for omitting and overlooking this amendment when the debate occurred yesterday. I would like to thank members for their consideration on recommitting this stage of the debate.

Amendment agreed to.

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

Bill, as amended, agreed to.

## **Economy—strength**

**MS PORTER** (Ginninderra) (6.09): I move:

That this Assembly:

(1) notes the importance of:

- (a) supporting economic growth and supporting jobs;
- (b) providing appropriate settings for private sector investment and innovation;
- (c) investing in high quality services for our community whilst undertaking responsible economic management;
- (d) investing in productive infrastructure to support economic and population growth; and
- (e) undertaking structural tax reform to put the ACT on a more sustainable basis and make our tax system fairer, simpler and more efficient; and

(2) supports:

- (a) maintaining a strong economy in the face of significant economic challenges;
- (b) maintaining a focus on employment to minimise the economic and social costs of joblessness to individuals, households and society;
- (c) policy settings that support business investment and innovation without dictating industry outcomes;
- (d) investment in high quality services to support measured return to surplus in line with the Government's original budget plan following the Global Financial Crisis;
- (e) investments such as the ACT 2012-2013 Budget's allocations to health, education and transport infrastructure; and
- (f) undertaking structural tax reform to address short-term and long-term challenges facing the ACT and to make our tax system fairer, simpler and more efficient.

I move this motion today because it is important to support our economy and to support jobs. Without a strong economy, jobs are lost, businesses close, families suffer and it becomes more difficult for government to provide the high-quality service that the community deserves. Supporting our economy keeps people employed and allows them opportunities to build homes and to live in them with, obviously, their families. It also allows governments the opportunity to address social disadvantage and provide opportunities for those doing it tough. A strong economy is perhaps the most important cohesive element of our society, along with other cohesive elements such as social wellbeing, of course.

Maintaining a strong economy is not the same thing as maintaining a budget surplus, although maybe those opposite do not understand that. It is well understood that governments have a role in managing the economy over the cycle. This means in tough times governments support jobs and confidence and then pull back when the private sector recovers. It is prudent for governments to protect economic activity, jobs and confidence in challenging times. Governments have a longer term view than the private sector, are responsible for the whole society and so must take different decisions than individual companies.

The government wants to ensure that Canberra remains a fantastic place to live. Our community has Australia's highest standard of living, and the government wants to protect that. Canberrans deserve that and they deserve a government who understands that. Canberrans are, on average, the healthiest, best paid and best educated people in Australia. The ACT has the lowest unemployment rate, very high average wages, and we need to ensure that we have a plan and a vision to maintain our great community now and into the future. Labor's vision is to ensure that the ACT remains the happiest, healthiest and lowest unemployed, high-wage, most sustainable community in Australia.



We in the ACT Labor Party will always put our community first and, in particular, Labor will always look after those most vulnerable. The government's budget creates the conditions and lays the foundation for an even more prosperous, fair and sustainable city as we head into our second century.

This is a challenging time for the ACT economy. Some of these challenges are recent, and some are more familiar of late. First, let us start with the well known. The global financial crisis hit the global financial markets hard. The effects are still being felt across the globe. European debt crisis is ongoing. China is slowing its growth rate to adjust to a different world than pre GFC.

This challenge is acknowledged by everyone, except perhaps the Canberra Liberals. It took them a very long time to recognise that there even was a global financial crisis and even when they did, their view was that the government should cut services. As the Treasurer said yesterday, we have seen the effects of austerity and they are terrible, devastating for economies, devastating for societies, devastating for families.

Now we have to talk about the commonwealth budget and the effects on Canberra. We have spoken many times about the impact that the commonwealth government has on this town. It provides stable employment for many and it supports a good deal of economic activity.

As a brief aside, it was a surprise recently to hear the Canberra Liberals talk about public servants. It seems to be the first time they recognise the importance of these jobs to Canberra families. I welcome the new-found interest of the Canberra Liberals. It was nice that they finally stopped playing petty politics and talking down Canberra in this area, at least. The government has always talked up Canberra. So it is nice for the Canberra Liberals to join us in recognising the important role of our public servants and the importance of their job, although, as we heard this morning, not all public servants' hard work is recognised or appreciated by those opposite.

