



DEBATES
OF THE
LEGISLATIVE ASSEMBLY
FOR THE
AUSTRALIAN CAPITAL TERRITORY

DAILY HANSARD

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22 August 2012

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Wednesday, 22 August 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.

Chief Minister
Motion of no confidence

MR SESELJA (Molonglo—Leader of the Opposition) (10.01): I move:

That this Assembly no longer has confidence in the Chief Minister, Ms Katy Gallagher MLA, due to:

- (1) being the minister responsible for taking the ACT health system from one of the best performing in the country and turning it into one of the worst;
- (2) being the minister responsible when the systematic deception of the community about the declining state of the health system occurred, including the altering of at least 11 700 health records over a number of years to make the system appear to be performing better than it was; and
- (3) personally failing to disclose conflicts of interest and personal connections to the executive responsible for the alteration of many of the health records.

Mr Speaker, I rise to address this most serious motion—the most serious it is possible to move in this Assembly. Since I have been Leader of the Opposition, it has only been used in the most serious of circumstances.

This is without doubt one of the most serious scandals in territory history. It involves not just poor performance, but fraud, cover-ups, conceit and deceit at the highest levels of the management of our most crucial services.

Mr Speaker, in my motion I outline three grounds for moving this motion. The motion says that the Assembly should express no confidence in the Chief Minister for three main reasons:

- (1) being the minister responsible for taking the ACT health system from one of the best performing in the country and turning it into one of the worst;
- (2) being the minister responsible when the systematic deception of the community about the declining state of the health system occurred, including the altering of at least 11 700 health records over a number of years to make the system appear to be performing better than it was; and
- (3) personally failing to disclose conflicts of interest and personal connections to the executive responsible for the alteration of many of the health records.

Each one of these grounds is enough for serious censure. Taken together, they can only be seen as grounds for no confidence. Together, they tell a tale of incompetence outmatched only by the arrogance of those responsible.

There have been claims by Labor, and by a clamouring chorus of Greens all too willing to hold up this government instead of holding it to account, that this whole thing is just about data. About statistics. About numbers. No, it is not. It is about people, and it is about the pain this government has caused those people. It is also about those people's experiences being invalidated by deception.

Many of those stories have been coming out in the media, and some of those who have suffered are with us here today in the gallery. They are what this motion is about. They are why we are taking the steps we have. And they are the reason we will never let this appalling abrogation of responsibility be dismissed. I think it is important that we, in our positions of trust and responsibility, remember that it is they who are our real judge and the real reason we are here today.

Since this scandal has started, more and more people are coming forward with their own stories. Just last week, in response to this scandal, Maurizio Salza had the bravery to step forward and tell the story of his wife, with her one-week-old son, waiting over 10 hours suffering mastitis without being seen. Maurizio said that, while he understood there were other people deserving of being seen, "The coldness and lack of any care or respect in that period was just absolutely horrible." That is the real face of pain that these failures create. That is what we are fighting for today.

I was contacted by a nurse, who refused to be named or to go public for fear of reprisal, who told of the systemic issues in the ED, of bullying so bad and cronyism so rife she was forced to leave the sector to work in a private practice. She tells me she stills feels genuine fear when certain members of ACT Health management visit her new workplace. The fear she felt was very evident when I was talking to her, and I am sure there are many more like her who know how corrupted the system has become but are simply too fearful to speak out.

Just this week we have been contacted by nurse Kate Virtue, who shared her story about how she was treated after being electrocuted while doing her job.

And in today's newspaper we have heard the terrible story of Lima Thatcher, whose granddaughters Holly and Kate are with us today. They have fought hard after they lost a loved one in circumstances that just should not have been allowed to happen. Through their diligence, an internal memo was discovered issued by the executive director of the quality and safety unit at Canberra Hospital. In it, it was revealed that only 52 per cent of pre-surgery safety checklists were completed for patients in our hospitals. These are vital, basic checks to see that surgeons have the right patient and will be performing the right procedure, and will be taking the right precautions. Half of all patients in Canberra go to surgery without that being completed. That is an appalling result.

These are just some of the stories which have emerged since we announced this no-confidence motion. How many other stories remain untold?

What is more appalling is that we are only finding out about this today, and we are not finding out about it from the minister, despite a senior manager in her department

having known about the problem for over a year. Nothing will bring Lima Thatcher back, and I express my sympathy for her family, but we must make sure this sort of thing does not happen again. That does not happen by hiding the truth, or pretending there is no problem. And there is a problem. Katy Gallagher's own executive director says it puts patients at "significant risk".

Once again, just today, we have a serious failure of management, we have serious personal outcomes, we have senior executives who knew about the problem—yet the Chief Minister hides it from the public. That is the story of Katy Gallagher as Chief Minister and health minister. She has created a system that generates the worst results in the country, and will say and do anything to avoid telling this truth. It is a culture of cover-up, of an "inner circle" of cronies and of chronic bullying that has poisoned the very heart of our system.

I wish I could offer some comfort to those in pain by telling them that their experiences are unusual, rare, or one of a kind. I cannot, because their experiences are not rare. They are examples of a system in crisis that are finally coming to light after years of being shrouded in the dim cloak of deceit.

The first is the undeniable fact that this health system has been shattered by this minister.

When Katy Gallagher and Labor took office in 2001, Jon Stanhope made it a priority to improve the health system. The Auditor-General's most recent report in fact confirms that there has been a 10-year decline in the system. According to AIHW reports at the time, our emergency department times and elective surgery times were among the best in the country when Labor took office. The best in the country.

When Labor took over, 80 per cent of urgent ED patients were seen on time. After 11 years of Labor and six years of Katy Gallagher as health minister, only 60 per cent were seen on time. When Labor took over, the median wait was 39 days for elective surgery. After 11 years of Labor and six years of Katy Gallagher as health minister, the median wait is 74 days, and many suffer for far longer.

Despite Labor's selective memory and historical rewriting, the fact is that those results are now the worst in the country. And not by a small margin: we are now nearly double the national average. According to ACT Health's 2010-11 annual report, in category 2 the median wait is 103 days; in category 3 the median wait is 225 days; some non-urgent patients wait a year to be seen. Eleven years of Labor; 11 years of decline. Mr Speaker, 11 years is long enough. It is a simple fact that this Chief Minister does not have the answers and cannot fix the problems.

The other inescapable and inexcusable facts, though, are that these are not the worst part of this story. The problems go much deeper into the culture of our health system, and they come directly from the management of Katy Gallagher. The problems I am referring to are not ones of facts and figures, reports and reviews. The problems I am referring to are of endemic bullying and systemic fraud, of a system in crisis that causes real pain, real suffering and real heartbreak.

We have heard many stories over the past years about lives broken, careers ruined, patients suffering—all while Katy Gallagher is denying their stories, their complaints, and the very truthfulness of their cases. All too often it is Katy Gallagher who has not told the truth.

There are many indicators of the disastrous mismanagement of health, but the most troubling are those that involve deceit and misleading of the public, and Katy Gallagher has been at the centre of them.

In December 2010, it was reported that nine obstetricians had quit—walked out the door, all at once and all for the same reason: the bullying and management of their department. How did Katy Gallagher respond? She attacked the doctors. She called their complaints “mud-slinging” and “doctor politics”.

Then, as a direct result of the Canberra Liberals doing our job and holding the government to account, Katy Gallagher let slip the now infamous statement: she admitted there had been a 10-year war in her department. Ten years of fighting, that she had not addressed, that resulted in nine doctors walking out the door.

Then we had the charade that was the investigation. A private investigation. A secret investigation. An investigation that leaked emails revealed was utterly compromised by politics. Some of the emails show the flaws in the selection process. I quote:

... the doctors discuss various candidates for seats on the board, whether or not they were ‘fans’ of obstetrics and if they would ‘suit’ the cause.

That is a disgraceful process. No wonder the doctors feared business as usual, as reported on 10 December:

... the junior doctors who put their hands up and said they felt bullied now feel hopeless ... A number of staff ... said there’s fear and dread of what’s going to happen ...

In fact in December 2010, they were so incensed by the handling of the issue that, in an unprecedented move, doctors demanded the dismissal of Katy Gallagher. Andrew Foote, chairman of the ACT branch of the royal college of obstetricians and gynaecologists, said:

We are concerned that the minister is trivialising this issue and writing it off as doctor politics when it is really about patient safety and the safety of women and babies.

Peter Hughes, one of the ACT visiting medical officers, knew that Canberra was falling way behind, and wrote to Jon Stanhope to sack Katy Gallagher. About the secret inquiry, he said:

It is almost unheard of for the Minister to abrogate responsibility and let the public servants carry out improvements ... these public servants are the same ones who failed to report complaints about bullying in the first place.

Katy Gallagher said she was not surprised by the letter. Now that we know more of the truth, I am not surprised either.

The data doctoring scandal that so spectacularly exploded the myth of competent management at ACT Health was not the first example of dishonesty and dodgy stats that have become such an intrinsic part of this story; it was only the latest and the largest. The management of this system is such a dirge of dishonesty that almost no statement can be taken at face value.

The first example of records being adjusted to present a better picture concerned the classification of patients. If patients in the most urgent categories are not being seen on time, one expedient answer is to simply move them to a non-urgent category. When we suggested that this was indeed what was happening, we were met—once again—with vicious attacks by the Chief Minister. Over and over, she claimed no such thing was happening or could happen.

Once again we were proven right and Katy Gallagher was proven wrong. In January 2011 the Auditor-General found that patients had indeed been reclassified, without clinical reasons. In more than 252 out of 259 cases, patients who needed elective surgery were downgraded from category 1, urgent status, without any clinical reason. In 55 cases, patients were reclassified without evidence of the change being approved by a doctor. Ms Tu Pham said:

... 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.

I remind you that Katy Gallagher claimed repeatedly, in this chamber and without, that this was just not happening. This, without doubt, is a pattern of deceit from the department followed by a pattern of denial from the minister.

Despite being exposed in this deception, the minister did not take action to stamp it out in the rest of her department. In fact the deceptions flourished, and the next revelations made the patient category downgrade seem small by comparison.

On 21 April this year, it was revealed that there had been a massive, ongoing and systemic alteration of emergency department waiting times. The community then was faced with the fact that not only had Katy Gallagher and ACT Labor taken the best health system in the country and turned it into the worst but that we had been lied to about it for years.

According to the investigations conducted, the following was found:

There is evidence to indicate that hospital records relating to Emergency Department performance were manipulated between 2009 and early 2012. It is likely that up to 11,700 records relating to Emergency Department presentations were manipulated during this period.

... the Canberra Hospital's ATS Category 3 results (i.e. achievements against the target) were overstated by at least 19 percent, and ATS Category 4 results were overstated by at least 10 percent.

Mr Speaker, this is the biggest systemic deception in the territory's history. In fact, I would not be surprised to find it the biggest ongoing deception of health records in the country.

The community has to ask: how could this have happened? First, we know that this was not one rogue staffer. It was clearly more than one, because records were altered while the person who has admitted the tampering was on leave—and others use a password the confessor denies using. There is a deeper problem here, and one which Katy Gallagher simply will not pursue.

Second, we have already established there is a sick culture in the management of ACT Health, a culture that comes from the top down. The Auditor General's report stated it most bluntly:

Managerial pressure was placed on the executive to improve the performance of the Emergency Department.

The person who altered the data testified:

The environment in the executive at Canberra Hospital has increasingly become one where I felt fearful for myself and for other people that I work with.

Even more concerning was the following:

In response to Audit's question 'there's a correlation between not meeting these targets and people actually losing their jobs?' the executive responded 'yes'.

That is just part of the awful saga that is the data doctoring scandal, but the connection between the management of the health system and Katy Gallagher is far closer than was previously revealed, and one which calls into question the judgement, honesty and character of the person who has become Chief Minister without ever facing the public to do so.

When the story of the data altering became known to Katy Gallagher on a weekend in April this year, Katy Gallagher knew instantly that she had a very real and very close connection to the person at the centre of the scandal. But for days and days after the story broke, Katy Gallagher said absolutely nothing about her connection to the person involved.

On the Monday, she is reported as saying she told "everything she knew". That was simply not true. A bizarre unfolding of half-truths and part-stories emerged as Katy Gallagher twisted and turned and changed her story as more facts were uncovered—and it turns out none of them have been the whole story. Not once has Katy Gallagher told the whole truth about her connection to this person.

On 28 April, seven days after announcing the scandal, Katy Gallagher told the *Canberra Times* she had to stand aside from the investigation because:

I knew the officer, I knew her in a professional capacity, but she also has a personal connection with a family member of mine.

After the connection was revealed, Katy Gallagher was again asked to clarify the relationship in response to Ross Solly's questioning in July 2012. Ross Solly said: "Let's just clarify this other issue once and for all. What is the family relationship? What is the relationship between yourself and the woman who has been identified as the main culprit here?" Gallagher said: "She is a close personal friend of a relative of mine. So I know her in that capacity and I knew her in her professional capacity at work." Again, it was not the whole truth, or anything like the whole truth.

Leaving aside the deliberately misleading performance of the Chief Minister during estimates, it was what was revealed later that really proves the case for deception against the Chief Minister. I remind the Assembly that Katy Gallagher sat in the estimates committee on 5 July and made this statement:

I have never hidden—I have never ever hidden the nature of the relationship.

Except that she had hidden the nature of the relationship. She constantly claimed there was only a personal relationship with a family member.

Then it was revealed that, in fact, the executive that admitted altering this data was such a close friend of Ms Gallagher that they had spent weeks together holidaying in the south of France. Even later, we discovered that this person was also a guest at Katy Gallagher's birthday party. Quite simply, these are not the actions of a distant friend of a relative. It beggars belief that Katy Gallagher should expect anyone to believe this was a coincidence.

The media certainly aren't buying it. Ross Solly said: "I interviewed Katy Gallagher on this issue. She told me her government had been 'open and transparent'. '... we have nothing to hide here,' she said. 'We've had a staff member come forward and say they've done something wrong. ... I found out on Saturday about this and we've come out and told the community everything we know on Monday evening.'"

The real problem for Katy Gallagher, though, is not that she had a holiday with this person, or had her over for her birthday party, or had any other sort of connection; it is the fact that she did not say so up front. This is a fact confirmed by her own member on the estimates committee:

MR HARGREAVES: Therefore, it would be the responsible thing, minister, would it not, where something that is a bit unusual—like a friendship, a relationship—to be declared up-front and early, and that did, in fact, happen, did it not?

Ms Gallagher: Yes.

Except that it was not revealed. It was not revealed on the first day, when Katy Gallagher would have known it was relevant and important. It was not revealed during the first week. It was not revealed when she was asked again by the media and again during estimates. And, most importantly, it was not revealed to the Auditor-General when they held their inquiry. Even on this fact, Katy Gallagher could not tell the truth. She went on air on ABC radio and said she had told the auditor about the holiday when, quite frankly, she had not. It is not the crime, they say, but the cover-up. In this case it is both. It was a deception deliberately laid for political protection. Katy Gallagher knew from day one this connection would be a problem, and so she tried to hide it. Now she has been found out, just as the lies about the ED data were found out and the truth about our health system was found out.

I said at the beginning of my speech that we only move these types of motions in the most serious of circumstances. Just how serious it has to be has been set by precedent, and I will now remind members of the standards set by previous motions.

I know those opposite are going to decry the use of this mechanism, citing an ever-increasing variety of desperate denials and denigrations. And I utterly reject those denigrations of our democracy. A no-confidence motion, used judiciously, is a vital part of a functioning parliament. I will quote the former Chief Minister, Jon Stanhope, when he was opposition leader. Mr Stanhope said:

Motions of want of confidence or censure are legitimate tools by which governments are called to account, particularly in jurisdictions where there is such an arrogant disregard for the obligation to be accountable as in this Territory under this government. If governments are found wanting, they must face censure.

(Extension of time granted.)

The irony of quoting a former Labor leader against the current one is not lost upon me. But Mr Stanhope made some pertinent points. Since I have become Leader of the Opposition I have only used this mechanism twice—that is twice in almost five years. The standard set by the Labor Party is far more profligate. They moved three motions in little more than 12 months at one stage. Motions of no confidence were used by Labor when they were in opposition in June 1999, November 1999 and October 2000. By comparison, and by any fair observation, we have been far more reticent to reach for this mechanism. Before any Labor member stands and tries to deny the right of an opposition to use this tool, they should look at their own record.

Given the opposition is entitled to move this type of motion, the question then becomes: what type of action warrants sanction? Again, it is history that provides the precedents. The last and only motion to come close to succeeding was that moved against former Liberal leader Kate Carnell. Ms Carnell has gone public with her observations that she was sanctioned for reasons far less closely linked to her own involvement than those facing us today. In short, Ms Carnell had no confidence moved against her because of a wrongful act of a public servant, and Jon Stanhope argued with great vigour that the responsibility lay with the minister. Labor argued that a chief minister must be stood down because what had happened was “inexcusable”. He said:

What happened occurred because of the culture that allowed the systemic failures and incompetence to fester and grow and go unrecognised ...

There are, however, several distinguishing facts that make Ms Gallagher more culpable than Ms Carnell. In Kate Carnell's case, it was a single instance of wrongdoing. In Katy Gallagher's case, it was 11,700 separate incidents—the largest sorting of data ever come to light, a systemic and systematic pattern of deception that continued for years. In Ms Carnell's case, she had no connection with the person who did the wrongdoing other than being Chief Minister. In Katy Gallagher's case, she had longstanding, highly personal and professional connections.

Canberra is a small town, and some form of connection might be excused or even expected. But anyone with any sense knows that is different to extended families and family holidays together overseas. This is a person who attended Katy Gallagher's birthday parties. Obviously this is a much closer connection than that between Ms Carnell and the public servant who did the wrong thing.

Katy Gallagher and others will, no doubt, make a great deal about the fact that Katy Gallagher personally did not do these wrongful acts. I remind this Assembly the Auditor-General at the time also found Kate Carnell personally did nothing wrong. Yet Labor still pursued her. Labor still found her guilty. Labor still held that ministerial responsibility dictated that she as Chief Minister must be held accountable.

I again quote Jon Stanhope:

Ministerial responsibility requires the individual responsibility of ministers to the Assembly for the administration of their departments and agencies. That is the standard. That is where the bar is set.

Indeed, that is where the bar is set. It is time now to see whether Labor will apply the same standard to their leader as they demanded of previous leaders or whether the bar is set differently for different chief ministers.

Lastly, and most importantly, Kate Carnell told the truth. She did not wait a week while she ruminated upon whether to reveal there was, in fact, a connection between her and the person at the centre of the scandal. She did not say there was nothing more to tell about the relationship when, quite clearly, there was a great deal more to tell. And she did not come up with some transparent tissue of fabrications and falsehoods to try desperately to appear to be distant when, in fact, the relationship was very close and very personal. There, Mr Speaker, you have the standards set by the Labor Party when in opposition. And there, Mr Speaker, you have Katy Gallagher falling far short of the standard required.

Katy Gallagher has failed utterly and completely in her administration. She has failed to deliver the service required by this community and has given us the worst performing health system in the country. On three separate instances she has misled the Assembly and the community—on the bullying inquiry, on the patient reclassification, on ED results. Her department has lied to the community for years about those failings, and Katy Gallagher has failed to tell the truth about the connections she directly has with the person at the heart of this matter.

There is only one question and one result that must come as a consequence of these failings—the Assembly must tell her to go. That is what we are now demanding. It is what the community would expect us to demand, and it is what this Assembly should now do.

It is clear that Katy Gallagher does not meet the standards set by her own previous leaders or that required by the community. But her ministers and the crossbench will not apply that same standard today. They will support a failed chief minister, an incompetent chief minister and a dishonest chief minister, to their shame. Katy Gallagher no longer has the credibility to serve as a minister and no longer deserves the right to sit at the head of government. We will not sit silent while our citizens suffer under the worst health system in the country. We will not allow the biggest lie ever told to our community to go uncriticised, and we will never stand for a chief minister who stands in this place and attacks her doctors, bullies her staff, buries the evidence and then lies to her community and to this chamber.

Enough of the failures, enough of the bullying, enough of the lies. For the sake of our health system, our health staff and our community, this Chief Minister must go.

MS GALLAGHER: (Molonglo—Chief Minister, Minister for Health and Minister for Industrial Relations) (10.27): As members would be aware, it is my normal practice to debate matters that come before this chamber in a serious and considered fashion; to show respect for the forms and the practices of the Assembly, even when I disagree with the substance of what is being discussed. But today we have a motion that is simply beneath the contempt of this place. It is a motion designed not for any substantive accountability or scrutiny purpose; it is purely for political effect. It is an unserious motion brought by an unserious party, a party with nothing to offer but the politics of innuendo, conspiracy and muck.

Regardless of the truth, regardless of the effects on the lives of others, regardless of the decency or decorum that Canberrans expect of their political leaders, Mr Seselja, ably assisted by his hollow health shadow, Jeremy Hanson, persists in this tawdry strategy—of slinging mud instead of engaging in ideas, of casting aspersions instead of constructing a policy platform. It is not the strategy of a serious alternative government. It is not the strategy of a party of honour or ideas. It is the strategy of bullies and of wreckers.

The matters raised in this motion have been canvassed extensively and dealt with conclusively by a forensic audit undertaken by PricewaterhouseCoopers, the Select Committee on Estimates, the Standing Committee on Public Accounts and the Auditor-General.

An action plan has already been put in place to address the recommendations of the two audits carried out, including new data collection and validation processes. I have written to all of my colleagues interstate, and I understand several of them are looking at their own data processes in light of the learnings in the Auditor-General's report. We will, of course, respond to the PAC report in due course. None of these investigations, none of the evidence presented and none of the conclusions arising from any of these independent processes found any wrongdoing on my part. None!

We can look specifically at what the Auditor-General had to say in relation to the manipulation of hospital records:

There was no direct or indirect instruction by any other person, including the Minister for Health.

This is not me saying this; this is the Auditor-General—the person with powers virtually equivalent to those of a royal commissioner, who took evidence under oath, and who made a finding. And that finding was that I did none of the things that this opposition is wanting so desperately for people to believe.

But now the Liberals wish to have another go, another stab at trying to tarnish the public health system, my reputation and that of my family. A well-respected Australian once told me, “Leadership is easy when everything is going well, the true test of leadership comes when problems arise.” I believe that a minister is measured by their response to challenges, to opportunities and to crises.