The government has always acknowledged there are risks from commonwealth budgets. The commonwealth government chased a surplus for 2012-13 and got there, but that has caused an impact on Canberra. In this environment, this government has shifted its surplus target back to the original date of 2015-16. This is the right decision for our community because it will let us respond to challenges without risking unnecessary damage to local confidence, local business and local jobs.

As the Treasurer said, good governments do not pursue policies which have been shown to fail and which could have negative impacts on households, in this case, knee-jerk austerity. I agree with the Treasurer that cutting at a time of challenge deepens the contraction, it does not support growth, it destroys jobs, businesses, families and communities. Labor will continue to invest in front-line services which our community deserves and expects. The Labor government is protecting front-line services because they are delivered to all Canberrans and, as you see, this special focus is on targeted assistance to the most vulnerable in our community.

I am pleased to see there are new initiatives in the budget totalling \$155.1 million over four years, focusing on health, education, emergency services and municipal and community services. Members can see that there are also new initiatives on community safety, public housing and targeted assistance measures to support vulnerable households.

To make Canberra a fairer city, Labor has boosted funding for some of the neediest in our community, including Canberrans with a disability, older residents and vulnerable households. I am also pleased to see that there is strong support, through the tax reform, to adjust for transition impacts, particularly on pensioners and older Canberrans. This includes the extension of the pensioner duty concession scheme, the duty deferral scheme and the rates deferral scheme. All these will allow for older Canberrans to make decisions about their housing choices. It will support the government's objectives around ageing in place, and it will allow older Canberrans to make decisions as to whether they transition to different accommodation.

There is also more funding to improve our court system, for the Street Law outreach legal service and for the Women's Legal Centre. In this time of difficulty, I am pleased to see the government is still committing \$5 million to additional public housing, a singular demonstration of Labor values and our beliefs, and these are the reasons why I became a member of this great party. Education is a high priority for this government, and the record investment in schools, over \$900 million per annum, is again proof of our commitment to education in the ACT.

There has been much discussion in this place about our health system today and over time. We have an outstanding health system. However, I know it is important to continue to respond to growing demand, particularly as our population ages. Therefore, I am pleased that the government are investing \$1.3 billion in hospitals, and we are ensuring everyone has access to quality and timely emergency care through our additional \$9.5 million commitment to the ACT Ambulance Service for new, modern on-board equipment.

This will mean that Canberrans get access to high quality emergency care when they are experiencing the greatest need. We would deliver more acute beds, more hospital-in-the-home beds, an expanded emergency department at the Canberra Hospital, more neonatal services, better community health centres and more mental health services, to name just a few.

This obviously continues Labor's record investment in our health system. Continuing investment in hospitals and other health services, building world-class facilities and an exceptional health system is definitely the way we need to go, and I am very proud that this government is doing this. All this provides for the needs of our health system into the future.

Of course we need to make sure that we not only respond to Canberrans but to the people in our region. As the Chief Minister and Minister for Health said today, our health system is not a health system that just services the ACT; it services our region as well, which is a very important factor that some of those opposite seem to forget from time to time.

As we know, it is crucial for our city that we maintain its vibrant cultural life. I am happy that this year's budget continues Labor's investment in the arts, including some of our most loved and valued arts facilities. I was particularly pleased to see in this budget the funding for the feasibility study for the second stage of the Belconnen Arts Centre, something that I lobbied my caucus colleagues and the minister for, and I appreciate this commitment. It will add to the life and the vibrancy of our Belconnen community and that of the region.

To conclude, I believe that this is a fair budget and a responsible budget. As the Treasurer said, it is a Labor budget. It is a budget for the times. And it responds to our economic challenges and it protects jobs. It delivers services and infrastructure. It is the right budget for the ACT, and I, along with my colleagues, am very proud of this Labor budget.

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

## **Adjournment**

Motion by **Mr Barr** proposed:

That the Assembly do now adjourn.