I have no regrets on this score. In relation to the ED data issue, I acted as soon as the issue came to my attention. I have answered every question asked of me on every occasion. I have offered to appear before estimates, I have asked the Auditor-General to investigate and I have provided the community with all the information I could at every step of the process.

I publicly declared the potential for a conflict of interest and I stood aside from ministerial responsibility for the investigation. Yes, I did seek to protect the privacy of others, particularly my sister. I thought that was fair and decent.

The one thing I underestimated was the nastiness of the Canberra Liberals, and in particular Jeremy Hanson, and the levels he would sink to in his pursuit of me. I simply never believed that he would seek to slander in the most public of ways the reputation of a nurse with 24 years service. Well, congratulations to you, Mr Hanson—something you can be so very proud of.

My decision, had it been respected by others, to not identify my sister, was done for a good reason. Since you have identified her, Mr Hanson, and the location of where she works, she has had her privacy at work compromised. She has even received a phone call at the general ward desk from a person purporting to be a journalist, seeking to interview her. Her location at work is now known to everyone and anyone who wants to find her. So well done, Mr Hanson! We know that nothing gives you greater pleasure than to viciously pursue innocent parties for your own political purpose. So give yourself another pat on the back for that one. Meanwhile a busy, dedicated nurse continues to deal with the fallout of your actions.

I note the public accounts committee report’s recommendation regarding an apology to the officer responsible for the data changes, an apology that has already been provided. Strangely, I did not come across a similar recommendation requiring the Assembly to apologise for the unwarranted slurs made against my sister, also in the most public of ways. Today I call upon the Canberra Liberals to do the decent and right thing and provide that overdue public apology to her.

The Canberra Liberals will be judged harshly by the people of Canberra for this nasty campaign of theirs. Canberrans can see through the mock outrage, the daily slurs and the relentless, mindless negativity. They know what substance looks like, they know what decency looks like and they see precious little of it in this current opposition.

In fact the Liberals do not even have the guts to make a specific allegation. Instead they rely on innuendo and smear. They say it all with a nudge and a wink. Mr Speaker, everyone in this chamber today, along with the majority of Canberrans, knows exactly what this motion is about. It is about politics. It is not about the health system. It is the Liberal Party sticking to the lazy habits of the past four years—sleeping late, arriving in the office to the realisation that another day has passed without anything to show for it, then falling back on their favourite method of distracting people from how lazy they are by attacking me in the hope that one day they can sneak one past the community. What they do not seem to get is that Canberrans are smarter than to confuse loud words and manufactured outrage with substance.

For my part I am very happy for them to waste the weeks leading up to October having a go at me rather than setting out an alternative vision for Canberra. I suppose that is their prerogative. Or I would be happy except for one thing. In attacking me, the Liberals do not care about who else might be standing in the way. They do not care whom they hurt, whose reputations they trash, whose vulnerabilities they expose, whom they distress, whom they malign, whom they defame under the cover of parliamentary privilege, in their pursuit of me.

That, Mr Speaker, is the really revolting thing about the Liberal way of doing business. Everyone and everything is fair game for the Liberals. The very institutions of this town are fair game. Our wonderful public hospitals and other public health facilities are fair game. The Canberra Liberals do not mind trashing these facilities if they think they might get to me through the rubble and ruin.

To attack me, the Liberals will risk undermining public confidence in our world-class public health system when we as an Assembly should be building it up. To attack me, they attack staff, doctors, nurses, administrators, the hard-working men and women at the front line of service delivery.

It is simply indecent and deeply dishonourable for the Liberals to make the claims they have made, very publicly, and which the Leader of the Opposition has made again today, calling our public health system the worst in the country.

At this point it is probably worth thinking back and reminding ourselves of what things were like in the public hospital system that the Liberals used to run. So let us have a look at what we had then and, perhaps more importantly, what we did not have. We did not have 926 beds like we do now. By the time the Liberals had blown up a hospital and closed 114 beds, we were left with just 670 beds.

We did not have 12 operating theatres like we do now. The Liberals could only cope with five. We were not delivering 11,000 elective surgeries a year as we do now. The Liberals managed just 6,852. We did not directly employ 671 doctors in the ACT and

2,144 full-time equivalent nurses and midwives. The Liberals scraped by with fewer than 300 doctors and less than 1,300 nurses. There was not a nurse-led walk-in clinic. There was not a mental health assessment unit or popular step-up, step-down mental health facilities. They could not even manage an adequate mental health unit.

There were not any complex eye surgery procedures or state-of-the-art treatments for head and neck trauma. There was not a dedicated neuro suite for performing life-saving surgery. There was not a dedicated hospital for women and children where, right now, Canberra babies are being born in facilities that are as fine as any in the world, watched over and cared for by staff who are as good as any in the world.

There was no purpose-built radiation oncology bunker equipped with four radiation oncology machines achieving amazing results like there is now. There was no vision for community health centres like the new ones we are rolling out across the city—in Gungahlin, Tuggeranong and Belconnen—to ease pressure in the hospitals and to allow people to access healthcare close to where they live. There was no neonatal intensive care unit video streaming service, no digital mammography, no surgical assessment unit, no medical assessment unit, no integrated cancer centre, no adequate parking at the Canberra Hospital, no Village Creek facility, no PET/CT scanner, no additional increases to subacute care for respite for cancer patients, and no comprehensive e-health program. There was not a second cardiac catheter lab either, or the capacity we have created in hospital in the home services.

There was no patient safety and quality unit—the changes that were implemented after the Dr Newcombe case. There was no GP liaison. There was no dedicated phone service for GPs to contact doctors in the hospital, no paediatric ED service, no paediatric waiting area in the ED, no volunteers program in the ED. There was no comprehensive strategy to deal with the management of chronic disease, no home telemonitoring, no chronic disease telephone coaching service, no capital region retrieval service, no ACT neonatal emergency transfer service, no impact program for vulnerable families, no mental health community policing program, no risky foot clinic, no purpose-built discharge lounge, no support for GPs or GPs-in-training—no scholarships, infrastructure payments or training payments.

There was no plan about the care of subacute patients like the one we are planning with a new subacute facility. There was no Canberra Hospital Foundation undertaking fundraising for the community by the community. There was no sleep laboratory, no surgeries being performed at Queanbeyan hospital, no planning for regional health services, no GP aged day-care service visiting elderly Canberrans in nursing homes.

That was the health system that the Liberals so fondly remember—a picture of inadequate investment, inadequate planning, not enough services and no plan for the future.

We have made health our priority. We have invested record amounts in health and addressed the inadequate services and inadequate bed numbers, and we have increased the workforce. While the Liberals closed beds, blew up a hospital and actually reduced nursing numbers, we have strategically and methodically invested in health, year after year, delivering more services, more doctors and nurses, more community facilities, more care to more Canberrans when and where they need it.

These targeted investments have transformed our health system and enabled us to deliver new, exciting and innovative services—services that have never been provided in Canberra.

Running alongside this is the public health policy work: some of the toughest tobacco control measures around; food safety laws that are giving Canberrans greater confidence when they eat out; a major review of the mental health act; and new strategies to deal with some of our most challenging health issues—chronic disease, renal services and diabetes.

Every one of these reforms and every one of these services is fair game for the Liberals, with their simplistic cherry-picking of the facts and their sweeping statements of condemnation. I do wonder, if the Liberals were banned from talking about ED waiting times or median wait times in elective surgery, whether they would have anything at all to say about the health system—an interesting test perhaps for the fourth estate.

Mr Speaker, Canberrans have much to be proud of in their health system—its doctors and its nurses, its allied health professionals and its facilities. I am not standing here and saying the health system is perfect. No health system anywhere in the world is. Health systems are human systems. There is always room for improvement and there are always areas of pressure. But the health system is complex. It is like a puzzle where all the pieces are interrelated and depend on each other to build the complete picture. If you look at any health system you will find areas where they do well and areas where they do not. And that is a fact.

I agree with the Auditor-General's observation that there is a lack of focus on qualitative indicators in assessing emergency department performance. As I have previously informed the Assembly, I have been raising this issue at the national level and urging my interstate colleagues to work with me to create a new set of performance measures which focus on patient outcomes and fairly treat small jurisdictions with limited hospitals in a similar way to the larger jurisdictions.

A good start would be to be able to reach agreement on how to manage waiting lists in elective surgery to allow for consistency and agreement on what starts the clock in the emergency department. Timeliness is one way of measuring the health system but it is not the only way and it should be seen in the context of the outcomes delivered. And those outcomes for Canberrans are excellent—low rates of hospital acquired infections, low readmission rates, the lowest levels of intervention during birth for first-time mothers, and excellent cancer survival rates.

This is the system that the Liberals trash and talk down. And we all know why they talk everything down. It is because they have nothing of their own to talk up. Let us look at the Liberal Party's health policies for an election which is a little over two months away. They have only one, and that is to close the nurse-led walk-in centre, a facility that has provided a nation-leading model of care to more than 34,000 Canberrans who have presented at the clinic since it opened.

This policy announcement, made on the run by the shadow health spokesperson, is largely in line with the attitude they brought to health when they last had responsibility. They blew up a hospital, closed 114 beds and reduced nursing numbers. This time their first act will be to close the walk-in centre and maybe have a review of something.

I will gladly debate the Liberal Party any time on health policy, because I have actually got one to debate. I will debate the Liberal Party any time on performance, too. I have delivered, and I have got plenty more to do. I will debate the Liberal Party on vision, and I will debate the Liberal Party on decency and values. Unsurprisingly, the Liberals do not want to have the substantive debates, unless, of course, as we learned last week, they can dictate who is speaking, when they are speaking and what they are allowed to discuss.

For the first time since self-government, we have the plans in place to meet the healthcare needs of our community. Our health infrastructure program—more than a billion dollars of targeted capital investment—is transforming the places we deliver care and the way in which we provide it—new hospital buildings, new community health infrastructure, new sterilising facilities and a new subacute hospital. If we are re-elected, we will expand the nurse-led walk-in centre model, and I have announced plans to deliver mobile dental care to some of our most vulnerable residents—elderly residents of aged-care facilities and students attending schools.

The Liberals over here do not want to debate me on vision because they know how they would come off. They would rather make grubby insinuations about me and my family because they do not have to prove anything; they just have to plant a seed of doubt. If innocent people get hurt, “Oh well.” They would rather trash public confidence in a public hospital system that is amongst the best in the world. There is no low too low and no rumour they will not whisper.

As they have so little self-awareness, they do not understand how ironic it is that they bring a motion today which centres on the manipulation of data and then base their entire disgraceful denigration of an entire hospital system on figures used out of context, and then only using the figures specifically picked to suit their story. Two rigorous audits have absolutely and utterly exonerated me. So what do the Liberals do? They trash those audits too. In the process, they trash the professionals who conducted them. The Liberals demand another process. If that did not deliver the result they were looking for, you can bet they would ask for something else again, trashing someone else’s professional reputation and concocting yet another conspiracy theory.

Contrast their approach with ours following the McLeod report into Mr Seselja’s gross mismanagement of his office—the only thing he does actually administer. When that audit came out, despite what we knew and what we saw, we accepted the findings of the audit. We did not agree with them, but we accepted them. We did not go after Mr Seselja’s family. We did not demand that the legal advice the Canberra Liberals took in relation to the audit be tabled. We took that decision because it is how decent people behave—respect the process and accept the umpire’s decision, even if you disagree.

Last week there was a letter to the editor in the *Canberra Times* that summed up what I believe many Canberrans will think about this motion, what they will think about the wasted week of our collective time and the grinding, pointless, tedious template negativity of the Canberra Liberals. The letter was headed, “Enough petty politics”, and read in part:

Let us stop the federal disease spreading into Canberra. Petty politics for the sake of politics is counter-productive and that is what we are seeing from the Canberra Liberals as they try to smear the Chief Minister in preparation for their vote of no confidence in the Assembly.

It is interesting, that use of the word “disease”. We deal with physical disease very well in this community, whatever the Liberal Party might pretend. We have a world-class hospital system backed up by world-class community health facilities and a great primary healthcare system delivered by GPs. The disease referred to by the letter writer is a more insidious one, but it, too, can be dealt with and it, too, can be beaten.

Canberrans will judge my government on its record come 20 October. I will spend the days between now and then laying out my vision for this community and this city for the next four years. For whatever reason, and to their great shame, this is something the Canberra Liberals are unwilling or unable to do.

When I entered this parliament back in 2001 I made a promise to myself and to the community I represent to always work hard, to work diligently, to always act in the best interests of the community, to act honestly, to act with decency and to act with integrity. I have stayed true to that promise, and I always will.

MS BRESNAN (Brindabella) (10.46): Health services are one of if not the most important services governments provide. To allege, as the Canberra Liberals have today, that the state of the ACT health services has degraded to the worst in the country is a serious matter. Just as serious is the allegation that the Chief Minister purposely deceived the ACT people about the health services they are receiving.

The first clause in Mr Seselja’s motion today is that the Minister for Health has taken the ACT’s health system from one of the best performing in the country and turned it into one of the worst. There are many indicators to show that this is not true. As I have said before publicly—and this is not some revelation as Mr Hanson tried to suggest when I said it before—there are good things about the ACT health system but there are things that need to be improved, just like any health service across the country.

The article in the *Canberra Times* this week noted that Canberrans wait longer on average than most other Australians to be treated in hospital. But, once admitted, they are the least likely to acquire an infection on the ward. They are also far less likely to need to return to hospital within a month compared with New South Wales patients. If what matters most to members in this place is the health outcomes patients achieve, we should pay more attention to quality indicators rather than waiting time indicators, as has been recommended by the Auditor-General.

Another point that is always made is that our emergency departments are amongst the best in Australia for treating people in emergency situations. It is true that the waits are longer than average for non-emergency patients waiting in an emergency department, but that is what we are going to get if we want to see emergency patients in emergency units receive quality care as a rapid response. If the Liberals are arguing we should prioritise non-emergency patients higher, that would come at a cost. Or the Liberals could be arguing that constituents can have it all. That is something we need to work towards achieving, but, as we have seen from all states, this is an ongoing matter when it comes to emergency departments.

On the issue of quality of care, Mr Hanson has said in hearings that I was trying to perpetuate some myth about the four-hour waiting time being a poor measure. The Auditor-General's report is highly critical of this measure, and the first recommendation in the report covers this. It is noted in the report that this measure was open to manipulation in the United Kingdom where it was first introduced and is now no longer in use.

It is true that this measure was not in use for the entire period that data was manipulated. However, concerns have been expressed about the EDIS system—the system that was used and is used in just about every other jurisdiction—being misused in New South Wales and Victoria in the past, and these are also raised in the Auditor-General's report.

The other issue is that Mr Hanson seems to have no comprehension of the impact his constant running down of the health system is having on the people who work in the system every day and work hard to deliver health care. A number of health groups have said to me how they are sick of the focus of the debate and the huge impact it is having on staff morale. The claims that all staff have a cloud over them and using this to score political points shows a major disregard for the people who deliver health care in the ACT.

The second and third clauses in Mr Seselja's motion argue that the Minister for Health was responsible for the staff member that altered emergency department waiting times and that the Minister for Health failed to disclose her connections with the staff person that altered the data. The Auditor-General has cleared the minister of any wrongdoing throughout this process. The minister is not at all related to the wrongdoings by the staff member, and I believe the Chief Minister has been very up-front about this from the start.

The minister gave evidence to the Auditor-General under oath. To give false or misleading information during examination is a serious offence under part 3.4 of the Criminal Code. I will go to the transcript from the hearing with the public accounts committee on the matter where Mr Stanton from the Auditor-General's office talks about the implications of giving false evidence. This was in relation to a question I asked:

You pointed out the seriousness of giving evidence under oath and the implications of that. Can you outline quickly the criminal penalties which you referred to? What are the implications of giving false evidence?

Mr Stanton: I can read them out.

Dr Cooper: This was read out to them.

MS BRESNAN: This was read out?

Dr Cooper: This was read out to everyone we interviewed under oath.

Mr Stanton: It was:

The person cannot rely on the common law privileges against self-incrimination and exposure to the imposition of a civil penalty to refuse to give the information, produce the document or answer the question.

However, any information, document or thing obtained, directly or indirectly, because of the giving of the information, the production of the document or the answer to the question is not admissible in evidence against the person in a civil or criminal proceeding

That is part 3 of the Auditor-General Act or part 3.4 of the Criminal Code. It is an offence to fail to swear the oath or make the affirmation, fail to answer a question and fail to continue the examination. Giving false or misleading information during the examination is a serious offence under part 3.4 of the Criminal Code.

I further asked:

MS BRESNAN: Criminal—would that include, say, a jail term?

Dr Cooper: It would depend upon the investigation associated with that, but that is what I understand is one of the possibilities.

It is, I have to say, a new low for the Canberra Liberals to have started dragging members' family members into this debate who have no professional association with the ACT parliament. It is quite clear from the estimates committee that the Canberra Liberals were trying to allege that the minister's sister could have had access to the data and tampered with it. As I have said before, if an act of perjury is being suggested then you should just come out and say that. Casting doubt over the oaths taken under the Auditor-General's report also calls into question the whole integrity of the Auditor-General's process.

I am very concerned that the Liberals are pushing a policy position that will have a dire impact on the health system as they try and push harder on waiting times. The UK's Francis report has been a wake-up call, and we should listen to rather than blindly—

Mr Doszpot interjecting—

MS BRESNAN: Mr Speaker, I ask that I be heard in silence like other speakers were.

MR SPEAKER: Thank you, Ms Bresnan, you have the floor.

MS BRESNAN: Thank you. The UK's Francis report has been a wake-up call, and we should listen to rather than blindly copy the UK's past mistakes. They have recently suffered one of their biggest NHS scandals. It is alleged that the Mid-Staffordshire's NHS trust put government targets and cost-cutting ahead of patient care, which resulted in deaths of patients. Patients were neglected as staff focused on ticking boxes and medics discharged patients hastily out of fear they risked being sacked for delays.

As I said earlier, having spoken to a number of health groups, it is quite clear that they think the Liberals' campaign is pushing the wrong way. I was ridiculed by Mr Hanson and Mr Seselja in the estimates recall hearing on the matter for asking about the need for quality indicators rather than just focusing on waiting times. I and other people are extremely frustrated by having to come back constantly and talk about a personal connection that the Liberals are trying to suggest exists rather than the fact that the system is open to manipulation—that has been stated by other states in the past and it is in use in hospitals across the country—and how we can improve this and focus on the quality of care delivered to patients. I would have thought this would be in everyone's interests.

I would also like to go to comments today from former Chief Minister Kate Carnell. Firstly, the matter of no confidence brought against Ms Carnell is not the same as the matter we are addressing today, and others have come out and said this publicly today also. Ms Carnell raised the personal relationship again with the person involved in tampering with data as being the key issue. Again, this matter has been cleared by the Auditor-General.

I also have to say that I find it extraordinary that someone who is head of a national mental health organisation would make claims that the Assembly is being too soft and go to personal matters as a legitimate means of attacking a member of parliament. We have seen the results of such actions on members of parliament where personal matters have been pursued, resulting in members retiring due to depression and people attempting to take their own lives. I think that should be a reminder to everyone of the personal toll, not just on members but on their families, when there is a relentless pursuit of someone because of a personal matter.

I would also like to go to the public accounts committee report, which was released yesterday. Mr Hanson made certain claims about that yesterday also. It is important to go to the media release the public accounts committee put out, and I commend them for what they put out in that media release. It says:

The Committee has striven to consider the incident that gave rise to the Audit in the wider context of the delivery of health care. It has endeavoured to focus beyond the "blame game" and to be forward looking in its examination of the findings and recommendations of the Audit report.

I commend the committee on making that statement in the press release. This is something which, I know, a large number of health groups are very frustrated with in terms of where the debate on this matter has gone.

Lastly, I would like to say that nobody is questioning the use of no-confidence motions as a tool of the Assembly. The question is about using this in the final two sitting weeks of this Assembly. It is quite clearly nothing but a political stunt, and the Greens will not be supporting the motion today.

MR HANSON (Molonglo) (10.57): I would like first to commend the Leader of the Opposition, Zed Seselja, for bringing this very important motion before the Assembly. He has not done it lightly. This is as serious as it gets, and I think that he has laid out the compelling case as to why this Assembly should show its want of confidence in the Chief Minister.

The Chief Minister chose to, rather than address the issues raised by Mr Seselja, smear me and to smear Mr Seselja. In doing so she is smearing the thousands of Canberrans who have been lied to about the performance of their emergency department. She is smearing the many people who have been lost in our hospital system. She is smearing the many people who have come forward to the opposition or gone to the media about their shabby treatment in a system in decline. She has smeared people like Holly and Kate Chaloner, who are here today, after their grandmother died following an operation on her wrong hip. The Chief Minister wants to deal in smear and not address the facts. We will address the facts.

It is not surprising that the Greens are simply apologists for the Chief Minister. I note Caroline Le Couteur is not here. I had a conversation with Caroline Le Couteur at the Property Council ball prior to going in. She admitted to me that this is a very serious issue; this is bad. She recognised the seriousness of the situation, but said to me, “We simply can’t afford”—that being the Greens—“to have a change of Chief Minister or the government this close to the election.” The Greens know full well that this is outrageous. They know full well how badly this Chief Minister has performed. But they have decided, for political reasons, to go in lockstep behind the Labor Party because that is what suits them politically.

I commend Mr Seselja for bringing this forward. He has done it for a number of reasons. The first—and I think it is of particular note—is the scandal in our emergency department. The Auditor-General found there had been a decline in performance over a decade. The Auditor-General found that there had been a massive fabrication, a lie told to the community, about the performance of their emergency department.

We then had the deception from the Chief Minister about her relationship with the individual who doctored the information. Let us be very clear: the individual who doctored the information in 2010, when she started doing it, also went on an extended holiday with the Chief Minister to the south of France, to the same house, and the Chief Minister did not tell the community about that for months. She perpetuated the lie that she simply had a professional relationship with that individual. It does not pass the common-sense test—it simply does not—and that is why the media and the community have drawn such attention to this issue.

We have also seen the broader failure across our health system: in elective surgery, the painful wait for elective surgery, the awful deterioration that we have seen in waiting times. We have seen a minister who said that she had no responsibility when it came to general practice, despite the chronic shortage of GPs and the crisis that had emerged. We saw the bullying in obstetrics, where doctors resigned en masse. Doctors came forward and said, “We’re being bullied.” What did the Chief Minister do? She attacked them; she threatened them. The AMA rightly said it was a witch-hunt. What sort of culture has this Chief Minister set up where the message is, “If you come forward and say you are being bullied then you will be persecuted”? She will try and cover it up and protect the bullies. It is no wonder we have the problems that we do, because that culture has been established by the Chief Minister.

We have seen the failure in infrastructure delivery. We have seen the Australian Nursing Federation and obstetricians groups deplore the model for the women and children’s hospital, which has been only half-built, which is already \$20 million late and which is months, if not years, overdue. We have seen the fiasco with the hospital car park, and the \$60 million to \$70 million every year of rollover in health infrastructure that needs to be there for our community. We have seen—

MADAM DEPUTY SPEAKER: Mr Hanson, just one moment. Could you just stop the clock for a moment, please? Mr Hanson, a few minutes ago you said that the Chief Minister was perpetuating a lie. I do not believe, under standing orders 54 and 55, that you would actually do that. I would like you to withdraw that, please.

Mrs Dunne: Madam Speaker, on a point of order, this is a vote of no confidence in the Chief Minister and the terms of the motion indicate that we are pursuing the truthfulness of things that have been said by the Chief Minister. These are circumstances in which—probably the only circumstance in which—such a thing can be said in accordance with the standing orders.

MADAM DEPUTY SPEAKER: Thank you, Mrs Dunne. I am aware of what—

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

MADAM DEPUTY SPEAKER: Yes, Mr Hargreaves.

Mr Hargreaves: I believe, in fact, a good command of parliamentary language would enable any member to be able to make those same comments, those same points, without resorting to the use of unparliamentary language.

MADAM DEPUTY SPEAKER: Thank you, Mr Hargreaves. This is what I am drawing to your attention, Mr Hanson. I would ask you to withdraw the word “lie”.

MR HANSON: I am happy to do so and I will replace it with the word “untruthful”, Madam Deputy Speaker.

MADAM DEPUTY SPEAKER: Thank you.

MR HANSON: It does not change what has happened. We have been deceived. The community has been deceived. The community has been misled—whatever language you want to choose. No wonder the Chief Minister would not want the word “lie” used. No wonder she feels sensitive about it and no wonder the Labor Party and the Greens feel sensitive about it. Whatever language we use, we know what happened. We know what happened at our emergency department and we know that people were not told the truth.

The litany of failures goes on. Why is it that at the last election the Chief Minister said to the community that all of her plans were on the table when they were not, when behind closed doors she had been engaging in secret negotiations, requesting a heads of agreement on the purchase of Calvary hospital, a massive health plan? Meanwhile she was saying to the community, “All my plans are on the table.” What plans is she taking to this election that she is hiding from the community? Is it school closures? Is it the purchase of a hospital? Is it getting rid of an important asset for the community like Clare Holland House? What is she hiding from the community this time as she has on previous occasions?

Most importantly, what we have seen is the human tragedy, the human face, of this. Although we have seen the deceit about the statistics, ultimately there are people that are affected. We have seen stories like young DJ Gill, who was exposed in the hospital as an infant to TB and died after being given a TB test. Then his parents were sent the bill for that. That is outrageous. We have seen Vesna Nedic, who was a cancer patient, lost in the system, bouncing between various parts of the system and then being sent off to Sydney.

We have seen the family of the first victim of the swine flu where the communication was so bad with the patient that the Chief Minister was forced to apologise. We have seen nurse Kate Virtue, who was electrocuted in the system and then neglected. We have seen the human face of elective surgery—people like David Wentworth, who had his urgent surgery downgraded and waited well over a year for that surgery. Maurizio Salza took his wife to the emergency department one night in April—she had mastitis and was in agony—and waited there with a one-week-old baby for hours. We have heard his story. Kate and Holly Chaloner are here today. Their grandmother had an operation on the wrong hip and subsequently died. What we know is that Lima Thatcher was just one of 50 per cent of Canberra Hospital patients who have been going to that hospital and, in the words of the executive director for safety, are being put at significant risk because the vital surgical safety checklist is not being completed.

As much as the Chief Minister would decry claims from the opposition that this is a health system in crisis, we see on the front page of the *Canberra Times* yet another story that shows systemic failure where the executive director of safety is saying that 50 per cent of surgical patients at the Canberra Hospital are being placed at significant risk. We see the human face of that in grandmother Lima Thatcher and her granddaughters who have bravely come forward. I commend them for doing so because many people have come to the opposition, particularly staff who have been very poorly treated and bullied in the health system, but they are simply too scared to come forward.

If anyone listened to Holly on the radio this morning and heard the trembling in her voice they would know how difficult that was for her. But Katy Gallagher could not be bothered going on the radio to confront those issues. She does not deal with issues of just paperwork; it is beneath her. So while Holly was there talking about what had happened to her grandmother, Katy Gallagher decided that was an issue she should not need to confront because it just dealt with paperwork.

The apology that should be made should be to Holly and to Kate after what has happened to them and what has happened to their grandmother and their family. Katy Gallagher should stop hiding behind the bureaucrats and hiding what has happened. While Katy Gallagher has been going out and saying that everything is hunky-dory in the hospital, she would have known, or she very well should have known, that 50 per cent of patients having surgery at the Canberra Hospital were being exposed to significant risk.

Mr Seselja has outlined clearly what has happened at the Canberra Hospital with the emergency department. Beyond the fabrication, what the Auditor-General found is that, since 2001—and this is a quote:

... based on the Health Directorate's publicly reported performance information, there has been variable performance against waiting time indicators, and it is apparent that there has been an overall decline in the performance over the last ten years.

A decade of decline under ACT Labor. She also found:

In the ACT the performance of the two public hospitals is particularly important and this receives significant and ongoing attention from the media ...

She recognised that this was hurting the Chief Minister politically. The Chief Minister rushed out report cards that replaced the authoritative AIHW figures and those report cards were based on fabrication. The Auditor-General found that. There were 11,700 records and 11,000 of those related to the figures that do not have anything to do with money. So any sort of pretence that this is about money is not the case. This was about political coverage. If you doubt me, let us see what the person that manipulated the data said:

The whole organisation at a senior level is focused on performance. It's seen—it's seen as an imperative politically to ensure that we meet the target ...

The person that fabricated the data did so because it was a political imperative. Who set that political imperative? Who set that politic imperative, if not the politician? Why else did she do it? There was another reason—isolation, distress and fear. Let us see what the executive director said:

While accepting it does not excuse or in any way mitigate my actions the feelings of fear, isolation and distress I was experiencing clouded my judgment and my reality. ... The environment in the Executive at Canberra Hospital has increasingly become one where I felt fearful for myself and for other people that I work with.

She was not alone. When we asked the Auditor-General about this the Auditor-General told us there were many other staff that felt the same way. If the Chief Minister is not responsible for the political imperative that led to this and the Chief Minister is not responsible for the culture of fear in the Canberra Hospital, who is? I ask that question because we have not heard an answer to that.

Mr Hargreaves: You are.

MR HANSON: Mr Hargreaves yells out, “You are.” This is the sort of smear that we are getting. After six years as minister what we are hearing from Katy Gallagher and John Hargreaves is that this is someone else’s fault.

The next element to this was the Chief Minister and her relationship to the individual at the heart of this. There are relationships in this town between people; it is a small town. But the error, the gross failure in judgement, made by Katy Gallagher was not to declare that interest but to hide behind her family member, when it was Katy Gallagher who had the relationship. Katy Gallagher, in the same year that the director of critical care started fabricating the records, had an extended holiday in the south of France with that individual. Why did she not say that? It is extraordinary. It shows a gross lack of judgement and it shows a willingness to deceive the community.

There is no allegation being made, as much as Katy Gallagher or the Greens would like to assert, but why did she deceive the community? Why was she not up-front? What a gross lack of judgement. To say, “I have never, ever hidden the nature of the relationship” on 5 July after everything had come out is just an extraordinary statement to have been made by the Chief Minister. I commend this motion to members. I call for your support. To not do so will be to let down the community and patients will be lost in the system. *(Time expired)*

MR BARR (Molonglo—Deputy Chief Minister, Treasurer, Minister for Economic Development and Minister for Tourism, Sport and Recreation) (11.13): There are two things that have been said by the Canberra Liberals in the debate so far that I find I can agree with. One is that a motion of no confidence is the most significant motion that can be brought before this place—and what we have heard from the Canberra Liberals to date gives no justification whatsoever for the bringing on of this motion. They have failed in more than half an hour of contribution to mount any substantive case. The other observation that I could make is that Mr Seselja spoke of an inner circle of cronies—and he would be very familiar with that concept; he surrounds himself with such a circle.

What we are witnessing this morning from the opposition is gutter politics of the worst kind. The Leader of the Opposition is demeaning the Assembly with this shallow and pathetic stunt. It is nothing more than a desperate attempt to cover up his party’s own policy failings. Instead of engaging in a substantive debate about vision, about alternative policies, about the future of the city of Canberra—instead of debating how we could keep our economy and our community strong; instead of doing any of these things—the opposition has again resorted to a cheap, shallow political stunt. It is clear that the Canberra Liberals stand for nothing. They stand for

nothing. We are less than two months away from the territory election and the Leader of the Opposition stands for nothing.

The only conclusions you can draw from dragging out the former Chief Minister Kate Carnell into this debate this morning is that they want to draw attention to their previous record in government; a period where we saw scandal after scandal: the blowing up of hospitals, scathing Auditor-General's reports into the administration of government—12 volumes, 1,300 pages of work from the Auditor-General in that time, who said that the administration operated amidst a “pervasive ignorance of the law”. That was Kate Carnell's record: serious breaches of the law.

The reason there were so many no-confidence motions moved in that government was that it was so hopeless, so scandal prone, that in the end Kate Carnell had to resign because she knew she was going to lose that motion of no confidence. When you look at the record of that government—the Chief Minister went to this in terms of the health system that it presided over, but it was not just in health; it was in virtually every other area of performance—perhaps it was summed up best by that fiasco around Bruce stadium. We all remember the efforts to paint the grass green—

Mr Seselja interjecting—

MADAM DEPUTY SPEAKER: Stop the clock, please. Mr Seselja, please, I want the minister heard in silence; okay? Other people have been heard in silence. The minister will be heard in silence.

Mr Seselja: Just for the record, Madam Deputy Speaker, other members have not been, including me. I have been heckled consistently by Mr Corbell. I made no complaint of it. I made no complaints, but I think we should just be fair dinkum in the rulings. Other members have not been heard in silence.

MADAM DEPUTY SPEAKER: Are you questioning my ruling in—

Mr Seselja: I am simply drawing to your attention that I was not heard in silence.

MADAM DEPUTY SPEAKER: And I believe Ms Bresnan was not heard in silence. Members' attention was drawn to the fact that members should be heard in silence, and they will be. The next person to start to raise their voice across the chamber I will warn. Thank you.

MR BARR: As I was observing, whichever strategic genius within the Liberal Party decided that rolling out Kate Carnell this morning was a good tactic—bring it on; keep on doing that. Let us have more of Kate, because if ever there was an administration that petered out, that failed the people of Canberra—

MADAM DEPUTY SPEAKER: Resume your seat please. Stop the clock.

Mr Hanson: On a point of order on relevance, the minister may be unaware that this is a vote of no confidence in the current Chief Minister, Katy Gallagher, and he is litigating a vote of no confidence about a previous chief minister, Kate Carnell, and I would just draw that matter to the attention of the Deputy Chief Minister.

Mr Corbell: On the point of order, Madam Deputy Speaker, of course it was the Leader of the Opposition himself who drew analogies with previous no-confidence motions.

MADAM DEPUTY SPEAKER: Yes. The debate has gone to that subject before on both sides of the house. Mr Barr, you may continue.

MR BARR: Thank you, Madam Deputy Speaker. You can see the sensitivity of the Canberra Liberals, but they were the ones who wheeled Kate out—dragged her from the political graveyard back into this debate because they were too weak to carry it themselves. They were the ones who felt the need to go back into the past, to try and get perhaps the only Liberal in the history of self-government who had the capacity to lead them to an election victory—and yet the government she led was a joke, and the people of Canberra know that, and she had to resign in disgrace. So that is the alternative. That is what we can expect more of, apparently—although, as we know, Kate Carnell was a Liberal. This mob are not Liberals; they are far from.

In contrast, the record of this government in health is very clear: more beds; more doctors; more nurses; more operating theatres; more elective surgery; new services—nurse-led walk-in centre; mental health assessment units; the step-up, step-down facility; eye surgery; head and neck trauma; new neuro suites; the women's and children's hospital; new radiation oncology services; new community health centres at Belconnen, Tuggeranong and Gungahlin; neonatal intensive care video streaming services; digital mammography; surgical assessment units; medical assessment units; the hospital in the home program; paediatric ED services; neonatal emergency transfer services; more services in support of our GPs. It is a strong record.

A substantive part of the motion moved by the Leader of the Opposition today purports to talk down the ACT health system and to suggest that the system is failing the people of Canberra. But the evidence is to the contrary and it is important in this debate that people who believe in the public health system in this territory stand up and put firmly on the record that it is a good system and that the people who work within it work hard for the people of Canberra. The system serves us well. There is always room for improvement, as the Chief Minister said, in any health system. We have a plan to achieve that improvement and to continue to work towards an even better health system, and it does stand in marked contrast to the approach of those opposite.

I have always held the view that elections should be about ideas and about competing priorities and agendas for the future. There is no doubt that this government has a considerable policy agenda for economic reform, for growth and development in the city, and it does stand in marked contrast to the alternative.

We have had the opportunity to hear from a few speakers on the other side this morning, and it has all been innuendo, gutter politics and personal attacks on the Chief Minister. There has been nothing of substance: no policy alternatives, no better ways to do things, no suggestions at all of a policy alternative.

The consequence of this motion, were it to be successful, would be that the government would change and those opposite would seek to form a government, yet we have heard nothing, and we will continue—

Mr Smyth interjecting—

MADAM DEPUTY SPEAKER: Mr Smyth, you are warned.

MR BARR: We will continue, I suspect, to hear nothing of what might be an alternative approach to government, because in the end, as we all know and the people of Canberra know, Tony Abbott's man in Canberra, Zed Seselja, runs a negative and reactionary agenda. What little we know about his policy agenda we can glean from what is drawn from his policy inspirations. They would appear to be Sarah Palin of the Tea Party movement in the US, and BA Santamaria. It is a little bit of the Tea Party meets the National Civic Council: that is the policy agenda of the Leader of the Opposition. It is way out of step with the views of Canberrans—we all know that—and that is why he is hiding his policies and his views on the substantive issues of the day from the people of Canberra, and there are fewer than 60 days to go now before the vote.

Mrs Dunne interjecting—

MADAM DEPUTY SPEAKER: Mrs Dunne, you are warned.

MR BARR: The Chief Minister and this government have credibility in the community. This credibility comes from a strong record in delivering responsible government and it comes from having invested in the health services that this community needs, in the education services that this community needs, in the community services, the emergency services, the municipal services and the infrastructure that our community needs, and it is credibility that comes from overseeing an economy that is ranked second only to the mining boom state of Western Australia. We have record levels of employment in this community. Last month we saw the highest number of Canberrans in employment in the history of our city. That is a very proud record and one that we will continue to deliver on.

A lesson that the Leader of the Opposition might learn one day: the Chief Minister has credibility because that credibility comes from acting with dignity, from having the courage to front up and answer questions and to set out what she believes in.

Let us contrast that with the undignified record of those opposite. First, they had to pay back \$10,000 worth of vouchers destined for needy Canberrans that were instead given to Liberal Party members. Second, there was their somewhat loose interpretation of proper process around the distribution of flyers and posters—and indeed the petulant fit we have seen from Mr Coe in relation to the Speaker in recent times.

Mr Coe interjecting—

Then we see in the last week—

MADAM DEPUTY SPEAKER: Mr Coe, you are warned.

MR BARR: Then in the last week Mr Seselja refuses to debate the leader of the Greens, refuses to have Labor and the Greens in a debate. What kind of political leader, what kind of alternative Chief Minister, dodges a debate scheduled to take place just weeks before an election?

And last but not least there is the ongoing culture of arrogance within his office. Let us quote from paragraph 81 of the McLeod report, which identified:

...a culture of non-cooperation that exists within his office, a lack of sensitivity to the level of accountability expected when the management of public resources are being expended. It also reflected an attitude of disrespect towards the Clerk of the Assembly and his staff, who were there to advise and assist members in meeting their obligations.

Is this really the person that we want leading this territory? He cannot even run his own office.

The contrast is very clear. We are proud to release policy to treat voters with respect; to let them look at our policies, compare them with other parties and to decide for themselves. Your only policy is to shut down the nurse-led walk-in clinic—that is your only policy in health—a service that has been used by more than 34,000 Canberrans to date. You have no education policy. You have got nothing to say on tax reform or economic development. Your sole environmental policy is to reintroduce plastic bags. That is the contrast: the contrast in behaviour, the contrast in policy and the contrast in integrity.

It is very clear, that contrast. The Chief Minister is a person of great integrity; a person who works incredibly hard for the people of the ACT; someone whom I am very proud, along with my colleagues, to support as Chief Minister of this territory; someone who continues to hold the confidence of this Assembly and continues to hold the confidence of the people of Canberra. No matter how much mud the opposition sling, I know that the Chief Minister is a strong person who will continue to put the best interests of this community first and who will not succumb to the sort of muckraking that we see from those opposite.

The Chief Minister presides over a government and over a performance within this community that is strong and will continue to be strong. We have one of the best performing economies in the country, in a nation that has one of the best performing economies in the world. The government, through our budget, through our range of other policy programs, is focused on supporting our economy and supporting our community. But, most importantly, we are focused on supporting jobs. We have a vision and we have a detailed plan for the future of this city. We have confidence in our plans. We have confidence in our community and the resilience of our community to respond to coming challenges. The government's reform plans and the leadership of the Chief Minister will continue to see our territory well placed to prosper in our second century.

The Chief Minister deserves the confidence of this Assembly. She deserves the confidence of this community.

MR SMYTH (Brindabella) (11.29): I always like talking after Mr Barr, because you get lots of glib words but you get no substance. And if you were the Chief Minister of the day, you would not get defence or support either. Everyone knows that Mr Barr says glib words in this place while he and his staff are out there backgrounding the press about what is really going on in the government, telling Ross Solly that things are not as good as they could be and what a good job he does.

We have it in the article by Mr Solly about the no-confidence motion where he says that “because truth be known there is unease within the party about the way Katy Gallagher has handled the data tampering scandal”. Where is that coming from? Who would benefit from undermining the Chief Minister from within the party? The man who just failed in his defence—glib lines but very little substance and very little passion about how good this Chief Minister is.

It raises the question, Madam Deputy Speaker: if, as Mr Barr so feebly asserted, all is so good, if all is so much better after the last 11 years of Labor and six years of Katy Gallagher, why is there the need to tamper with the data? Why is there the need to doctor the numbers? Because the situation has deteriorated. And it is not us that say it. On page 23 of the Auditor-General’s report on emergency department performance information it says:

... there has been variable performance against waiting time indicators, and it is apparent that there has been an overall decline in performance over the last ten years.

Let me say it again:

... it is apparent that there has been an overall decline in performance over the last ten years.

And that is when you include the doctored data. When we get the full picture, there will not be a decline; it will be an avalanche of failure that rests fairly and squarely on the shoulders of this Chief Minister. It follows the elective surgery data, where patients’ classifications were changed without any substance; the 10-year war on bullying; the GP crisis on which she had no answer until forced to do things by this Assembly; then of course the doctoring of the ED data; and this morning we see that patients are exposed to significant risk because processes are not being followed.

We have infrastructure delays—things like the car park and the women’s and children’s hospital. We have the secret sale of Calvary; apparently all the plans are on the table but we forgot about the big one that would have cost taxpayers \$70 million. We see waiting lists go up. If my memory serves me right, in October 2001 the waiting list was at 3,488 and it blew out to well over 5,000. And only through the efforts of the staff has it been clawed back.

We saw wait times in elective surgery go from 37 to 74 days. This is the sterling system that these people have presided over. With ED times, 80 per cent were seen in the time limits under the Liberal Party and that has declined to less than 60 per cent. That is the disaster that we were talking about, that is the reason this Chief Minister goes, and they are the things that Andrew Barr forgot to tell you.

While he was backgrounding Ross Solly, he probably told Ross Solly and others a whole lot of things, but what we get from Andrew Barr is nothing but glib lines and words. This is a debate about the Chief Minister's record, but none of the things that I have just mentioned were talked about by those opposite. They do talk about their ability to spend. Yes, the Labor Party can spend, but no matter how much more infrastructure they bring online, albeit late, out of scope and over budget, what they cannot deliver is outcomes for the people of Canberra.

Thank God for the staff of the emergency department and the hospital system, for their efforts, their labours and their dedication, because that is what keeps the system afloat. It is not because of the leadership or the direction of the Chief Minister. After six years the only thing she said as Chief Minister in estimates that had any truth was that she had been there for too long. And Chief Minister, yes you have, and it is time to go.

If we look at Mr Barr's defence of his leader, all that it rested on was, "Well, we spent lots of money." He then said, "The Liberal Party have got no policies." But then he ran through a litany of policies that he thought were flawed. So he defeats his own argument.

What we have is repetition from this man but what we do not have is an answer to the motion. Mr Barr was quite pleased to compare painting of the grass at Bruce stadium with the doctoring of 11,700 records. Shame on you. What he did not tell people, of course, was that he was the minister for tourism when they painted the grass at Floriade. No, he forgot to tell that to people.

Let us look at the nub of his argument. We are comparing grass at Bruce with the doctoring of the health records of people in Katy Gallagher's health system. That is the sort of comparison he chooses to make because he cannot compare this minister's performance to a real health minister's performance and improving outcomes, because the outcomes have not improved. Again it is not us saying it. The Auditor-General says:

... it is apparent that there has been an overall decline in performance over the last ten years.

And those opposite ignore those facts.

Let us move to the Greens. I am surprised that on such a serious motion as a no-confidence motion the convenor of the Greens has not spoken and led the charge from the Greens. But then again perhaps we are not surprised. The reason for the week's delay is so that people consider their position. The Greens did not take seven seconds

to consider their position and, not having seen the motion, declared their support for the Chief Minister. That is good process! That shows the true nature of the Greens-Labor alliance: no matter what happens, no matter how many thousands and thousands of records are doctored, it is okay. It is okay because, “We’re Green and she’s Labor; therefore everything’s right in the world.” What it shows is the lack of leadership from Meredith Hunter in regard to considering what is on the table.