## **Volunteering awards**

**MR COE** (Ginninderra) (6.21): This evening I would like to acknowledge the 2012 volunteer of the year award recipients who were announced at a ceremony hosted by Volunteering ACT on 15 May at the Abbey at Gold Creek. Dr Mary Webb was named the individual ACT volunteer of the year for 2012 for her commitment to raising awareness and supporting those in the community who live with multiple sclerosis. Dr Webb has spent 10 years serving with various advisory boards and organisations, volunteering her services, and is currently the convenor of the ACT People with Multiple Sclerosis Group.

Individual winners in the categories included David Hutchison in the arts and heritage category; Max Kimber in the community care and social support category, with a highly commended award given to Dot Mills; Dr Mary Webb in the community service category, with a highly commended award given to Neville Tomkins; Hazel Giesecke in the education, science and technology category, with a highly commended award going to Geraldine O'Connor; in the health category, David Williams; Gordon McLoughlin, in the sport and recreation category, with a highly commended award going to Di Evans; in the environment category, Frank Brown was the award recipient.

The ACT volunteer team of the year award went to the ACT adult migrant English program home tutor scheme. The home tutor service is solely operated by volunteers and provides an important conduit to new settlers, not only with learning English but with friendship and other information. Other team awards went to the St Vincent de

Paul night patrol team, Vision Australia's talking newspaper service in Cooma, ANU Volunteers, the Stanford course peer leaders, Pegasus hippotherapy team and the YMCA of Canberra Runners Club committee.

I would like to acknowledge the Volunteering ACT board: the CEO, Maureen Cane; president, Dianne Carlos; treasurer, Jane Hayden; secretary, Wendy Prowse; members, Jason Lange, Rhys Morrison, John Lewis, Jason Moffett and Avi Rebera.

Volunteers play a vital role in our community and I am pleased to further acknowledge on the public record today their enormous contribution, self-sacrifice and commitment to others. I congratulate all the recipients of the awards and acknowledge the many thousands of volunteers who contribute in many different ways to our society every single day.

Question resolved in the affirmative.

**The Assembly adjourned at 6.23 pm.**

## Schedules of amendments

### Schedule 1

#### Official Visitor Bill 2012 (No. 2)

Amendment moved by the Attorney-General

**1**

**Clause 2 (2)**

**Page 2, line 13—**

*omit clause 2 (2), substitute*

(2) The remaining provisions commence on 1 July 2013.

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### Schedule 2

#### Official Visitor Bill 2012 (No. 2)

Amendments moved by Ms Bresnan

**1**

**Schedule 1, part 1.3**

**Amendment 1.25**

**Proposed new section 8G**

**Page 33, line 2—**

*omit*

Minister

*substitute*

director-general

**2**

**Schedule 1, part 1.3**

**Amendment 1.25**

**Proposed new section 8G, note 1**

**Page 33, line 5—**

*omit*

Minister

*substitute*

director-general

**3**

**Schedule 1, part 1.6**

**Amendment 1.38**

**Proposed new section 122B**

**Page 39, line 13—**

*omit*

visitable place

*substitute*

mental health facility

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**Schedule 3****National Energy Retail Law (Consequential Amendments) Bill 2012**Amendments moved by the Minister for the Environment and Sustainable Development**1****Proposed new part 7A****Page 18, line 12—***insert***Part 7A****Energy Efficiency (Cost of Living)  
Improvement Act 2012****39A****Dictionary  
Section 3, note 1***substitute*

*Note 1* The dictionary at the end of this Act defines certain terms used in this Act, and includes references (*signpost definitions*) to other terms defined elsewhere in this Act.

For example, the signpost definition ‘*approved abatement factor*—see section 18.’ means that the term ‘approved abatement factor’ is defined in that section.

**39B****Working out priority household obligation  
Section 15 (2) (b), formula***omit*

SESO

*substitute*

RESO

**39C****Section 15 (2) (b), definition of *SESO****substitute*

***RESO*** means the tier 1 NERL retailer’s energy savings obligation for the compliance period.

**39D****Compliance with energy savings obligations—supplier energy savings result  
Section 20 (2), formula***omit*

SESO

*substitute*

RESO

**39E****Section 20 (2), definitions of *S* and *SESO****substitute*

***RESO*** means the retailer’s energy savings obligation.

***S*** means the carried forward surplus.

**39F****Dictionary, definition of *electricity supplier****omit*

**39G Dictionary, new definitions***insert*

**NERL retailer** means a person who holds a retailer authorisation under the *National Energy Retail Law (ACT)* to sell electricity to premises in the ACT for consumption.