Let us run through the litany again—the litany of failures that we are talking about in this motion. Perhaps we should read out the motion to people, because clearly those opposite have not. It states that the Assembly no longer has confidence in Katy Gallagher due to:

- (1) being the minister responsible for taking the ACT health system from one of the best performing in the country and turning it into one of the worst ...

You cannot say that, when you have blown out the waiting list for elective surgery, it is better. You cannot say that, when wait times for elective surgery go from 37 to 74 days, it is better. You cannot say that, when the wait time in the ED for people being seen on time which was 80 per cent but has declined to 60 per cent, it is better, because it is not. And that is why the minister should go.

Paragraph (1) of Mr Seselja’s excellent motion says that she is the minister responsible and she should carry the can. Well, she refuses to take the buck at any turn over the decline in the health system.

The second paragraph refers to 11,700 records. Talk about grass, Andrew Barr; you expose yourself by going to that example. People know the history of that. That is a fine thing. But what they want to know is: why have 11,700 records been doctored to protect a system—a system that you said was good, a system that you said was so much better than under the Liberal Party? If that is the case then this scandal should never have happened. There should not have been the deception from the Chief Minister. There should not have been a need for those records to be doctored in the first place.

The reality is that it was political pressure. And political pressure in the department comes from one person—the minister responsible. We have staff who feel pressured, who have serious concerns about the culture in the hospital under the leadership of this minister. They have seen the 10 years of bullying, and it is not just in the obstetrics department; we all know the other examples. It is across the ACT public service in many cases, whether it be in education, whether it be in the CIT, whether it be in schools, whether it be in TAMS, whether it be in the Ambulance Service. It pervades, and it starts from the top. Fish rot from the head. This government is rotting from the head. That is why this Chief Minister should go.

We get to the PAC report, and the PAC report is quite interesting because the PAC report into the emergency department performance indicators was a quick report. It was done very quickly by the Auditor-General because time was of the essence. And what was one of the things that PAC said? The next government, through PAC, should consider a fuller report. Why? Because we have not got to the bottom of this scandal. Why? Because we have not determined who else was involved.

It is important to note, when you read this report, that there are four recommendations about general processes. It is about making sure that this is addressed, not just here but at the national level. It is about making sure that the government responds quickly to the report. It says that all departments should look at how they respond to Auditor-General's reports. It says that what we should have is the emergency access targets and that we should have this further inquiry.

With respect to recommendation 13 of the report, it is interesting to hear the Chief Minister bleating about how people's rights have been trammelled. But what about the officer responsible who was outed by her department, who accidentally photocopied this poor person's name how many times? "We accidentally photocopied your name, attached it to the front of the press releases and gave it to all the press." The claim is that they have apologised. Well, they have not. Go back and review all of the data, all of the words said in the estimates and on the recall day—and yet again here is a minister being recalled to the estimates committee to answer for what has occurred. People have said, "Yes, it happened in our office and we take responsibility," but there was no apology whatsoever. Again it is this deception: "Well, we said we apologised." But when you check the record, the record never lives up to what is said by this Chief Minister. I bring recommendation 13 to the attention of the house:

The Committee recommends that, given the Health Directorate's failure to protect the privacy of the Executive who admitted to altering data—prior to any civil, criminal or administrative proceedings—the Health Directorate should: (i) issue a public apology to the individual concerned; and (ii) take appropriate steps to acknowledge the individual's contributions to the operation and administration of the Canberra Hospital.

If one thing has come through to me from all the people that I have spoken to when I have been out at shopping centres or door-knocking since this scandal broke it is the number of people who say, "Kate Jackson was a good nurse." So how is it that such a good nurse feels so pressured by what is wrong in the system that this minister has presided over for the last six years that she felt compelled to change up to 11,700 records? She did not do it on her own. She quite honestly said: "Yes, I did it. They're the ones that I've done. I couldn't have done all of those." I cannot understand why those opposite choose not to find out what truly went on.

It goes to one of the other recommendations, recommendation 12, which states:

... a prevailing organisational culture at the Canberra Hospital contributed to the circumstances surrounding the alteration and misreporting of performance information.

That culture starts at the top. That culture is set by the minister. That culture is the product of her lack of leadership. That culture is the product of the way she does business. And we know how this Chief Minister does business. Before the 2004 election, of course, "No, we will not touch schools," and that work started six weeks after that election. Before the 2008 election, "All our plans are on the table," except the \$77 million one to purchase Calvary hospital. Forgot to mention that one. "I do apologise; I forgot that one. What a slip-up." Of course we now know from the

deception that followed early in that week in late April when the Chief Minister said, “I have made everything public,” that not everything was public. That is the problem with this.

Mr Barr: The whole world’s a stage!

MR SMYTH: With respect to Mr Barr and his little mocking tone, it is really funny that when Mr Barr gets up, you know he is in trouble from the start when he stares steely-eyed at the Speaker and cannot address the chamber. He has this steely stare: “I won’t be distracted from my purpose.” And he goes to the personal slur. He has this little card; he must have it in his pocket. “I’ve got a card. Zed Seselja: these are my things to say about Zed Seselja.” He trots it out to the Property Council, he brings it out here in the chamber, because he lacks substance. It is interesting. They trot out the old thing—

Mr Barr interjecting—

MADAM DEPUTY SPEAKER: Mr Barr!

MR SMYTH: They trot out the old lie, “We should not vote for the debate today.”

Mr Seselja: A point of order, Madam Deputy Speaker.

MR SMYTH: Stop the clock, please.

Mr Seselja: Madam Deputy Speaker, you made it very clear that, if anyone raised their voices during this debate, you would warn them. You warned Mrs Dunne. We have had several instances from both Mr Barr and Mr Corbell, and I would ask you to apply the same standard to the government.

MADAM DEPUTY SPEAKER: Thank you, Mr Seselja. Mr Smyth.

MR SMYTH: You are not going to warn him? Okay, I will finish then.

This is a debate about the Chief Minister’s record and her deception. Mr Barr portrays it as a debate that will change the government. At the end of the day there will still be 11 opposite that can elect a new minister, but Mr Barr of course puts up the old chestnut that this will change the government. Perhaps it should change the government because what it shows is that Mr Barr does not believe he is up to being the next Chief Minister, although that is what he is backgrounding the press about: “We’ve got these concerns inside the party.” He obviously has no faith in Mr Corbell as perhaps a potential Chief Minister or Deputy Chief Minister either. So you undo yourself. You get up and you slur, you get up and slag, but you will not talk to the issue.

The only person perhaps at the end of the day that has any honour in this may well be the officer who did the data tampering, because she did come forward and she did fess up, and she then did the right thing. She resigned. Perhaps the Chief Minister should now step up and do the right thing, and resign.

MRS DUNNE (Ginninderra) (11.44): We have seen a motion brought forward by Mr Seselja that covers three substantive points in relation to the administration of the health system in the ACT over a very long period, and neither the Chief Minister nor her deputy could bring themselves to address any of those issues. They cannot bring themselves to address any of those issues because the evidence is too damning. The evidence about the sick culture that we see in the ACT health system and in the Canberra Hospital is too appalling. And in the time available to me, I want to look further at that sick culture but also reflect on the human face of that culture.

The sick culture in the ACT and in the Canberra Hospital was brought home to everybody when the Chief Minister herself declared that there had been a 10-year war in obstetrics, and that 10-year war came to a head in February 2010 when it was revealed that the culture was so toxic that over 15 months nine doctors had left the obstetrics department. Some of those were registrars who had not finished their training and they put their training in jeopardy. So it must have been pretty bad when people had committed to 17, 15 years worth of training and study and were prepared to walk out before they were professionally qualified and had to go somewhere else and start again. So that toxic culture jeopardised the careers of emerging doctors.

We see just how toxic the culture was, because, in addition to describing this as mudslinging doctor politics, Chief Minister Katy Gallagher's friend, mentor, mate, the then Chief Minister, actually went out and perpetuated the bullying by saying, "If we're going to have an inquiry into all of this, we should look at all of the complaints to the Medical Board current and, say, back for the past 10 years that involved any of the obstetricians who had the audacity to complain about the 10-year war in obstetrics." And the AMA and the college of obstetricians and gynaecologists called it for what it was. It was a witch-hunt, and it was a witch-hunt perpetuated by her leader, her mate, her mentor.

It is about leadership. This is all about leadership. Organisations go bad because of bad leadership. The bad leadership started with Jon Stanhope and has been perpetuated by this Chief Minister. And we see in the 10-year war in obstetrics that this minister has misled the community and misled us in this place. She said in this place in March 2010 that there would be a public inquiry, an open inquiry. And the then Chief Minister, Jon Stanhope, went on radio and made similar assurances:

I can give an absolute assurance that any of the findings will be taken absolutely seriously and if there were recommendations or implications they will be taken seriously and there's no reason for people not to believe that.

He said that there was no reason for people not to believe it. But there was every reason, because the words of the then Chief Minister on ABC radio were lies. And they were part of a cover-up. We know that there was a cover-up in relation to the inquiry, which led the union organiser to say:

... staff are often kept in the dark. They need to know if action has been taken, if appropriate action has been taken, if they're going to be safe in their workplaces.

This is not the Canberra Liberals. This is the union saying that people need to be safe in their workplaces.

These are the facts: Chief Minister Gallagher knew that there was a 10-year war in obstetrics and did nothing about it, but over a 15-month period numerous doctors left the hospital and both Chief Minister Gallagher and her predecessor, Stanhope, minimised the issue, bullied the complainants, offered an open inquiry and hid the results. And doctors and medical staff alike felt helpless and unsafe in the obstetrics department.

But the 10-year war in obstetrics is not the only example. My colleagues here today have spoken about the data-doctoring scandal and the state of mind of the person who has come forward and fallen on her sword. She did the wrong thing. She knows she did the wrong thing but she did, in a sense, the right thing by the community by resigning, by giving up her privileged position, when this came to a head.

She talked about the political imperative to meet the targets. Who sets the political imperative? Katy Gallagher, the Minister for Health and Chief Minister. She talked about the political imperative. She talked in her letter to the Auditor-General about “the pressure to demonstrate improved performance”, “my feelings of being trapped and fearful” and “feelings of fear, isolation and distress”. She talked about the environment in the hospital where she was simply told to fix the numbers. She was told that she was not a good leader and she said, “I foolishly and stupidly did it in an attempt to protect myself and the staff who I work with.”

Remember, Madam Deputy Speaker, this is not some Liberal commentator making these comments about the culture in the hospital; these are the words of a friend of the Chief Minister, someone so close to the Chief Minister that they shared a holiday in France and who, presumably, wanted to make the Chief Minister look good. And this is part of the human face of the system built by this Chief Minister.

Here we have a woman who did the wrong thing. But what motivated her? And here are the facts about what motivated her. The commitments had been made to the Chief Minister. She was pressured, trapped and fearful, and she felt that she had to protect her staff. So when the commitments to the Chief Minister could not be kept, when she realised that the system was not being fixed, she and others just fixed the numbers. We know that this executive is not the only person involved, and my colleagues have dwelt on the subject that we have not got to the bottom of this story and what it is that this Chief Minister might be hiding.

But one of the big myths about the data doctoring scandal is that it is just about numbers. I have heard it from the Chief Minister, I have heard it from Ms Bresnan and I have heard it from Ms Hunter that no people suffered as a result of the data-doctoring scandal. We simply do not know. But we do know—and the facts show, the research shows—that delays in emergency department lead to adverse medical outcomes. The Australian College of Emergency Medicine, in their meta data study on access block and overcrowding, said:

There is a 20%-30% excess mortality rate every year that is attributable to access block and ED overcrowding ...

They also said that this equates to 1,500 deaths nationally, approximately the same as the road toll. This is the reason why we went for the four-hour rule and why this officer felt so compelled to tamper with almost 12,000 hospital records.

But let us look at some of the stories behind this. I would like to talk about an elderly woman whose family made representations to me and to the Chief Minister. When she presented at the hospital with a broken arm, she sat in an emergency room for upwards of 15 hours. She was finally admitted to hospital for emergency surgery, and every day for three days following that she fasted and was prepped for emergency surgery, which was always cancelled. By the time her family contacted me and the Chief Minister, she was bewildered. She was in pain. She could not sleep. Her wound had swollen so much that it became difficult to operate on. That woman spent more than seven days in hospital when she probably should have spent one or two.

There is the case of the young woman with mastitis who, with her one-week-old baby, presented and sat for 10 hours in the emergency room. Anyone in this place who has ever had mastitis, or knows anyone who does, knows how debilitating and painful that condition is. I think that woman must have extraordinary strength, because the only time I had mastitis, I could not sit up for 10 minutes, let alone 10 hours. I also know that mastitis, while it is a terrible condition, responds extraordinarily to the application of simple, common antibiotics. It is unheard of that in the 21st century, in a First World country, someone would have to be admitted to a tertiary hospital because they had mastitis. For want of early intervention, this woman sat for 10 hours and then spent two days in hospital, which a dose of antibiotics could have fixed, with early intervention.

As a mother of someone with a chronic disease, this has come into our home. My daughter last year was told to present at the hospital because she had an acute outbreak of a chronic condition that affects her health. And she was told to go to the emergency room to get admission for medical treatment in the hospital. She turned up as instructed, was seen fairly quickly and then asked to wait. Eleven-and-a-half hours later, she was admitted to hospital. In that 11½ hours, a woman with a chronic and serious chest infection sat coughing in the emergency room where there were untold numbers of people who were probably immune deficient and could have caught her disease. And we do not know how many people ended up, as a result of that, getting a lung infection that they did not need.

This is very symptomatic of the services for people with chronic disease. The 80 or 90 people in the ACT who have cystic fibrosis are treated appallingly, so appallingly that a senior official of the hospital apologised to me recently and said, "The treatment meted out to patients with cystic fibrosis in this town is appalling." And that explains why most of the 80 or 90 people travel on a quarterly basis to Sydney to visit clinics. The clinics in Sydney provide a great example of how you treat chronic diseases and keep these people out of the hospitals, but it does not happen here. It barely happens for the children, and it does not happen for the adults.

There are a myriad of other stories. We heard this week of Kate Virtue. Kate Virtue approached me last week because more than two years ago she was electrocuted in the

recovery room and she has not returned to work. She has not been able to return to the Canberra Hospital. She is a nurse with 19 years experience who is trained as a recovery nurse and she cannot return to the hospital because the experiences she had were so traumatic. In addition to those experiences being traumatic, she has never been interviewed by WorkSafe.

The WorkSafe inquiry revealed a few things about the hospital. The cords and the flexes in the emergency room had not been regularly inspected and some of them had not been replaced since 2003. And what her colleagues were told when they were debriefed the following day was that what happened to her that day was probably a build-up of static electricity and it could have been worse, she might have been hit by a car on the way home. That is what the culture of this hospital has led to. What happened to someone who has worked for 19 years in the health system, who loves her job and now cannot return to that job, was diminished. It was swept under the carpet. It was not a build-up of static electricity that nearly killed that woman. It was a failure of the cords that were never checked.

What we have heard today is about Katy Gallagher's record, the facts about her administration, her legacy. And that legacy, that record, is so bad that the Assembly must say that she can no longer be the Chief Minister of this territory.

MR CORBELL (Molonglo—Attorney-General, Minister for Police and Emergency Services and Minister for the Environment and Sustainable Development) (11.57): Madam Deputy Speaker, throughout the course of this matter the Chief Minister has demonstrated both ethical and responsible leadership. She has at all times sought to answer the questions asked of her as the responsible minister, and she has taken the responsible course of action in determining how matters arising from this incident at the Canberra Hospital should be managed.

I want to address the claims made in the debate today about the declaration of a potential conflict of interest. Of course, this has become an actual conflict of interest from those opposite, but they have been unable to substantiate that. The Chief Minister has been clear about the nature of the relationship between a member of her family and the officer responsible for changing the data at the hospital. She has been clear about that. She was the one who identified the potential for a conflict of interest—not an actual conflict of interest but the potential for one. She took the appropriate steps to ensure that no conflict of interest actually arose. She stood aside from the day-to-day responsibility of oversighting the response to the data change issue when it was discovered and when action was taken. That is what the Chief Minister did—she identified the potential for a conflict of interest and she had it right.

She also had regard to the privacy of those involved in this matter, in particular, the privacy of innocent parties, such as a member of her family. Any of us in the same situation would do the same. Any of us placed in the invidious situation where a member of our own family who was blameless—who was blameless—and had the potential to be caught up in a political debate would have done the same. The Chief Minister acted appropriately because the issue that needed to be addressed was that any perception of a potential conflict of interest needed to be avoided, and it was

avoided. It was avoided as a consequence of the Chief Minister's leadership and clear and decisive action on that front. The claim by the Leader of the Opposition, the claim by the Liberal Party, on that matter cannot be substantiated.

Let us be very clear about who is responsible for what occurred in relation to data manipulation at the Canberra Hospital. It was the actions of a senior officer. The Auditor-General makes it clear there was no direct or indirect instruction by any other person, including the Minister for Health. The Auditor-General is explicit. The Chief Minister was not involved in the actions by this senior officer. The Chief Minister was not responsible, directly or indirectly, for the actions of this officer. And that is the view of the Auditor-General.

Hospitals are complex institutions—thousands of staff, thousands of patients every year. Regrettably, things sometimes go wrong in complex systems. We have heard the opposition talk about some of those cases today. The government has always been sympathetic to the concerns of individuals when they have seen mistakes made in the health system. But there is no health system that does not see mistakes made. The crucial thing is that when mistakes are made they are tackled, they are addressed, and systems are improved. It has been this health minister and this government that have made those investments and taken those actions. It was not this government that closed 114 beds like the previous Liberal government did.

Mr Hanson interjecting—

MR CORBELL: This Labor government—

MR SPEAKER: Order! One moment, Mr Corbell. Stop the clocks, thank you. Members, I remind you that the Deputy Speaker was very clear on the expectations about the conduct of this debate. Mr Corbell, you have the floor.

MR CORBELL: It was the Liberal government that closed 114 beds. That was their legacy last time they were in government—114 fewer beds in our hospital system because of the decisions of those opposite and their predecessors. It was not this government that blew up a hospital, resulting in the tragic death of a young Canberra woman. It was a Liberal government that made that decision. And it was not this government that failed to invest in the essential health infrastructure that our community needs. This government made those tough decisions. This Chief Minister, this Minister for Health, set out a comprehensive plan for the future of Canberra's health system.

The Auditor-General in her report highlights the changes that have occurred from the old Woden Valley to the new Canberra Hospital and the fact that moving from a small, regional, almost district hospital, as it is referred to in the Auditor-General's report, to a large, complex, tertiary treatment centre is a big cultural change. It is not an easy cultural change, but it is the change that has been led by this Minister for Health.

We have invested in more elective surgery and in more beds. We did not close them; we opened them. There were 640 when the Liberal Party left office and there are 926 today. We invested in more cancer services. People do not have to travel to

Sydney regularly now for cancer services. They used to have to do that under the Liberal Party. They do not today. We did not have the range of mental health services that we have available today.

These are all the types of actions—and many, many more—that the Chief Minister has listed in her presentation today. They are not the sign of a government which is failing to address and tackle the health concerns of our community. Indeed, they are the signs of a government, the record of a government, prepared to invest, prepared to lead and prepared to respond to the challenges of delivering health services to a growing and rapidly ageing population.

Of course, the most interesting aspect of the debate today has been the parallels that have been attempted to have been drawn between this no-confidence motion and the no-confidence motion that ultimately led to the resignation of Kate Carnell as Chief Minister. Let us look at those parallels. They are actually quite enlightening, but not in the way the Liberal Party has sought to portray them today.

Kate Carnell was the chief advocate of the redevelopment of Bruce stadium. She was the chief urger; she was the number one cheer squad leader; she was the instigator of the Bruce stadium redevelopment project. That project was thoroughly scrutinised by the Auditor-General in a 12-volume report. That 12-volume report found that the Chief Minister was the minister responsible for taking the proposal to the government of the day in a series of cabinet submissions. Those cabinet submissions laid out the governance and financing arrangements for the Bruce stadium redevelopment. Kate Carnell made the cabinet submission. Kate Carnell proposed the governance and financing arrangements for the redevelopment. And what failed with Bruce stadium? Governance and financing. She was the author. She proposed the structures. The structures failed. She was held accountable.

Mr Hanson interjecting—

MR CORBELL: There is a distinct difference between that process and the actions of a rogue officer who did the wrong thing but whom the Auditor-General found was not influenced or directed—directly or indirectly—by the Minister for Health in relation to her actions.

Mr Hanson interjecting—

MR SPEAKER: One moment, Mr Corbell. Stop the clock, thank you. Mr Hanson, you are now warned for interjecting. Mr Corbell, you have the floor.

MR CORBELL: Thank you, Mr Speaker. At one level with Bruce stadium we had systematic failure—failure of governance and financial arrangements, proposed, instituted and overseen by then Chief Minister Kate Carnell. On the other hand, we have a finding from the Auditor-General that there was no direct or indirect influence on the officer who did the wrong thing and that the officer who did the wrong thing has been found by the Auditor-General to potentially have seriously breached the provisions of the Public Sector Management Act. Those are the facts. Those are the distinct and very clear differences in the circumstances we face today.

If the Chief Minister had failed to identify a potential conflict of interest, if the Chief Minister had failed to stand aside, if the Chief Minister had not responded in the way that she did, perhaps there would be an argument. But she did the right thing. She acted ethically and responsibly. She took responsibility for ensuring that matters were appropriately managed once the circumstances came to light. They are the actions of a Chief Minister that we should have confidence in. They are the actions of a Chief Minister who should continue to receive the confidence of this place, because it is this Chief Minister, it is this Minister for Health and it is this Labor government that are making the investment our community needs in the health services for the future of the citizens of the ACT.

MS HUNTER (Ginninderra—Parliamentary Leader, ACT Greens) (12.10): I will start by going to the *Companion to the standing orders*, which begins the discussion on no-confidence motions with this statement:

The responsibility of the executive to the Assembly is most dramatically evident when the Assembly considers a motion of no confidence in the Chief Minister ...

Today in debating such a motion the central question that we are being asked to answer is: do we think that the Chief Minister has lived up to the standard of conduct expected by this parliament? The question is not whether we like her or agree with all her policies. That question is for the people of Canberra at the polls in two months time. The question for us is whether the Chief Minister has met the standard of conduct expected by this place when we give her the responsibility of being the Chief Minister.

What standard do we expect the Chief Minister to meet? Previously we have debated motions of no confidence and censure and I have outlined the tests and standards expected of ministers in this place. It is interesting to note how governments and oppositions across Australia advocate different standards of ministerial responsibility depending on the benches they occupy at the time. The best reference point is the *House of Representatives Practice* and its reference to the 1976 royal commission into government administration. That report accepts that ministers cannot be responsible for every mistake of their departments, but they must be responsible for their performance and for the systems and policies under which they operate.

There is an obligation to proactively create systems to prevent mistakes and reasonably ensure that there are measures in place to prevent wrongdoing, but this does not extend to a crystal ball, and there must always be a balance between appropriate caution and reasonable innovation. This standard is captured in the tests of personal fault or lack of reasonable diligence. In this case there was no personal fault. The Auditor-General has confirmed this quite unequivocally. So was there reasonable diligence? To answer this question we can look at the Auditor-General's report, the PricewaterhouseCoopers report and the evidence given to the various committee inquiries. The Greens do not believe a reasonable minister in the position at the time would have created a completely different system from the one that operates across Australia and would have anticipated the comprehensive manipulation that took place by a senior officer.

It was gobsmacking to hear Mr Smyth not long ago in his Fountain Lakes-style performance say that maybe the only person with any honour in all of this is the officer who did the tampering. And this was backed up by Mrs Dunne, who appeared to want to give the person a medal. This was the person who did the manipulation of the data. This is not someone who should be seen as the person holding all the honour on this occasion. The Greens' view on the policy issues behind the data in question is clear, as is our support for measures to be put in place to prevent it from happening again.

As far as the issue of personal integrity goes, which is the crux of the Liberal Party's argument, I fail to see how the minister could have done more than exclude herself from the investigation. Whether or not she should have gone into greater detail about her relationship with the official concerned I think is ultimately a matter for the electorate to judge. I would say that the idea that we should completely disregard the personal privacy of others concerned in the incident is wrong, and this suggestion by the Canberra Liberals sets a very worrying precedent.

It is telling that, as far as I am aware, the Canberra Liberals have not made a single comment about the measure in question or the way they think things should be changed in order to improve our health system. I think that goes to some of the comments made this morning about the lack of vision, the lack of policy and the lack of ideas about how we can improve our health system and our health delivery here in the ACT.

Against my better judgement I will respond to Mr Hanson. The Greens have never pretended that this is not a serious issue. I will say that, no matter how much he verbally us or twists the facts to suit his ends, the reality is that the Greens have made a judgement about what has occurred based on facts presented to us as found by the Auditor-General and not spun by Mr Hanson.

Certainly it is not the first time the Greens have been verbally by Mr Hanson. What Ms Le Couteur actually said to Mr Hanson—by the way, Ms Le Couteur was not here this morning because she had a previous engagement that she attended—at a function was that the question of confidence in the Chief Minister would be answered by the people at the election in two months time. She said nothing like what Mr Hanson claimed this morning. Once again, we just see “Hard Man” Hanson twisting things, verballing things and not putting up any vision about what we could see in our health system.

He slams the people who work in our health system and then turns around at the end of hearings—and we all cringe—and says: “Oh, but I didn't mean it. I didn't really mean to say that you were unprofessional and you were hopeless and you're all incompetent. I didn't mean it.” Then he turns around again and does it all over again another day. This is having an impact on the hard-working men and women in our health system who are dedicated to the jobs they do every day.

I have had many occasions to have used the health system in this town, and I have received fantastic care for me and my family. It is unfortunate that the only policy

Mr Hanson has for health in the ACT is to condemn it and to drag down every single person who works within it. I would welcome nothing more than a genuine debate about the health system with the Canberra Liberals, but it appears that they have no interest in that. It is not a debate that they want to participate in. This is their way of avoiding that debate.

We have had a couple of comments this morning about another debate—that was a debate with the Canberra Business Council at the National Press Club. I, again, express my disappointment that Mr Seselja put his foot down and threw a little bit of a hissy fit to say that he would not attend if I was attending as well and the Greens were going to be part of it. Well, we do have a part to play in this place, and I am really proud of my team that we have been out there putting out policies, putting out our initiatives for the election. Just in the last week we have announced two initiatives that are health related. One is improvement in—

Mr Hanson interjecting—

MR SPEAKER: Order, Mr Hanson! You are already on a warning.

MS HUNTER: This is a very touchy subject for the Canberra Liberals. And it is touchy because we are yet to see anything other than the closure of the walk-in clinic as a health policy. We have announced an enhancement of services to people who are suffering from lymphedema, and we have also put out our active transport plan, which is about ensuring that we have great cycling and walking facilities in this city that will keep people safe and which are also, obviously, a great benefit to their health. Again, it would be good to have a proper debate, but today what we are debating is this no-confidence motion. We have clearly looked at it; we have looked at what the tests are. It does not meet the test in the view of the Greens, and that is why we will not be supporting this no-confidence motion in the Chief Minister today.

MR DOSZPOT (Brindabella) (12.19): Mr Speaker, as has already been suggested, moving a motion of no confidence in a chief minister is not done lightly or without reason. And it certainly gives me no pleasure to be here today to speak on this issue. But it is nothing less than our obligation to do so, and it is what the community expects of the opposition and the crossbench—the proper scrutiny of government.

The Liberals' stance on this issue is in total contrast to the role of the Greens here today, and indeed through their agreement with Labor, in respect of not supporting a motion of no confidence. A good analogy for this absolute sham of an agreement is a referee in a football match telling one team that he can do what they want and they will not be given a red card or a yellow card—or a green card, in this case. Furthermore, in addition to that, to make it even worse, apart from the referee, the two lines people and the fourth official also put on the uniform of this team, making the game farcical.

This is exactly what the Greens have done to this Assembly. Through their agreement with Labor, they have made their claim of third-party insurance for the community a total farce, a total lie. Their stance on such a serious topic as the one we are debating here today is very unfortunate. Any credibility that they may have had after four years through this Assembly has now been torn to shreds.

Mr Speaker, the Liberals have maintained that scrutiny that we are talking about throughout this whole sorry saga over the last four years and will continue to do so. We have already heard the long list of failures in the ACT health system. They go back for several years and certainly cover the entire time of this health minister's tenure—the length of which she herself has publicly questioned.

We have heard the longstanding questions over the lack of accurate data. We have heard allegations of possible bullying. But we have also seen little interest on the part of this minister in doing anything about any of this.

The Auditor-General's summary commented:

The executive's rationale for manipulating records was that they felt under significant pressure to improve the publicly reported performance information.

The auditor found that:

Managerial pressure was placed on the executive to improve the performance of the Emergency Department.

So who in management was applying the pressure? And why didn't the Chief Minister try to find out? Is it because she knew who it was? Or is it that she does not care what pressures are placed on the staff? And do the Greens care about any of this? Do the Greens care about proper scrutiny of this government when there are questions asked—and not questions asked by the Greens to back up that scrutiny that is so required?

History is repeating itself. The Chief Minister did not care in 2004 when bullying was occurring in Canberra's educational institutions while she was minister in charge of the education portfolio. We have heard of the Chief Minister's unwillingness to follow up on concerns from staff. She did not follow it up then, and she did not follow it up this time either.

We have heard her consistent denials of anything amiss and attempts to blame it all on the Liberals. As we have read, the Auditor-General's finding is that indeed the Liberals did not make it up; that there was data tampering; and that there was more than one person responsible. For the Attorney-General to say here this afternoon that there was only one person responsible is a fabrication and a lie when you have a look at what the Auditor-General's report has stated.

Mr Corbell: Point of order, Mr Speaker.

MR SPEAKER: One moment, Mr Doszpot. Stop the clock, thank you.

Mr Corbell: If Mr Doszpot wants to call me a liar, he can move a substantive motion. Otherwise, he should withdraw the comment.

MR SPEAKER: Yes; that is reasonably clear. Mr Doszpot, I ask you to withdraw.

MR DOSZPOT: I will, Mr Speaker, but the Attorney-General has misrepresented the Auditor-General.

MR SPEAKER: No. No buts, Mr Doszpot.

MR DOSZPOT: Well, good for the goose, not good for the gander.

MR SPEAKER: Order, Mr Doszpot! It is the practice here to not withdraw with all sorts of riders—

MR DOSZPOT: I withdraw, Mr Speaker.

MR SPEAKER: Thank you. You are free to continue.

MR DOSZPOT: That there was more than one person responsible is evident. It is evident in the report from the Auditor-General, which our Attorney-General seems to ignore and totally deny, that the tampering occurred over several years and involved thousands of records—thousands of records. We are not talking about one, two, 10 or 20. We are talking about 11,700 records that were tampered with. We know that staff were under pressure, but the Chief Minister did not want to investigate that. We know from the Auditor-General's report that there was a belief that people feared losing their jobs if targets were not met. But the Chief Minister did not want to investigate that. We know that elsewhere in the hospital system there were other staff under pressure—for example, in maternity. But the Chief Minister did not want to know about that either.

In a recent interview on 2CC, the Chief Minister made the incredible statement that she could not understand what all the fuss is about. After all, she said, “the person at the centre of this data tampering didn't commit murder and nobody died”. It was not murder, and no-one died.

So is anything less than murder okay according to the moral compass of the ACT Chief Minister? Fraud—11,700 cases of it—appears to be okay. By extrapolation, this must mean the Chief Minister condones fraud. She condones deception and she is quite happy to accept a cover-up.

Mr Speaker, is this the standard of behaviour the Greens so often moralise about? Do the Greens condone the culture of fraud and deception and cover-up? They must do, because they have already announced that they are not going to back this motion of no confidence. So, using the Chief Minister's personal code of morality that no-one had committed murder, that no-one had died, anything else is all right and not worthy of a no-confidence motion. What rank hypocrisy.

Hypocrisy it might be, but it is also a consistent response from the Greens. After all, this is the same party that thought it perfectly acceptable for people to sabotage respectable scientific trials and to provide a pardon for them even before any questions had been asked and any explanations given. May I suggest that this “turn a blind eye or deaf ear” approach is fairly common among the Greens and among ministers in this government.

The former education minister just flat out denied any criticisms of failings in his department. Years of systemic bullying were swept under the carpet. People lost their jobs, their careers and in some cases their self-esteem, as well as suffering serious ongoing health issues.

Another minister in this place had a way of screening out issues that were truthful but, to her, unpleasant things to hear. She reputedly put her fingers in her ears and sang. The Chief Minister may well have also done so, because she did not do anything else of value. The Chief Minister suggested this was an isolated case. She said as much in answer to a question on notice in May of this year. Some 11,700 isolated cases, Chief Minister. The evidence is clear; it was not an isolated case. The auditor concluded:

Hospital records at the Canberra Hospital have been deliberately manipulated to improve overall performance information and reporting of the Canberra Hospital's Emergency Department ... Audit considers that it is probable that improper changes to records have been made by other persons.

By other persons, Mr Corbell—by other persons. As the auditor said:

The executive's admission of manipulating records does not account for all of the changes that were made to hospital records ...

Indeed, records were tampered with from 2009 and 2012, while the executive only admits to starting in 2010.

So there is at least one other person, if not a whole army of people, involved in data tampering. It is not 10; 20; 30; 1,000; 5,000; or 7,000. There are 11,700 records, Ms Bresnan, that are completely disregarded in this whole debate. There is not one mention that 11,700 records were altered, some on days that the person that has been made the scapegoat for this by this government was not even at the hospital. Why didn't the Chief Minister initiate a thorough investigation to prove beyond a shadow of a doubt that it involved just one member of staff? There was a rush to judgement on one person—one person to blame for all of this, one person to make the scapegoat. And this lie has been supported fully by the Greens.

The Auditor-General only had to look at when the data was altered to work out the times that did not match the accused staff member's hours in the office. So why didn't the Chief Minister, or her directorate, make that same simple discovery? It is very funny, Mr Corbell. I can see you are very amused by this whole process. Your amusement sums up the amusement that you have had all day on this serious topic. Why didn't this Chief Minister choose to investigate this issue further? And why haven't the Greens had the courage to ask the questions that we are asking? Was it wilful blindness, obstruction of justice or both?

We have here not simply a rogue departmental officer, but something much wider than that. And still the Chief Minister, as health minister, did nothing and continues to do nothing. We have records that have been tampered with—that should have been known about, and the issue addressed well before it required intervention by the opposition and by the Auditor-General. We have had the admission and resignation of

one public servant, but there is every indication by the Auditor-General that there was more than one person involved. Where are they now, and do they still have access to records? We cannot be sure, because we do not know who they are. And who is looking for them? By the looks of it, from the government's point of view, who cares? We have got the one person that is the scapegoat for all of this.

We have a conflict of interest disclosure that should have been given openly and willingly, but it only came out as a result of opposition questioning at a public accounts committee hearing. The Labor Party and the Greens are ducking for cover, accusing the Liberals of bullying and muckraking. We the opposition, and the Canberra community, demand proper public accountability, and we will deliver it despite the efforts of this cosy coalition of the Greens and Labor.

Another very serious aspect of this sorry saga is one of privacy—privacy and confidentiality of records. We have the Auditor-General suggesting that patient records have been compromised to such an extent that “there are risks to the privacy and confidentiality of patient information”. The report went on to say:

The very poor systems and practices also mean that there is a risk that the Health Directorate does not meet the requirements ... of the *Health Records (Privacy and Access) Act* ...

So, Mr Speaker, this government is even now bordering on breaching its own legislation. And just yesterday the report from the Legislative Assembly public accounts committee found difficulties with lack of patient confidentiality. It recommends that the government of the day review the security of information which identifies individual patients. And of course we had news today that the appropriate checks on patients prior to operations at Canberra Hospital are not being followed.

These are not trivial matters, Mr Corbell. These are not trivial matters that would allow you to have the smile that you have had on your face all morning. This is not a shadow health minister on a witch-hunt. This is a serious systemic failure by a minister who does not appear to care, possibly because, by her own admission, she has been in the job for too long. This is serious systemic failure. And the Greens in this place, who fancy they are the keeper of integrity and accountability, think that is okay.

Mr Speaker, let us face it. Let us call it for what it is. It would not matter how serious the breaches were; nothing will be done. Nothing will be done, because the Greens signed a blank cheque—a blank cheque to protect this government: the Greens agreement that says they will never support a motion of no confidence against this government.

What sort of blatant lie has been perpetrated on the Canberra community by the very party that promised to be the third-party insurance for the community? What sort of accountability, scrutiny and insurance is that? These are the people who seriously believe they are fit to be part of the government. As servants of the people, we have an obligation to do our work with honesty and integrity and to be accountable. It is interesting that only today a family member of a recent patient in Canberra Hospital

commented on radio that if the government does not recognise there is something wrong, how can they ever correct it? I ask the same question of the Greens: if you do not understand and recognise something is wrong, how will we ever correct it?

We have a Chief Minister who thinks there is nothing wrong and a Greens party that supports that point of view. Ironically, only last week the Speaker circulated a code of conduct for MLAs. It will be interesting to note, Mr Speaker, just how many parts of this code of conduct will be violated at the very outset by you and your colleagues if you fail to keep this Chief Minister accountable. By any measure, the Chief Minister has failed a test and should be censured.

MR COE (Ginninderra) (12.34): This motion of no confidence in the Chief Minister brought to us by Mr Seselja is something we do not do out of any desire for politics, for gain, but simply because we believe that the people of Canberra deserve better. We do not do so lightly, nor do we get any satisfaction from this process. In fact, it is of extreme disappointment to us that the government, the Assembly and all Canberrans have been so severely let down through a lack of honesty. This is a real issue, with real victims; yet we have a Chief Minister in arrogant denial.

The community we represent deserve to know that we as the opposition take our role in this place seriously and will, therefore, question the capability of the Chief Minister after such serious failings. As my colleagues have said, under this government's guidance, we have a health system that has gone from one of the best performing in the country to one of the worst. The Chief Minister, who presides over this failing health system, must be held to account. We have had 11,700 health records falsified by a person well known to the Chief Minister, a fact that the Chief Minister has failed to disclose. These facts alone warrant this no-confidence motion before us today.

The Chief Minister had plenty of time to disclose the personal nature of her relationship with the person at the centre of the data tampering. After the facts became known that hospital records were doctored to make the government look better—in fact, to make the minister look better—Ms Gallagher chose not to reveal the conflict of interest. Why? What advice was given to the Chief Minister that could possibly make it seem to her that it was acceptable to not disclose the nature of her relationship with the person at the time the other facts became known?

During an interview with Ross Solly on 26 April, five days after it became public that data had been tampered with and 13 days after the Chief Minister became aware of the full situation, Ms Gallagher said, “We have nothing to hide here.” She then went on to say, when questioned if she had spoken to the person involved—another opportunity to come clean about the nature of her relationship:

No I haven't ... and I don't think an explanation has been offered at this point of time. I just don't think you can speculate about why it was done.

Later that same day Mr Hanson asked the head of the Health Directorate, Dr Peggy Brown, whether there was any personal relationship involved. To this question, she refused to answer. Only then, after days of discussion and missed opportunities, did the government think it wise to disclose a vague connection to the Chief Minister.

During the motion raised by Mr Hanson on 1 May this year in this place, Ms Gallagher had many opportunities to outline the exact nature of her relationship with the person at the centre of the data doctoring. In fact, in the three pages devoted to this motion in *Hansard*, Ms Gallagher only once mentions the fact that there is a family member that has a relationship with the person involved. She said:

The fact that a staff member at the centre of these allegations is a friend of a family member of mine created another level of complexity in terms of my own responsibilities as Minister for Health.

Not once did she go further and say that she is not as removed from the relationship as may it be interpreted. During the estimates hearing the Chief Minister made the following statement:

... in relation to the conflict, or the perception of a conflict of interest, that I dealt with first up, it was over the nature of the relationship that existed between a family member of mine and the person who had made an admission. The comments I made were in relation to what could constitute that conflict. I felt that the conflict related to the fact that a family member of mine had a personal relationship with the individual who has made the admission.

The complete nature of the conflict of interest did not become apparent until July, three months from when the tampering was disclosed. We are not accusing the Chief Minister of tampering with the actual records; we are accusing the minister of not detailing the full conflict of interest she has. She has betrayed the people she represents by not following proper governance arrangements.

The story has changed throughout. On 27 April it was a personal connection to a family member. On 3 July she is a friend of a family member. On 6 July she said she had nothing to hide. By 31 July it was revealed she went to France with the data tamperer. If confidence was not already eroded, the situation was worsened when it was revealed that the Chief Minister had spent time on holiday in France with the data tamperer. So in 2010 the Chief Minister spends time on holiday with the person who admitted to doctoring the data, yet Ms Gallagher did not think she should declare it.

In addition to the health ramifications, the misleading of other jurisdictions and the Australian Institute of Health and Welfare, this scandal is indicative of a health system which is being let down by the minister. The Chief Minister is a liability for the hardworking, honest staff who are committed to their work in the Health Directorate. Ms Gallagher's judgement throughout this issue has been appalling and unbecoming of a leader of the government.

Was she actually given advice to not disclose her conflict of interest or did she receive advice and reject it? Either way, her judgement is unsound and she is not fit for office. Quite simply, her integrity and political nous is questionable. Rather than debate the substance of the issue, she hides behind the baseless attacks on Liberals, a strategy probably developed by ALP focus groups. Mr Speaker, we have all been let down by the Chief Minister and I do not have confidence in her leadership.

MR SESELJA (Molonglo—Leader of the Opposition) (12.41), in reply: Before finally making some concluding comments, I will respond to some of what has been said in the debate to date. I think that the Greens have again shown themselves to have no standards whatsoever. They have shown that they have no regard for the way the community has been treated and they have no regard for how our health system is performing. They have shown that there is no standard too low for them when it comes to this government. They have shown rank hypocrisy, which has been exposed today.

Is there anyone in the community, anyone in Canberra, who thinks that if the situation was reversed, if it was the exact same set of facts and it was a Liberal chief minister, the Greens would not be backing this motion today? Is there anyone who is prepared to stand up and suggest that? Of course they would support it if it was a Liberal chief minister. That is the only standard by which they are going on this. It is the colour of the minister in question; it is the political party and the political allegiance of the minister in question. They have been exposed for their hypocrisy.

Ms Le Couteur has let the cat out of the bag about what some members actually think about this. They do think it is a serious matter, but they cannot do it for rank political purposes, because it would not be a good look for them to be voting no confidence in the Chief Minister they supported this close to an election. That is the rank political judgement the Greens have taken. No doubt, come election time, when people are asking themselves have they got what they were promised by the Greens, which was to hold the government to account—

Mr Hanson: Third-party insurance.

MR SESELJA: Yes, third-party insurance. Thousands of Canberrans who did vote for the Greens for the first time last time will no doubt be asking themselves whether it was worth it and whether they actually received any accountability, any third-party insurance. Clearly, they have not. The Greens, through both the contribution of Ms Hunter and Ms Bresnan, have demonstrated that there is no standard too low when it comes to the Labor Party and when it comes to protecting their relationship with the Labor Party in this place.

Mr Corbell made a contribution which makes us think that perhaps we were wrong; maybe it was not Mr Barr who has been undermining Ms Gallagher. Maybe it was Mr Corbell, because he managed to put up such an absurd defence as to lead one to conclude that perhaps he actually agrees with this motion. He did it in a couple of ways. He said that the reason Ms Carnell deserved no confidence was because she had taken this issue to cabinet; she had taken the issue of Bruce stadium to cabinet. So the test now is whether or not Ms Gallagher actually at any stage has taken issues around the emergency department, waiting times in our emergency department or any of these other issues, to cabinet. That is the test he has set and, of course, she fails on that test. On that test, no confidence should proceed. Mr Corbell has added significantly to this debate.

The only other substantive point that Mr Corbell made was that if the Chief Minister had failed to disclose the conflict of interest, there might be a case. She did fail to disclose the conflict of interest. So, again, Mr Corbell has backed our claim. He has backed our claim through his words. It is an absurd defence to say it is about whether or not you took something to cabinet. Clearly, this Chief Minister has taken issues surrounding the emergency department to cabinet. Clearly, she has responsibility for what happens in our emergency department, as the minister responsible. He has helped make our case for us.