**retailer energy savings result**—see section 20.

**retailer priority household result**—see section 21.

**39H Dictionary, definitions of *supplier energy savings result* and *supplier priority household result****omit***39I Dictionary, definition of tier 1 electricity supplier***omit everything before paragraph (a), substitute*

**tier 1 NERL retailer** means a NERL retailer that—

**39J Dictionary, definition of tier 2 electricity supplier***substitute*

**tier 2 NERL retailer** means a NERL retailer that is not a tier 1 NERL retailer.

**39K Dictionary, definition of *utility****omit***39L Further amendments, mentions of *electricity supplier* etc**

column 1 item	column 2 provision	column 3 <i>omit</i>	column 4 <i>substitute</i>
1	section 7	electricity suppliers	NERL retailers
2	section 8	electricity suppliers	NERL retailers
3	section 8	supplier's	retailer's
4	section 11	electricity suppliers	NERL retailers
5	section 11	supplier's	retailer's
6	section 13	An electricity supplier	A NERL retailer
7	section 13	the supplier's	the retailer's
8	section 13	An electricity supplier's	A NERL retailer's
9	section 13	a supplier	a retailer
10	section 13, definition of <i>electricity sales</i>	the electricity supplier's	the NERL retailer's
11	section 14	An electricity supplier	A NERL retailer
12	section 14	supplier's	retailer's
13	section 14	1 electricity supplier	1 NERL retailer
14	section 14	the supplier	the retailer
15	section 14	2 electricity supplier	2 NERL retailer
16	section 15	electricity supplier	NERL retailer

17	section 15	the supplier's	the retailer's
18	section 15	An electricity supplier's	A NERL retailer's
19	section 15	a supplier	a retailer
20	section 16	electricity supplier	NERL retailer
21	section 16	supplier's	retailer's
22	section 16	the supplier	the retailer
23	section 17 heading	<b>Supplier</b>	<b>NERL retailer</b>
24	section 17	An electricity supplier	A NERL retailer
25	section 17	the supplier	the retailer
26	section 17	supplier's	retailer's
27	section 18	An electricity supplier	A NERL retailer
28	section 18	supplier's	retailer's
29	section 18	the supplier	the retailer
30	section 19	An electricity supplier	A NERL retailer
31	section 19	the supplier's	the retailer's
32	section 19	the supplier	the retailer
33	section 19	1 electricity supplier	1 NERL retailer
34	section 19	2 electricity supplier	2 NERL retailer
35	section 19	a supplier	a retailer
36	section 20 heading	<b>supplier</b>	<b>retailer</b>
37	section 20	<i>supplier</i>	<i>retailer</i>
38	section 20	an electricity supplier's	a NERL retailer's
39	section 20	the supplier's	the retailer's
40	section 20	A supplier	A retailer
41	section 20	an electricity supplier	a NERL retailer
42	section 20	supplier's supplier	retailer's retailer
43	section 20	the electricity supplier	the NERL retailer
44	section 20	the supplier	the retailer
45	section 21 heading	<b>supplier</b>	<b>retailer</b>
46	section 21	<i>supplier</i>	<i>retailer</i>
47	section 21	electricity supplier's	NERL retailer's
48	section 21	the supplier's	the retailer's
49	section 21	A supplier	A retailer
50	section 21	electricity supplier	NERL retailer
51	section 21	supplier's supplier	retailer's retailer



52	section 21	the supplier	the retailer
53	section 22	an electricity supplier's supplier	a NERL retailer's retailer
54	section 22	the supplier	the retailer
55	section 22	1 electricity supplier's supplier	1 NERL retailer's retailer
56	section 24	electricity suppliers	NERL retailers
57	section 24	electricity suppliers'	NERL retailers'
58	section 24	supplier's	retailer's
59	section 26	An electricity supplier	A NERL retailer
60	section 26	supplier's	retailer's
61	section 27	electricity supplier	NERL retailer
62	schedule 1, items 1 to 3, column 4	electricity supplier	NERL retailer
63	schedule 1, items 2 and 3, column 3	supplier	retailer

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