In relation to the response from the Chief Minister to the motion, Ms Gallagher, as I think Mr Coe put it so eloquently in his speech, has decided that the best thing to do is just ignore the issue, not address the facts, and simply throw unsubstantiated assertions at the Liberal Party. There is a reason for that. When your case is weak, do not argue the facts. When you have a weak case, steer away.

The motion is very clear. Ms Gallagher and the various speakers against this motion have not been able to debunk any of it. They have not been able to debunk that this minister is responsible as we have seen the health system decline. Who says so? It is not just the Canberra Liberals. The AIHW and the Auditor-General say this system has declined under this minister's leadership. That is a statement of fact. It is not us making it up. She was the minister responsible, and she was the minister responsible while the data tampering occurred. How could this minister have allowed this to happen?

Let us put aside the third part of the motion for a moment. Let us just take this: 11,700 instances that we know about of data tampering to make this minister look good. She is telling us today that she is not responsible. You are the minister and for years in your department, at the very senior levels of your department, someone who it turns out was very close to you personally has been doctoring data to make you and your government look better. What do we make of that? What is any reasonable person to make of that, other than that is a substantial failure as a minister?

Putting aside any other facts, those facts alone condemn this Chief Minister. This happened not once, not twice, but thousands of times over a number of years at a senior level in her department. On those facts alone, this minister should go. She has then compounded these facts. She has compounded them by her failure to be honest and open about these relationships. Why did she do that? I think it is pretty obvious. Those facts sounded worse for her. The facts about the relationship sounded worse for her, so she chose cover-up instead of disclosure.

If on day one she had come out and said, "This is my relationship with this individual; this is what I am doing to respond to this scandal," then she would have got far more credit from the community for her handling of this. It would not have changed the fact that it happened on her watch. It would not have changed the fact that it was happening systemically, that it was happening over a number of years and that it was happening at a senior level, but it would have shown a level of integrity in putting all of the facts on the table. For these reasons, this minister should not have the confidence of this Assembly on any one of these issues.

There are victims of this government's performance. We hear about them and read about them on a daily basis. To try and compare it to trivial issues, as the Deputy Chief Minister has, trivialises the experience of people in our health system. It trivialises the serious repercussions for people when our health system fails them. That is what we have had from those opposite. What we have in the vote from the Labor Party and the Greens today is an endorsement of this process. They are endorsing the facts that are on the table here. They are endorsing this health system that has failed, that has gone backwards and that has let so many people down. They are endorsing a data scandal that has deceived the community and lied to them about their experiences. They are endorsing this Chief Minister's response to this, which has been less than forthright and less than honest and which has lacked integrity.

That is what this vote is about today. So when the Labor Party and the Greens vote down this motion, they will be endorsing this behaviour. They have set a new low when it comes to keeping a minister accountable. On any of these points this minister should go. This minister does not deserve the confidence of this house. I commend the motion to the Assembly.

MS LE COUTEUR (Molonglo): Mr Speaker, I seek leave under standing order 46 to make a personal explanation.

MR SPEAKER: Yes, Ms Le Couteur.

MS LE COUTEUR: Thank you, Mr Speaker. I very briefly wish to correct the statement which Mr Seselja has just made and which I understand Mr Hanson may have made in my absence about my conversation with Mr Hanson at the Property Council. We discussed this motion and various reasons why you might or might not support it. I mentioned that one of the issues was clearly the timing and that there would soon be a more substantive issue about confidence, or lack of confidence, in the government. That was all. It was merely noting it was two months before an election. I was not saying this was a reason not to; merely this was the timing.

Question put:

That **Mr Seselja's** motion 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.

Sitting suspended from 12.53 to 2 pm.

Questions without notice

Canberra Hospital—patient care

MR SESELJA: Mr Speaker, my question is to the Minister for Health. On ABC 666 this morning, Ross Solly interviewed Holly Chaloner, who lost her grandmother, Lima Thatcher, after her wrong hip was operated on at Canberra Hospital. The following exchange occurred:

Mr Solly: “What has it done for your confidence in the health system here in the ACT?”

Ms Chaloner: “I actually have no confidence at the moment in going to the hospital in the ACT.”

Minister, why have these Canberrans lost confidence in the health system that you are responsible for?

MS GALLAGHER: I thank the Leader of the Opposition for the question. I think it is unfortunate when you have any situation of any person who goes to a hospital and does not have the experience they should have. It is with enormous regret that that occurs from time to time. Health systems are human systems. They are run by humans; they are staffed by humans—doctors and nurses treating patients. But there is a lot to be proud of in our health system, Mr Seselja—a fact that you refuse to acknowledge.

Whilst mistakes will occur, the measure of a health system is how you respond to those mistakes and how you put in place changes to stop those mistakes from occurring again. That is the measure of a good health system. We have a world-class health system here, something that we in this place should all be proud of; not, like you, taking enormous pleasure—in fact I think the only thing that gets Mr Hanson out of bed in the morning is if there is a complaint about the Canberra Hospital. It is the only thing that seems to set off any lights in Mr Hanson’s head—whether or not he can bag the Canberra Hospital.

Mr Seselja: Point of order, Mr Speaker.

MR SPEAKER: Yes. One moment, Chief Minister.

Mr Seselja: It is on direct relevance. The question had nothing to do with Mr Hanson; it was actually about Ms Chaloner and why Ms Chaloner and other Canberrans have lost confidence in the health system that the minister is responsible for. I ask you to ask her to return to the question.

MR SPEAKER: Thank you, Chief Minister; we will have no further commentary on Mr Hanson.

MS GALLAGHER: Canberrans do have confidence in their health system. That is not to say that there are not people out there who have had a bad experience in the health system, whether it be in the public system, the private system, at Canberra Hospital or at Calvary hospital. That is because of the nature of the health system. But I say that the vast majority of Canberrans do have, and should have, faith in the public health system, and it is our job to ensure that that confidence is maintained, not constantly denigrated, as is the only position of the Liberal Party at this point in time—to do just that.

MR SPEAKER: A supplementary, Mr Seselja.

MR SESELJA: Minister, what do you say to Holly Chaloner and her family in relation to their experience and how can Holly and others be confident that if she or her family present to Canberra Hospital in future the same tragic circumstances will not happen again?

MS GALLAGHER: I will just repeat the comments I have made. Nobody wants anyone to have a poor experience at any hospital, whether it be the public or the private hospitals in Canberra. The measure of a good hospital is when catastrophic mistakes are made—and there was a massive mistake made in relation to this family and in particular to Mrs Thatcher—the system responds, just like it did when Dr Newcombe was operating, under the Liberal Party's watch, and causing such distress to all of those people. These situations occur in hospitals and it is time that there was some acknowledgement of that, that sometimes mistakes are made. What hospitals need to do is admit the mistake, and they do that very quickly, quicker than any other area of government, I would say, through their open disclosure processes.

The matter that was being talked about in the Assembly today was subject to a coronial process. There has been a clinical review process underway of the situation, what led to it and what needs to be done to stop it occurring again. That, in itself, should maintain the confidence of the public in the public health system. But these incidents do occur. And they occur in the public system, they occur in the private system. They are not only catastrophic for the family involved, they are catastrophic in the impact that they have on the surgeons involved, in this case, and indeed the staff that were involved in the operating theatre. Let us just spend a moment thinking about them as well.

MR HANSON: A supplementary, Mr Speaker.

MR SPEAKER: Mr Hanson.

MR HANSON: Minister, why is it that Ms Thatcher's family's only option to try and prevent these circumstances from happening again is to go through the court system and present their case to the media?

MS GALLAGHER: That is a matter for the family. There are a range of ways for individuals to pursue matters, of which the court is a legitimate one, and one which I understand this family has chosen.

MR HARGREAVES: A supplementary, Mr Speaker.

MR SPEAKER: Yes, Mr Hargreaves.

MR HARGREAVES: In the vein of the Leader of the Opposition's question—

Opposition members interjecting—

MR HARGREAVES: Okay, you win. What has the opening of the women and children's hospital done to the confidence of the community in the health system, Chief Minister?

MS GALLAGHER: I think it is—

Mrs Dunne: On a point of order, Mr Speaker—

MR SPEAKER: One moment, Chief Minister; thank you. Stop the clocks.

Mrs Dunne: I ask you to rule on the relevance of the question. Mr Seselja's original question was about the case of Mrs Thatcher and her family. How does the opening of the women's and children's hospital relate to the original question?

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

MR SPEAKER: Yes, Mr Hargreaves.

Mr Hargreaves: The last part of the question of the Leader of the Opposition was about how can the community have confidence in the health system and that is where I wanted to go.

MR SPEAKER: The question is not out of order. I think Mr Hargreaves has framed it in the context of the confidence in the health system. Chief Minister.

MS GALLAGHER: Thank you, Mr Speaker. It is very clear that the community does support the public health system here. In fact, the clearest measure of that is in the measure of utilisation of public health services here. They are the best in the country—next, I think, only to the Northern Territory, which have no private or a very limited range of private hospital choices.

What that says—and it is AIHW data—is that people choose to come to the public health system. We have the highest level of private health cover in the country and the lowest utilisation of it. Again, what that says is people know that if they come to the public health system they will be treated and they will be treated well.

That is not to say that there will not be adverse events that occur; they do occur. But when you look at what the hospital system in large part provides—300,000 bed days a year, over 100,000 cost weighted separations, over 110,000 people going to the emergency department—then you start thinking about the work that is done in these

hospitals and why it is so disgraceful that you are pinning your entire election chance on trying to beat up on the public hospital system, offering no ideas, no vision for the future, but just prepared to take down the hardworking people in the public health system, and they are sick of it.

Education—learning difficulties

MS HUNTER: My question is to the minister for education and relates to the dyslexia and learning difficulties task force. Minister, I was pleased to see in recent media that you have committed to establishing a task force made up of a group of parents and academic experts to develop a work plan for addressing dyslexia in ACT public schools. Can you outline briefly what the terms of reference and goals for this task force will be, and who will make up the membership?

DR BOURKE: I thank Ms Hunter for her interest in this matter and her praise for our initiative in establishing a task force which will look at learning difficulties, including dyslexia.

The purpose of this task force will be to look at what is the current state of evidence-based research on learning difficulties, including dyslexia. I want Canberra parents to know what works and what does not work. I want them to know what we are doing in our schools at the moment to help children with these issues and also what can be done in the future to improve what we are already doing. This is fundamentally about improving our teacher quality and providing more information for teachers so that they can use that evidence-based practice in their work as teachers.

I am also concerned, of course, that there is a range of solutions which are promoted in the community to tackle dyslexia which may not have any evidence base whatsoever. I am particularly concerned that parents may be spending thousands of dollars on treatments that simply do not work. What I am going to do is have this task force, which will be announced shortly, and I hope to have them report to me by the end of the year so that we can then move forward on this area.

MR SPEAKER: A supplementary, Ms Hunter.

MS HUNTER: Minister, will you invite members of the dyslexia support group for the Canberra region, who have recently put together a petition of over 600 signatures, to be part of that task force, and could you give a rundown of the terms of reference?

DR BOURKE: I thank the member for her question. At the moment I am taking advice from the directorate on both the exact terms of reference and the membership of the task force.

MR SPEAKER: Ms Le Couteur, a supplementary.

MS LE COUTEUR: Minister, do you agree with the position in the discussion paper which was prepared by the support group for the Canberra region that there is a lack of consistency in ACT schools with respect to learning difficulties?

DR BOURKE: I look forward to the contribution of parents of children with particular learning difficulties, including dyslexia, to the task force and I am sure that they will be offering their opinions to the task force. I look forward to the analysis of the task force and their conclusions, which will be sent to me.

MR SPEAKER: Ms Bresnan, a supplementary.

MS BRESNAN: Minister, will you commit to making the work of the task force and any findings public?

DR BOURKE: Yes. I am very keen that everybody should know what the evidence is about what is best teaching practice for children with learning difficulties, including dyslexia. I am very keen that parents should know what works, and that teachers should know what works as well. So yes, of course this will be made public.

Canberra Hospital—safety checks

MR HANSON: My question is to the Minister for Health. Minister, a minute written by Elizabeth Trickett, who is the executive director of the quality and safety unit at ACT Health, on 23 March this year stated:

Six observational audits have been conducted to date and have highlighted that the safety checks are not always being performed. This is a significant risk for surgical patients and the organisation.

Minister, given that for half of all surgical patients safety checks are not being conducted, how can Canberrans be confident that when they are operated on at the Canberra Hospital these safety checks have been carried out?

MS GALLAGHER: I welcome the opportunity to talk about the surgical safety checklist. Mr Hanson's question, unsurprisingly, has in it something that is not true. He alleges that the safety checks are not being conducted. That is not the reality. What is not happening to the full compliance is that the checklist is not being completed. That does not mean—

Opposition members interjecting—

MS GALLAGHER: This is a very important difference, and I know it is a difference that Mr Seselja will refuse to accept, but there are a range of steps and a range of safety checks and patient checks that are done in the lead-up to an operation proceeding, of which one of them—just one—is asking the surgeons to fill out a relatively simple safety checklist.

What we have seen is that we have a range of compliance—from 100 per cent, as I understand it, in orthopaedics, to very low compliance in areas like plastic surgery. The whole reason you do the audits—let me just say the patient safety and quality unit is something this government established after you, when you were last in government, allowed Dr Newcombe to continue to practise because you did not have the patient safety and quality processes in hospital in place.

That is why we have the patient safety and quality unit. We established it to improve patient safety. We are now implementing a whole series of further improvements to patient safety and quality, of which one of them is an audit to check compliance with the paperwork associated with the surgeons' pre-safety checks. There is a range of compliance.

This actually should be a good story for the health system, because what it is demonstrating is that we are putting in place measures to protect patient safety. We are not only just putting them there; we are then going back and checking on whether they are being followed and, when they are not being followed, following up with those surgeons and talking with them about how to make it work for them.

Anyone who has had any practical experience of working in a hospital will know that surgeons will not do things when they think it impacts on their work time. So what we have to do—and this might be strange for the opposition, again—is to sit around the table with the surgeons and ask them, if they are not filling out the safety checklist, why, and how can we make it easier for them to participate in this? It is the ongoing, important work of continuous improvement and improvements to patient safety and quality in any health system. That is what is being done at the hospital and the hospital should be applauded for it.

MR HANSON: A supplementary.

MR SPEAKER: Yes, Mr Hanson.

MR HANSON: The minute states that the completion rate is 52 per cent. Is Elizabeth Trickett wrong, or have you just misled the Assembly?

MS GALLAGHER: The compliance rate is with the checklist, Mr Hanson—and this is the difference. There is a difference between filling out a checklist and actually conducting the safety checks that occur in the lead-up to an operation, because it is not just about filling out a checklist. That is not the only thing that gets done. The compliance rate is with the checklist. That varies across specialties. In orthopaedics, where Mrs Thatcher had the adverse event, their compliance rate is 100 per cent. In other areas, like plastic surgery, it is very low, at four per cent.

Mr Hanson: Four per cent.

MS GALLAGHER: Yes, very low. So what we have to do is go back to the plastic surgeons and say, "How can we encourage you to take this part of your job seriously?" We are dealing with VMOs, we are dealing with staff specialists, we are dealing with busy people, and that is what we have to do. We do it through the surgical services task force. And what is more, we do not just accept and put that in place. We then go back and Ms Trickett is then auditing that process. That is the situation—taking patient safety and quality of care seriously. Some specialties have adapted to it very well; others need more improvement to the results that we are seeing.

MR SMYTH: Supplementary, Mr Speaker.

MR SPEAKER: Yes, Mr Smyth.

MR SMYTH: Minister, when did you first find out that the completion rate was only 52 per cent, and what action did you take to inform the community?

MS GALLAGHER: I saw those documents for the first time yesterday, when Mr Hanson, as I understand it, was provided with them.

Mr Hanson: Shame.

MS GALLAGHER: Mr Hanson, if you realistically think that every single bit of paper and minute that is generated in the hospital is actually going to cross my desk, you are sadly mistaken. There are thousands of people generating thousands of bits of paperwork. My expectation, through establishing the patient safety and quality unit and having them actually funded to do this job, which is again a legacy of this government—to actually take patient safety seriously—is that they put in place the measures to deal with patient safety and quality in the hospital. That is part of their normal job. When there is non-compliance or poor compliance, it is their job to pursue that through the hospital.

I am very confident—I have had a number of meetings with the Surgical Services Task Force, where I have met with surgeons and I have heard of their frustrations if they feel that their work is being delayed through more red tape, as they call it, and more paperwork. We have listened and we have tried to work with them, but I have made it very clear that patient safety is number one in any health system and that there will be checks and balances on this through the performance of their duties. That is what leadership of a hospital is about, leadership of the health system—putting in place those processes. And then, yes, we employ staff to do the job.

MR HARGREAVES: A supplementary.

MR SPEAKER: Yes, Mr Hargreaves.

MR HARGREAVES: Minister, when was the patient safety and compliance unit created? What professions are actually employed within that unit and at whose initiative was it created?

MS GALLAGHER: I cannot recall the exact year that the patient safety and quality unit was established. I think it was around 2004-05. It may have had a different title at that point but that was certainly the beginnings of it. It was the beginnings of a whole range of patient safety and quality processes that we have put in place through legislation, through the clinical review processes that we have established.

A lot of them have come out of the learning of what failed when Dr Newcombe was allowed for years—

Mr Smyth: So Mr Corbell was in charge?

MS GALLAGHER: No. Mr Corbell actually cleaned up the mess of the previous government.

Mr Smyth: No.

MS GALLAGHER: Yes, he did. It was the late 1990s, Mr Smyth, when you were sitting at the cabinet table and we had a rogue doctor performing on patients when he should not have been. That is how we have got to the place where we have got all of the patient safety and quality processes in place because what was lacking, along with a whole range of other health services which I have listed this morning, on your watch, Mr Smyth, when you sat around the table, has been put in place and improved since then.

We are proud—and I am proud—of the work of the patient safety and quality unit. It did not exist before because you did not want to know about it. That led to very poor quality outcomes.

Mr Smyth: Better outcomes than you.

MS GALLAGHER: No, Mr Smyth, quality outcomes that you do not ever want to talk about because you cannot accept the fact that the quality of care provided in the public health system is second to none and you have got no statistics to prove otherwise.

Budget—investment

MR HARGREAVES: My question is to the Treasurer. Can the Treasurer please update the Assembly on how the government's 2012-13 budget is investing in infrastructure?

MR BARR: I thank Mr Hargreaves for the question and advise the Assembly that the city's infrastructure, facilities and urban amenity are indeed the envy of many cities around Australia. Whilst it is easy for us to take this for granted, we must always remember that this has not come about by luck but by far-sighted and productive investment in the city's infrastructure.

The 2012-13 territory budget continues the government's proud track record of providing the infrastructure that our community deserves and expects. This budget contains record spending on the city's infrastructure—\$900 million in the 2012-13 fiscal year. It includes new investments of \$429 million over four years, including \$212 million in the current fiscal year.

Across this budget and the forward estimates, a total of \$1.7 billion has been allocated for investment in the territory's infrastructure. Since 2002-03 the government has invested more than \$3 billion in infrastructure improvements. It is money that has

gone towards new roads, new schools, new hospitals and a range of other public infrastructure. In the process, of course, it has contributed to the creation of many local jobs.

The government's health infrastructure program is responding directly to growth in service demand. Health infrastructure supports front-line health staff in delivering world-class and cutting-edge services to our community. Technology and improved care models such as community post-hospital support and other step-up and step-down facilities are key features of this infrastructure.

To meet the needs of our growing population, we are also committed to building a new north side hospital. The government is investing in the new women's and children's hospital, the acute mental health in-patient unit and community health centres in Gungahlin, Tuggeranong and Belconnen.

Innovative approaches to delivery of services are being funded by the government, with more than \$90 million committed to e-health services. These investments aim to improve chronic disease management and, amongst other things, improve preventative health care. Prevention provides better overall quality of life for Canberrans and places downward pressure on health expenditure growth. Every member I am sure would agree on the benefits of preventative health investment.

The 2012-13 budget provides \$24.6 million for a new joint fire and ambulance station at Charnwood and \$400,000 to upgrade police stations and the Winchester Centre. The budget contains \$63.7 million for new buses, improved accessibility at our bus stops, improved cycling and walking infrastructure and other measures towards meeting the goals of the transport for Canberra plan.

The new urban improvement program provides \$96 million over four years to improve our parks and recreation areas, to upgrade shopping centres, to upgrade roads, cycle paths and footpaths, and to improve our urban environment. We have also allocated \$119 million to support continued land release in Gungahlin and Molonglo to cater for the future growth of the territory.

This is responsible investment that responds to the needs of a growing city. It creates an even higher standard of facilities for Canberrans, and helps our city to grow by increasing our productive capacity. Labor's infrastructure investment is making Canberra even stronger.

MR SPEAKER: Mr Hargreaves, a supplementary question.

MR HARGREAVES: My supplementary is: can the Treasurer please indicate how the government's budget will improve school infrastructure?

MR BARR: The government is funding significant improvements in school infrastructure in this budget. There is \$3.5 million for stage 1 of the carbon neutral schools program. This will help schools install high efficiency lighting, roof insulation and upgrades to their heating systems and other measures to help them become carbon neutral. It is not only good environmental practice; it is also good business practice in that it helps schools lower their power and heating costs.

The budget also provides nearly \$13 million to upgrade Taylor primary school so it can return to operation on its original site. We have provided \$2.8 million for an expansion of Duffy primary school to help meet increased demand for places in the Weston Creek area, particularly as the development of Molonglo takes shape in coming years.

The government has also provided more than \$13 million for other upgrade and improvement work at schools right across the city. This includes new classrooms at the Malkara school, upgrades to Stromlo, Calwell, Wanniasa, Belconnen and Lyneham high schools, improvements to school security across the city and a range of new shade structures for our preschools.

This is just some of the work that the ACT government will be undertaking in schools in this fiscal year. We do so because we believe in public education and because we are committed to providing our students and our teachers with world-class facilities and infrastructure.

Our record in this area stands in marked contrast to those opposite, who are consistently on the record as describing investment in public education as throwing good money after bad.

MR SESELJA: Supplementary.

MR SPEAKER: Yes, Mr Seselja.

MR SESELJA: Can the minister provide an update of the current estimated blowout in the north Weston ponds infrastructure project?

MR BARR: No.

MS PORTER: A supplementary, Mr Speaker.

MR SPEAKER: Yes, Ms Porter.

Opposition members interjecting—

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

MS PORTER: Minister, can you inform the Assembly why it is so important to invest continually in the upgrade of our schools?

Mr Seselja: Like Taylor?

MR BARR: I do note the interjection from the Leader of the Opposition. Let me just say that I will, in any forum, anywhere in this country, debate the Labor Party's record in investment in public education against the pathetic effort of the Liberal Party, both nationally and locally. The ACT—

Mrs Dunne: On a point of order, Mr Speaker.

MR SPEAKER: Thank you, Mr Barr. Stop the clock, thank you. Mrs Dunne.

Mrs Dunne: Ms Porter's supplementary question was about the importance of investing in school infrastructure, and talking about anybody else's policies, other than his own, is irrelevant to the question.

MR SPEAKER: The point of order is upheld. If we can focus on Ms Porter's question, Mr Barr.

MR BARR: As I said, I am very pleased to debate this government and the Labor Party's record in relation to investment in education—

Mrs Dunne: On a point of order, Mr Speaker, Mr Barr has been asked to answer a question. He is not debating anything.

MR SPEAKER: There is a bit of latitude here. Mr Barr, let us come to the question.

MR BARR: Thank you, Mr Speaker. It is very important to invest in school infrastructure, and that is why the single biggest investment in education in this territory's history has come under this Labor government—the single biggest investment in education infrastructure under this government. Our partnership with the commonwealth government has seen the biggest single investment in education. Every single school in this territory has had money spent upgrading school facilities, enhancing school facilities, building new classrooms, new specialist teaching areas. All of that investment has been in the next generation of Canberrans, and it does stand in marked contrast to the approaches of other political parties.

Visitors

MR SPEAKER: I would like to point out to members that we are joined in the public gallery today by staff from the Economic Development Directorate and the Environment and Sustainability Directorate. I welcome you to the Assembly.

Questions without notice

Canberra Hospital—emergency department targets

MR SMYTH: Mr Speaker, my question is to the Minister for Health. Minister, you have stated that it is likely that the ACT will not meet federal targets for emergency department reward funding. In estimates on 5 July, Dr Peggy Brown stated that this funding, if received, would be spent on “facilities within the emergency department—equipment, capital works-type things, changes”. Does the likelihood that the ACT will miss out on reward funding mean that we are missing out on the opportunity to improve our emergency department performance?

MS GALLAGHER: That is a hypothetical question; it cannot be answered until the calendar year is complete. It is a measure of performance over the calendar year. My understanding is that in the last formal documents I saw we were at 57 per cent. We need to be at 64 per cent by the end of the calendar year, involving both hospitals. So in that sense I can assure Mr Smyth that we are doing everything that we can to ensure that the targets are met. That is down to the hard work of people working in both Canberra Hospital and Calvary Hospital emergency departments.

If Mr Smyth is so concerned about resources to the emergency department, though, I will look forward to the Liberal Party supporting the \$12 million that is allocated in this week's budget for resources to the emergency department. What I can tell you is that the reward funding under the NEAT is \$800,000. I can see how important you find \$800,000. I know that you will find the \$12 million that we have put in the budget for the emergency department to flow as soon as the budget passes on Friday, albeit a bit late. When that money can flow, I think that is going to have a lot more impact in the emergency department than \$800,000. But—

Mr Smyth: So you just dismiss it.

MS GALLAGHER: No, I am not dismissing it, Mr Smyth. You put words in my mouth yet again. I am not dismissing it. I am merely drawing the analogy between your concern for \$800,000 and then your recommendation in the dissenting report where you opposed the budget, which has \$12 million in it for the emergency department. I am just drawing it to your attention; you can make of it what you like. What I am saying is that \$12 million for the emergency department will go a lot further than \$800,000. But we are doing everything we can to get \$12.8 million into the emergency department, based on our timeliness.

Members interjecting—

MS GALLAGHER: Mr Sesleja again smiles and goes “And how's that going?” in his sarcastic tone. Obviously, you are very keen to ensure that we do not meet that target, Mr Seselja.

Mr Seselja interjecting—

MS GALLAGHER: I am going to call you on it. Your little snide asides, your grins, you little powwows with Jeremy.

Mr Seselja interjecting—

MS GALLAGHER: Yes, got another good aside in there. Got another “Bag the health system again.”

MR SPEAKER: Members, order! Ms Gallagher, the question, thank you.

MS GALLAGHER: That is what you are doing, Mr Seselja. You try to pretend you are not. That is what you are doing. We are putting in \$12 million, and then the staff

at both of our emergency departments are working harder than the Liberal Party would have ever worked in its life to make sure that we reach the targets set—and not only reach the targets but at the same time deliver the outstanding care that they provide to the people of the ACT through that emergency department. That is what is being done. I look forward to you supporting that line in the budget, Mr Smyth.

MR SPEAKER: A supplementary, Mr Smyth.

MR SMYTH: Yes, Mr Speaker. Minister, do you take responsibility for the ACT failing to meet the emergency department targets and therefore failing to receive funding that could help Canberrans to receive faster treatment at the emergency department?

MS GALLAGHER: Again it is a hypothetical question. The target has been—

Mr Smyth: So you don't take responsibility?

MR SPEAKER: Mr Smyth!

MS GALLAGHER: We have not failed to reach the target, Mr Smyth; that is the point.

MR SPEAKER: Chief Minister, one moment thank you. Stop the clock. Mr Smyth, I remind you that you are on a warning from the Deputy Speaker earlier, and the Chief Minister had only had about four seconds before you interjected. So can we let the Chief Minister answer the question, thank you.

MS GALLAGHER: Mr Smyth's question was: do I take responsibility for failing to meet the target? The target is there. It is a measure of a calendar year; that is, for those opposite who obviously are challenged with this, from 1 January to 31 December. The target has not been failed.

MR HANSON: A supplementary, Mr Speaker.

MR SPEAKER: Yes, Mr Hanson.

MR HANSON: Minister, do you take responsibility for agreeing to elective surgery department targets and then failing to meet them?

MS GALLAGHER: I do not believe we did fail to meet the targets, Mr Hanson. I am having ongoing discussions with the commonwealth around it. Indeed, so is the Liberal Party in WA, who also lost quite a bit of money under the elective surgery targets.

Mr Hanson interjecting—

MS GALLAGHER: They are complaining loud and strong, Mr Hanson. So there we have it: a Liberal Party that lost money under performance targets. Do you know what? The WA Liberal Party health minister and I are at one on this. We want

consistency in elective surgery waiting times to be agreed by jurisdictions so that we do not have this bizarre situation where 10 per cent of New South Wales patients who are category 3 get their surgery within five days. That is the situation at the moment. What we need is consistency and the Liberal Party in WA are smart enough to recognise it. They are calling for it and I look forward to your support for it.

MR HANSON: A supplementary, Mr Speaker.

MR SPEAKER: Yes, Mr Hanson.

MR HANSON: Has the WA health minister been found to have a department that has been doctoring its data, minister?

MS GALLAGHER: I have written to all of the health ministers around the country. I have had a couple of responses.

Mr Seselja: This is our problem, guys.

MS GALLAGHER: The EDIS system has actually operated in over 100 hospitals around Australia, Mr Seselja. So there is a responsibility, where there are some significant issues with EDIS—because, as you know from participating in some of the forums, EDIS was set up to track patients through the hospital. It was not set up for performance and data reporting to the extent that is required now. So I have done the right thing and have written to my ministerial colleagues around Australia. I have provided them with a copy of the Auditor-General's report. Indeed I have had responses from some of them saying that they are reviewing their data integrity systems in light of the Auditor-General's report. That is a responsible thing to do; that is what I have done.

Hot-water heaters

MS LE COUTEUR: My question is to the Minister for the Environment and Sustainable Development and relates to the replacement of hot-water services for existing buildings. Minister, in 2009 I introduced legislation to require energy efficient hot-water services for new and replacement installations. During the debate the then planning minister, Andrew Barr, said:

... 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.

Minister, why have you not done what Mr Barr said the government would do—namely, introduce appropriate legislation for new and replacement water heaters?

MR CORBELL: I thank Ms Le Couteur for the question. I think Mr Barr made it clear at the time, and I am happy to reiterate, that the government's commitment was contingent on agreement on national reform when it came to the replacement standards for hot-water systems. Regrettably, that national agreement has not yet been reached.

I think what is very important and what the government is concerned about on this matter is the equity impacts on some households if there is a mandatory obligation to replace old electric resistance hot-water systems with gas or solar systems, particularly in parts of the city where gas is not available and where there could be a significant cost to households of having gas reticulated to allow them to upgrade. Those are the issues that we are concerned about and which we are working actively on at this time.

MS LE COUTEUR: A supplementary, Mr Speaker.

MR SPEAKER: Yes, Ms Le Couteur.

MS LE COUTEUR: Minister, given that the government has recognised the economic and environmental advantages of improved hot-water services by including them as allowable items under the Energy Efficiency (Cost of Living) Improvement Bill 2012, why does the government continue to allow Canberra people to waste their money on installing inefficient replacement hot-water services?

Members interjecting—

MR SPEAKER: Order, members!

Mr Coe interjecting—

MR SPEAKER: Mr Coe!

MR CORBELL: I draw Ms Le Couteur's attention to my previous answer. It is all well and good for someone to plan the replacement of a hot-water system, say, as part of a renovation or other planned work in their home. They can take into account the potential costs of different options and they can plan for its replacement. But what we also know is that sometimes your hot-water system just fails, and you do not have time to plan for a replacement, especially in the middle of winter. You have to get it fixed that day. You need hot water that day or that night. And if you are going to do that, you cannot impose unreasonable requirements on households, particularly households in areas where gas, for example, is not reticulated either in that suburban area—which actually involves quite a sizeable number of homes in the ACT—or gas is not connected to the house, even though it is reticulated to the street.

That brings significant additional costs to households, and in an emergency where a hot-water system fails and must be replaced, if the mandatory obligations Ms Le Couteur is arguing for were in place, it would impose significant hardship on some households, and we must have regard to this factor. So whilst we do not disagree that gas-boostered solar, for example, or even high-efficiency gas, is a more efficient option, it must be implemented in a practical manner. And those are the issues that we are focusing on at this time.

Mr Coe interjecting—

MR SPEAKER: Mr Coe, I remind you that you are on a warning from the Deputy Speaker as well. A supplementary, Ms Hunter.

MS HUNTER: Given that the ACT supported COAG's regulation impact statement on phasing out greenhouse-intensive water heaters in Australian homes, why has the government not progressed implementation of new regulations?

MR CORBELL: I have answered that question.

MR SPEAKER: Ms Bresnan, a supplementary.

MS BRESNAN: Thank you Mr Speaker. Minister, what is the government doing to phase out inefficient hot-water services in established houses when those systems reach the end of their useful life?

MR CORBELL: I am sorry; could you repeat the question?

Mr Hargreaves: That was my fault.

MR SPEAKER: There was a cough on this side of the chamber, Ms Bresnan.

MS BRESNAN: Minister, what is the government doing to phase out inefficient hot-water services in established houses when those systems reach the end of their useful life?

MR CORBELL: Again, I refer Ms Bresnan to my previous answer.

Canberra Hospital—alleged bullying

MRS DUNNE: Mr Speaker, my question is to the Minister for Health. Minister, the Rankin review, which looked at issues in the obstetrics department at the Canberra Hospital, stated in 2010:

There is evidence of a systemic reticence to address staff performance issues in the maternity unit at the Canberra Hospital, particularly issues relating to inappropriate behaviour by certain medical staff.

The Auditor-General, in her report into the emergency department's performance in 2012, found allegations of bullying by senior executives. Minister, why does there continue to be inappropriate behaviour by senior staff at the Canberra Hospital which we knew about in 2010 and which persists to the present?

MS GALLAGHER: I do not believe there is inappropriate behaviour from senior management at Canberra Hospital and I think to draw the two issues together is unfair. Mrs Dunne and the Liberal opposition know exactly what the issues were in the obstetrics unit. There are still people recovering from that issue, I should say, and recovering from the way that issue was handled in this place—not that the opposition would give the slightest care about anyone's mental wellbeing—but the issues in the

obstetrics unit were complicated. There were people on different sides of arguments about who had done what to whom and, unfortunately, some individuals went down with that whole way that that was handled. To some extent, the territory lost some very good health professionals on both sides of the argument.

Find me a workplace—indeed, you have had experience of this, in the Liberal Party; I remember all the concerns about bullying and harassment that operated in your individual workplaces just a few short years ago—where there are not concerns raised by staff around management and management around staff. Again, the issue is that you have got to have an environment where those issues can be articulated and followed up. That is what we have put in place.

Again, if you look at the results that are coming through from the workforce culture survey that has just been done, there has been significant change. We went all through this in the public accounts committee or the estimates committee, but it was not really the story you were looking for. The story was that there had been a significant increase in the percentage of staff who felt that bullying was taken seriously across the organisation and a very significant increase in the numbers of staff who said they would be prepared to raise issues around bullying and felt that they would be adequately dealt with.

So they are the changes that are underway. There is a lot of work underway through workplace culture in a large organisation that is under immense pressure and immense public pressure, as this hospital in particular is. My sincere hope is that within 61 days, or 60 days, when the political heat falls away for a few years, that hospital is allowed to do what it does best without constant political badgering and interference.

MRS DUNNE: A supplementary question.

MR SPEAKER: Mrs Dunne, a supplementary.

MRS DUNNE: You stated in the estimates on 5 July that you would not investigate allegations of bullying raised by the Auditor-General. Why are you covering up those allegations and when will you address the issues of bullying in the hospital?

MS GALLAGHER: I do not recall saying that, and before I answer that question I will want to actually review the *Hansard* to see, because I do not actually trust Mrs Dunne to read out the entirety or the context of that *Hansard*.

Mrs Dunne: A point of order.

MR SPEAKER: Order, one moment, Chief Minister. Stop the clock, thank you.

Mrs Dunne: It is inappropriate to imply that I lied.

MS GALLAGHER: No, I did not say that you lied. I said I would check the *Hansard*.

Mrs Dunne: She said, “I don’t trust Mrs Dunne to read something out in its entirety.” That is an imputation on my honesty, and the minister should withdraw it.

Members interjecting—

MR SPEAKER: Order, members! Mr Seselja and Ms Gallagher, thank you. I believe there is an imputation in Ms Gallagher's comments and I ask you to withdraw and to reframe your remarks.

MS GALLAGHER: I am happy to withdraw but I will check the *Hansard* that Mrs Dunne refers to and the context in which those comments were made before answering.

MS PORTER: Supplementary.

MR SPEAKER: Yes, Ms Porter.

MS PORTER: Minister, what organisational culture exists in the new women's and children's hospital in relation to obstetrics?

MS GALLAGHER: I thank Ms Porter for the question. Yesterday the wonderful staff at Canberra Hospital managed a very complicated move from an old hospital into a new hospital. I think 57 or 58 patients were moved during the course of the day, including 17 babies in the neonatal intensive care unit.

It is fair to say that the women's and children's area of health has been undergoing significant change, both in implementing new models of care for the provision of health services and also through some of the staffing changes that we have seen as a result of the issues that were raised through the inquiry into obstetrics. I know that there are still a number of people who work at the women's and children's who feel upset about some of the changes that occurred during that time and some of the departures that we saw, but I think there are also a number of good new additions to staff in the obstetrics unit as well. They are a very close-knit bunch; they do an amazing job. They deliver thousands of babies every year and look after thousands of mothers, and in this Assembly those staff deserve our support.

MR SESELJA: A supplementary.

MR SPEAKER: Yes, Mr Seselja.

MR SESELJA: Minister, what will you now do to support staff at the Canberra Hospital by ensuring that their concerns about workplace culture are listened to and addressed?

MS GALLAGHER: As I said, we have been putting a huge effort into this area, particularly in the last couple of years, and we are starting to see the benefits of that work. What we are seeing in the latest workplace culture survey is very significant increases—in fact, I think the biggest increases in the survey overall were a belief that the directorate takes allegations of bullying seriously and the preparedness of staff to raise issues around bullying within the workplace and feel that they would be adequately dealt with.

But there is usually, as I have learned, and in my time in the Assembly, two sides to every story and also a fine line between management direction and staff feeling that those directions are unfair. I think that will always be a bit of a grey area in relation to a high stress and high pressure work environment. All the indicators are there that the workplace bullying is treated seriously and that staff have the appropriate supports in place to pursue those issues should they arise in the workplace.

Canberra Hospital—emergency department data

MR DOSZPOT: My question is to the Minister for Health. Minister, on 1 May 2012 you stated, in response to a question on notice about data manipulation of emergency department records at the Canberra Hospital:

There are internal and external validation processes that are robust.

The Auditor-General found in her report on emergency department performance in relation to records:

There is a lack of governance and administrative accountability for this system.

Minister, whose responsibility is it to ensure that there is governance and accountability in the data systems used in ACT Health?

MS GALLAGHER: I thank Mr Doszpot for the question. A number of the recommendations that have flowed from the Auditor-General's report are being implemented across the Health Directorate, and, indeed, some additional recommendations or additional decisions that I have taken, including, in terms of internal validation, improving the connection from the hospital to the Health Directorate through the recruitment of a director of data integrity. So these are in addition to the Auditor-General's recommendations. But it is very much part of my suite of responsibilities to make sure that where deficiencies are identified they are responded to quickly and measures are put in place to stop these issues occurring again.

I should say that whilst there were deficiencies in the EDIS system—and some of that is explained by the origins of the EDIS system, in that it was there for patients rather than for performance—and we need to respond to those, there were a range of internal validation processes. Unfortunately in this case those validation processes were circumvented by the officer who amended some of the data.

MR SPEAKER: Mr Doszpot, a supplementary.

MR DOSZPOT: Minister, the Auditor-General found that the poor systems and practices in place in regard to data created an opportunity for someone to manipulate results 11,700 times. Do you take responsibility for allowing this opportunity to be created?

MS GALLAGHER: Well, Mr Doszpot, I don't see anyone else standing next to me. Yes, I take responsibility. I have appeared before every committee that I have been asked to. I have taken part in the Auditor-General's investigation. And could I just point out, in case you guys over there had not realised it, that I was exonerated through that audit process. I provided evidence under oath—evidence under oath. I do not see anyone else standing here taking responsibility, Mr Doszpot.

MR HANSON: A supplementary, Mr Speaker.

MR SPEAKER: Yes, Mr Hanson.

MR HANSON: Minister, how can the community trust your statements about their health system when the Auditor-General has clearly stated that you were wrong in regard to the robustness of data management?

MS GALLAGHER: With the benefit of the Auditor-General's report, those recommendations are being implemented where we can improve the robustness, but there was internal validation and external validation. In fact, it was through the internal validation processes that this issue originally arose. It was internal validation processes that picked up the original anomaly. Let us not forget that. It was through the internal validation process that this issue was picked up. Then it was the external validation process that drew it to my attention. What you do with that is you look at what the gaps were and then you respond to that and you put in place the recommendations that the Auditor-General has provided. There were additional recommendations from PWC and some decisions that I have taken myself.

MR HARGREAVES: Supplementary.

MR SPEAKER: Yes, Mr Hargreaves.

MR HARGREAVES: Chief Minister, did the PWC report actually address the data validation process? Did it not also find that there was no case to answer in terms of your own good self?

MS GALLAGHER: The forensic audit, as I understand it, looked at 70,000 pieces of evidence in formulating the findings that it made. Its findings are being implemented. They are useful and we are sharing those with other hospitals that use EDIS, because of the nature of the system. EDIS was not set up as a data collection program for the purpose of reporting performance; it has evolved into that. It was a clinical tool that was used by the hospital. Clearly this issue has identified gaps in the service and the provision of safeguards in the EDIS system. That is being worked through.

I thank PWC for the time that they took to do that work. I know that some of the work that they did provided assistance to the Auditor-General as well. But let us not forget that 70,000 pieces of information and evidence were examined as part of the forensic audit, and in not one piece of that evidence was there any question of any wrongdoing on my part.

Transport—light rail

MS BRESNAN: My question is to the Minister for the Environment and Sustainable Development and concerns the development of mass rapid transit in the ACT. Minister, the *Canberra Times* reported you as saying that the government has revised cost estimations for the development of light rail and bus rapid transit. It reported that the new costs are significantly lower than the government's previous estimates. What are the reasons for these lower costs and why are they lower even than the minimum from the original cost estimation?

MR CORBELL: I thank Ms Bresnan for the question. It is the case that, as the government has always indicated, we have been refining and further particularising the various costs, the economic analysis and the engineering analysis around options to provide either bus rapid transit or light rail transit between Gungahlin and the city. This is an important project for the government and we are determined to deliver a well scoped and detailed assessment of options.

When previous cost estimates have been released we have made it clear that they are at the pre-feasibility stage, that they have significant contingency and that they are subject to further refinement as further work occurs. Further work has occurred. Revisions have been made. The government will provide details around those revisions when a project update on this important project is released in coming weeks.

MR SPEAKER: Before we proceed, members I would ask that Ms Bresnan be heard when she is trying to ask the question. See if we can keep the noise down, particularly given that she is struggling with her voice. Ms Bresnan.

MS BRESNAN: Minister, given the government used the initial over-estimated costs in a survey about Canberrans' preferred transport mode, are the results of that survey valid?

MR CORBELL: I still believe they are valid because what we know is that bus rapid transit and light rail transit have different cost structures. What we also know is that light rail transit will be more expensive than bus rapid transit. That is the experience of any BRT versus LRT project anywhere in the world, and it comes down to the cost of the technology. So we need to understand that those differences continue to exist.

What we also know is that despite the differences in costs, feedback through consultation indicates that a majority of Canberrans prefer to see LRT if the government can deliver it. Those are matters which the government has to give very serious consideration to. There are a range of assessments that must be made in terms of the economic cost-benefit of the different options. There are a range of assessments that have to be made around financing. There are a range of assessments that have to be made around uplift in land value, and a whole range of other issues around how either BRT or LRT would operate in the context of the broader Canberra public transport network.

Those are all issues that the government is working through. This is not a simple yes or no decision when it comes to BRT and LRT. There are a broad range of factors that must be taken into account, and the government is working through those issues at this time.

MR SPEAKER: Ms Le Couteur.

MS LE COUTEUR: Minister, do the new cost estimates assess up-front capital costs only, or do they include a whole-of-life analysis—an assessment which the Gold Coast used and which showed advantages to light rail.

MR CORBELL: The costings are in conjunction with a cost-benefit analysis that looks at the economic costs and benefits of different choices and, as a result, takes a broader look than simply the up-front capital costs of the project.

MR SPEAKER: Ms Hunter, a supplementary.

MS HUNTER: Minister, can you please table for the Assembly a copy of the Infrastructure Australia bid that the ACT government reportedly made for detailed design work on the Northbourne Avenue corridor?

MR CORBELL: The ACT government has provided a submission to Infrastructure Australia seeking their agreement to a joint project to undertake detailed design for rapid transit along the Gungahlin to city corridor. That bid proposes a cost sharing approach where the ACT government would contribute \$15 million, contingent on the commonwealth contributing the other \$15 million necessary for the work. Infrastructure Australia advise all state and territory governments lodging bids that they do not support the release of those bids ahead of their assessment of them, and for those reasons the government is not in a position to release the bid documents at this time.

Minister for Health—personal relationship

MR COE: My question is to the Deputy Chief Minister. On 27 April this year the community was advised that the Minister for Health was standing aside from investigations into the emergency department scandal because of a personal connection her family member had with the executive responsible. Minister, were you advised on that day that the Minister for Health also had a personal relationship with the executive? Specifically, were you aware that they had spent time on holiday in France together?

MR BARR: I was advised of the potential for a conflict of interest and understood the circumstances in which it would be appropriate for me, as the Deputy Chief Minister, to oversee that particular investigation and I acted accordingly.

Members interjecting—

MR SPEAKER: Order, members! Mr Coe has the floor.

MR COE: Minister, were you advised prior to 27 April that this relationship existed or were you only made aware on the day of the press conference?

MR BARR: I was aware that the Chief Minister's relative worked within the health system. That I was aware of. As to the further details of that, no, I do not have that knowledge of the inner workings of the health department.

MR SMYTH: Supplementary, Mr Speaker.

MR SPEAKER: Yes, Mr Smyth.

MR SMYTH: Minister, did you provide any advice to the Chief Minister between 21 April, when the executive admitted responsibility, and 27 April on how the Chief Minister should handle the conflict-of-interest issue?

MR BARR: The Chief Minister did discuss with me the potential for a conflict of interest and indicated that it would be appropriate for me to oversight the investigation. I accepted that advice.

Mr Smyth: Point of order, Mr Speaker. The question was: "Did the minister provide any advice to the Chief Minister?"—not the reverse, as in what he has answered.

MR BARR: I have answered the question.

MR SPEAKER: Nothing further to add? Mr Hargreaves with a supplementary.

MR HARGREAVES: Minister, is it appropriate that the supervising minister should know every detail pertaining to an investigation under that minister's responsibility?

MR BARR: Could you repeat the question?

MR HARGREAVES: Is it appropriate that a supervising minister on an investigation should be made aware of every detail pertaining to that investigation before it is concluded?

MR BARR: Obviously not before it is concluded.

Health—investment

MS PORTER: Mr Speaker, my question, through you, is to the Chief Minister. Can you please detail the investments your government has made to date through the health infrastructure program and how this is benefiting the community?

MS GALLAGHER: I thank Ms Porter for the question. In May 2008 I announced a \$1 billion commitment to a 10-year program of capital works that is now known as the health infrastructure program. To date the ACT government has committed \$685 million to a range of high quality health infrastructure projects as part of that program.

We know that we have a growing ageing and ailing population and we are designing our health system accordingly through targeted investments to meet current and future demand for health services. These investments we are making now will enable the ACT to deliver the health services needed to meet future demand and to provide the right care in the right place to the right people at the right time.

The health infrastructure program is a comprehensive response to the pressures we face. It is a vision for the future of our health system and it is underpinned by projections of future health service demand and service planning for new deliveries of new models of care. The HIP is not just about new buildings; it embraces the development of new patient-centred models of care and service delivery, advances in technology and workforce planning. This program is already delivering results for the community.

I am excited to say that yesterday the new Centenary Hospital for Women and Children accepted its first patients. Patients and services were transferred from the existing maternity building and from building 1 of the Canberra Hospital. It was a momentous occasion for the staff at the hospital, the Health Directorate and, indeed, for all the women and children that will be using that facility.

The new hospital brings together services such as the neonatal intensive care unit, gynaecology and foetal medicine, the birth centre and maternity services as well as specialised outpatient services all under the one roof. It will offer more beds, more outpatient consult rooms, clinical office space, education and training facilities and family accommodation.

Indeed, at the community open day I think we welcomed over 1,000 Canberrans to come and have a look at the new services and the new environment at the women's and children's. Ms Hunter joined us there, as did all of the government members. It was surprising that not one member of the opposition bothered to show up—not even the shadow health spokesperson could give us five minutes of his time to have a look around a fantastic new facility—although I did notice that one of the Liberal candidates did park their car right outside the front of the hospital. I am not sure—

Opposition members interjecting—

MS GALLAGHER: It was like a gatecrasher at a party. When you do not turn up to the party you just get your big poster out there—

Opposition members interjecting—

MR SPEAKER: Order, members! Chief Minister, the question, thank you.

MS GALLAGHER: Although this time that car was not parked illegally. So that was an improvement on the other times I have seen that car illegally parked around the city.

MR SPEAKER: Chief Minister, the question, thank you.

MS GALLAGHER: In early September the Gungahlin community health centre will open. We will have an open day there too. So perhaps the Gungahlin members of the Liberal Party can grace us with their presence out at the fantastic new community health service where they will get access to a whole range of services that they have been travelling to Belconnen for—community nursing, nutrition, podiatry, physiotherapy, mental health and dental services.

I know that the people of Gungahlin are really looking forward to having a dental clinic in their local area as they have been travelling to get those services for children and young people. It is fantastic to see it. I think Manteena actually won an award at the MBA awards for the work that they have done on that. There is a range of other programs that have already been delivered through the HIP program and I am very happy to continue talking about them shortly.

MR SPEAKER: Ms Porter, a supplementary.

MS PORTER: Minister, have any of these infrastructure investments led to new models of care being developed that would deliver increased benefits to patients?

MS GALLAGHER: Following on from Ms Porter's original question, we have already opened a number of different new services in both the Canberra Hospital and Calvary hospital—the intensive care unit, the high dependency and critical care unit at the Calvary hospital, the PET scanner, which is a much needed addition to treatment for people suffering from cancer, and of course the very popular walk-in centre, in addition to a number of other significant projects.

New models of care are being provided for in the women's, babies' and paediatric services. The new neo-natal intensive care unit, which I hope to get to visit this week in operation, has two-cot rooms to support the new model of care. It also adds some fantastic new privacy for parents of those tiny babies to be able to have their new babies cared for in such a wonderful environment.

We have also got the wireless network which will allow staff to use wireless phones and access and record information as they move around the hospital, rather than having to use computers on desks. That is also a fantastic addition and will support the hard work of the nurses and doctors in that unit.

We have also, of course, had the very popular nurse-led walk-in centre which is implementing the first public nurse-led primary healthcare service of this type. Again, it is very popular, with patients loving it and having high levels of those who would recommend it to other users, should they need it.

There are a range of programs underway. We are very proud of where the health infrastructure program has got to to date but there is much more to be done.

MR HANSON: A supplementary, Mr Speaker.

MR SPEAKER: Yes, Mr Hanson.

MR HANSON: Minister, if things are so good, why do your senior executives need to fabricate hospital results on such a massive scale?

MS GALLAGHER: In relation to that, that is not related to the health infrastructure program, which is the subject of this question. In addition, to answer the question which is probably out of order, I would refer the member to the Auditor-General's report.

MR HARGREAVES: Supplementary, Mr Speaker.

MR SPEAKER: Yes, Mr Hargreaves.

MR HARGREAVES: Mr Speaker, I will ask one which is relevant to the subject at hand. Can the Chief Minister and health minister please tell us what are her intentions for the future of the health infrastructure program.

Mrs Dunne: Mr Speaker, I ask you to rule on whether a question asking the Chief Minister for her intentions about the future would be the announcement of policy and whether that would be in order.

Mr Hargreaves: On the point of order, Mr Speaker, I am not interested in what is policy announcement and I am not interested in what is an opinion. I want to know what the health minister's intentions are. What is she going to do around the future of the health infrastructure program?

MR SPEAKER: On the point of order, Chief Minister, you should not make any new policy announcements, but there is room for you to speak about programs that you have already disclosed.

MS GALLAGHER: Thank you, Mr Speaker. That was the intention of what I would do. We have outlined the health infrastructure program. That is a 10-year program; of course, we are only two or three years into that program and we have already announced that it is a 10-year program.

The first parts are in place. We have got the new car park, the new mental health unit, the new centenary hospital stage 1. We will now move to stage 2 of the Centenary Hospital for Women and Children. I was at radiation oncology yesterday; they have commissioned a fourth linear accelerator to provide radiation oncology treatment—to provide us with four machines as opposed to the three that we have been operating for the last couple of years. When I was there I could see that the capital region cancer centre is well and truly out of the ground now; in fact the external parts of this building are well underway for that new cancer centre. And we are already attracting new staff to the hospital to work. I met two young doctors yesterday, from Melbourne and, I think, Sydney, who had come to Canberra to work because of the plans that we have in place about our cancer service.

Again, that is probably not something that the Liberal opposition want to hear, but it is really good for our community. The fact is that we are now attracting. Instead of

relying on placements to come and work here and being seen as a hardship posting, as I think we have in the hundred-year history of this town, we are now actually attracting people here because of the commitment we have got to services because of the planning that is underway and because health professionals can see that they have got a government that is prepared to invest and do the hard yards in delivering the health system that we need.

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

Papers

Mr Speaker presented the following paper:

Estimates 2012-2013—Select Committee—Report—*Appropriation Bill 2012-2013 and Appropriation (Office of the Legislative Assembly) Bill 2012-2013*—Speaker's response to Recommendation 141, dated 22 August 2012.

Ms Gallagher presented the following papers:

Public Accounts—Standing Committee—Inquiry—Auditor-General's Report 6/2011—Management of Food Safety in the Australian Capital Territory—Government submission.

Health Practitioner Regulation National Law Act 2010—Review, dated April 2012, prepared by the ACT Government Health Directorate.

Review of the need to expand drug and alcohol rehabilitation services in the ACT, prepared by Dr Rod MacQueen and Mr Andrew Biven and commissioned by the Alcohol and Other Drug Policy Unit, Health Directorate—

Final report, dated March 2012

ACT Health Directorate response to final report.

Mr Barr presented the following papers:

Financial Management Act—Instruments, including statements of reasons, pursuant to—

Section 14—Directing transfers of funds:

From the Health Directorate to the Chief Minister and Cabinet Directorate, dated 22 June 2012.

Within the Community Services Directorate, dated 22 June 2012.

Within the Community Services Directorate, dated 22 June 2012.

Within the Health Directorate, dated 26 June 2012.

Within the Territory and Municipal Services Directorate, dated 24 June 2012.

Section 15—Directing a transfer of funds between output classes within the Justice and Community Safety Directorate, dated 26 June 2012.

Section 16B—Authorising the rollover of undisbursed appropriation of Housing ACT, dated 13 August 2012.

Section 17—Varying appropriations relating to Commonwealth funding to the:

Canberra Institute of Technology, dated 22 June 2012.

Community Services Directorate, dated 24 June 2012.

Education and Training Directorate, dated 29 June 2012

Education and Training Directorate, dated 29 June 2012.

Health Directorate, dated 24 June 2012

Health Directorate, dated 29 June 2012.

Health Directorate, dated 29 June 2012.

Territory and Municipal Services Directorate, dated 22 June 2012.

Territory and Municipal Services Directorate, dated 28 June 2012.

Section 18A—Authorisation of expenditure from the Treasurer's Advance to the:

Economic Development Directorate, dated 22 June 2012.

Health Directorate, dated 24 June 2012.

Independent Competition and Regulatory Commission, including a statement of reasons, dated 26 June 2012.

Justice and Community Safety Directorate (2), dated 24 June 2012.

Territory and Municipal Services Directorate, dated 24 June 2012.

Section 19B—Varying appropriations related to:

BreastScreen Australia Radiography Workforce Initiatives—Health Directorate, dated 29 June 2012.

Centenary of Canberra—Constitution Avenue Upgrade and Heavy Vehicle Safety Program NP—Territory and Municipal Services Directorate, dated 22 June 2012.

Centenary of Canberra Joint National Program—Chief Minister and Cabinet Directorate, dated 19 June 2012.

National Disaster Resilience Program—Justice and Community Safety Directorate, dated 22 June 2012.

Various Commonwealth National Partnerships—

Education and Training Directorate, dated 29 June 2012.

Education and Training Directorate, dated 29 June 2012.

Financial Management Act—instrument Paper and statement by minister

MR BARR (Molonglo—Deputy Chief Minister, Treasurer, Minister for Economic Development and Minister for Tourism, Sport and Recreation) (3.14): For the information of members I present the following paper:

Financial Management Act, pursuant to section 18A—Statement of authorisation of expenditure from the Treasurer's Advance in 2011-2012.

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

Mr Smyth: Oh, yes.

Leave granted.

MR BARR: One wonders at the things that excite the shadow treasurer. Section 18A(3) of the Financial Management Act requires that where I, as Treasurer, have authorised Treasurer's advance expenditure under section 18, within three sitting days after the end of the financial year I must present to the Assembly a summary of the total expenditure authorised for that financial year. The Appropriation Act 2011-12 provided \$31.4 million for the Treasurer's advance. Final expenditure against the Treasurer's advance in 2011-12 was approximately \$21 million, leaving a balance of approximately \$10.4 million returned to the 2011-12 budget.

Mr Speaker, you will note the majority of these authorisations were made towards the end of the financial year, and this is, indeed, in line with past practice. All requests to the advance are subject to final cash requirements. This is only able to be assessed close to the end of the financial year and this is, indeed, good and prudent financial management.

We always look to other opportunities to manage cost pressures throughout the year in preference to providing funds from the Treasurer's advance. The advance is made available for urgent and unforeseen expenditure. In the 2011-12 fiscal year, additional costs for agencies that were not foreseen at the time of the 2011-12 budget included introducing process changes to reduce the Supreme Court backlog, unforeseen cost pressure in the Territory and Municipal Services Directorate, including the Queen's visit, President Obama's visit, the Mitchell fire and ACTION cost pressures, higher levels of activity experienced at the Calvary hospital, cost pressures in the Emergency Services Agency and payments relating to outcomes of the Australian Federal Police enterprise agreement.

I present a summary of the expenditure and commend the paper to the Assembly.

Mr Smyth: Mr Speaker, perhaps the minister could move that the paper be noted.

MR BARR: I move:

That the Assembly takes note of the paper.

MR SMYTH (Brindabella) (3.18): Yes, it is interesting to get the update on the Treasurer's advance. Perhaps what is really interesting is some of the things that the minister does not list. It is nice to take the pressure off TAMS by saying it was the unforeseen costs of the visit of the President and the Queen's visit. But really, when members go to the numbers—and having just received this, it is hard to analyse it in

detail—the ACTION cost pressures inside the Territory and Municipal Services’ draw-down on the Treasurer’s advance was \$7 million out of the \$8 million. The actual cost for the Queen’s visit was \$30,000 and that for the President of the USA was \$86,000. So overwhelmingly we see a huge blow-out, yet again, in this government’s management of the ACTION bus service.

In the Health Directorate we see cost pressures at Calvary worth \$7 million, and the perennial in the Justice and Community Safety Directorate of \$2 million for the Emergency Services Agency. It is several years in a row now that the Emergency Services Agency have blown their budget. It was not a particularly big season in regard to bushfires, which is often cited as the reason for the blow-out. And it really does lead to questions, particularly of Mr Corbell’s management of ESA, that we have had this string of blow-outs in the Emergency Services Agency, which, of course, provides critical services to the people of the ACT.

But yet again, the minister seems to think that returning \$10 million is some sort of tribute to the management. Most of these costs, I suspect you could make a case, were not unforeseen. Clearly the \$7 million in ACTION is operational. The \$2 million in ESA is operational. There is almost half of what is listed as unforeseen. It is just simply providing services that they should be providing. You have got \$3 million in Justice and Community Safety as well, with \$2 million of that going on policing arrangements. But you have got \$1 million for legal expenses on behalf of the territory. It would be interesting to get an explanation from the attorney as to what the nature of the additional \$1 million on the legal expenses was.

But again, the Treasurer’s advance is there for the unexpected. It is not there for the ordinary day-to-day and operational expenses which this government seems to believe that it is there for.

Question resolved in the affirmative.

Public Accounts—Standing Committee

Paper and statement by minister

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

Public Accounts—Standing Committee—Report 22—*Inquiry into the Road Transport (Third-Party Insurance) Amendment Bill 2011*—Government response.

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

Leave granted.

MR BARR: As members will be aware, the government’s response to the PAC report No 22—*Inquiry into the Road Transport (Third-Party Insurance) Amendment Bill*—was tabled out of session on 9 August, in accordance with standing order 154A. The

government's response was tabled in this way for the benefit of members in anticipation of the debate during this sitting period of the government's CTP bill. In tabling the response at this time and making a short statement, members will see that the response agrees with three of the report's recommendations, agrees in principle with five, notes four and disagrees with one recommendation.

Reform of the CTP system is a complex issue, and I thank the committee for their efforts to contribute to the policy debate around these reforms. We are, however, disappointed that the committee has recommended that the Assembly should not support the bill.

CTP premiums have risen very significantly in the last few years. We need only consider the recent increase of around \$50 or 10 per cent which will come into effect on 1 September to see that. We now have 263,000 premium-paying motorists in the territory and the government's reforms aim to reduce the costs for all 263,000 of them. Getting the framework right to encourage competition amongst CTP providers is one such way to achieve this.

I am sure members would agree—and there are hundreds of years of economic theory and economic practice that support the fact—that introducing competition into a marketplace will put downward pressure on prices and will facilitate the creation of better products. Without efforts to encourage competition, our scheme will continue to be unfair and unsustainable. We will continue to see significant premium increases like the most recent one.

This reform is also aimed at providing a system that focuses on return to health for that very small number unfortunate to be in some way involved in a motor vehicle accident. The government remains committed to this reform, a reform that has very wide benefits.

For all the claims and counterclaims of those who have made submissions to the PAC inquiry, the numbers speak for themselves. Something is deeply wrong with our CTP system when Canberrans are practically guaranteed nationally high CTP premiums. Further reform of the CTP arrangements in the territory is necessary in the interests of scheme members—that is, the Canberra community—as well as future claimants. That is why the government cannot agree with the committee's recommendation that the bill should not be supported at this time.

I will now briefly address some of the specifics of the debate around this bill. Firstly, there is the question of access to compensation. Concerns were raised that individuals will not be able to access compensation under the legislation. This is simply not the case. Every person negligently injured in a motor crash in the ACT will remain entitled to and be able to access compensation. Further, the bill facilitates access to the medical attention that accident victims require and deserve. And, of course, it provides a direct pathway to judicial review in connection with impairment assessment disputes, preserving a right to contest access to non-economic loss and obtain a court decision with respect to it.

Secondly, concerns were raised that insurers will reap massive profits. I am advised the CTP regulator has not permitted the NRMA's profit to increase since the inception of the 2008 act, notwithstanding the NRMA's monopoly position. Further, the New South Wales data show that medical and rehabilitation expenditure under that scheme is more than double that which is paid under the ACT scheme. By contrast, the proportion of claims for non-economic loss and legal fees expenditure in the New South Wales scheme is almost half of that of the scheme in the ACT.

The government has considered the committee's report carefully. Many of the committee's recommendations make sense, and we have agreed, fully or in principle, with those recommendations.

Some of the committee's recommendations reflect activities and processes the government has been undertaking for a number of years and will continue to undertake as a matter of course. These include monitoring developments in CTP schemes in New South Wales and the other jurisdictions, recommendation 6; communication activities to publicise and educate on the features of the existing CTP arrangements, recommendation 2; and activities to promote road safety in the ACT, including supporting vision zero within the ACT transport system, recommendation 12. Members will recall in this context that on 15 November last year Mr Corbell tabled the ACT road safety strategy 2011-20 and the road safety action plan 2011-13.

Other recommendations raised useful suggestions, and the government welcomes them. It is particularly pleasing to see strong support in recommendations for the early payment of up to \$5,000 of medical expenses, as introduced by part 3 of the 2008 CTP act, and for this to be more widely promoted in addition to being made more flexible. Notwithstanding the views of some at the time who suggested that this reform was unnecessary, it appears that it has been successful in starting a reform process. But the premium increases over recent years indicate that further reform is needed.

As to government information, for the information of members, approximately 300,000 brochures about the availability of early payments were distributed through Canberra Connect shopfronts and posted out with all registration renewals in 2009-10. Nevertheless, the government accepts the committee's suggestion, and the Treasury Directorate will seek the active cooperation of NRMA Insurance and ACT medical practitioners to publicise this scheme and its benefits further. The government would welcome it if those of our legal community who take out advertising space could promote the scheme as well,

With regard to recommendations 7 and 8 concerning the NDIS and NIIS, the public accounts committee has asked the government to advise how we propose to address lifetime care, either in the context of the NDIS or NIIS, or as a stand-alone ACT scheme. As members would be aware, the ACT has been chosen as a launch site for the NDIS and in this context I am pleased to advise members of the government's continued commitment to introduce no-fault, lifetime care into the territory through this important initiative. We will continue to work to explore and develop these arrangements, including the NIIS, in conjunction with other jurisdictions to progress these important reforms.

In New South Wales the 1999 reforms, which the government's bill emulates in large part, paved the way for the successful introduction of that state's lifetime care scheme in 2006. Without similar reform to the existing CTP law in the ACT, there is no realistic prospect of a lifetime care scheme being affordable in this jurisdiction.

The government is also aware that some are advocating that we shift to a risk-rating approach for our CTP premiums. The government considers that this would have a significant and disproportionate impact on older and younger drivers. These drivers are often on lower incomes and could least afford increased premiums. It would make little sense to segment our small CTP pool more finely than it currently is, when the major issue is the fact that our pool is small compared to the risk profile. Changes such as risk rating would be more beneficial once a competitive market exists and, for that, we must shift the risk profile.

For the information of members, as outlined in our response to the PAC report, the government will be proposing some amendments to the CTP bill and it will be more relevant, of course, to speak about those issues at the time that we debate the legislation. I hope that members will support the government's amendments and after reviewing the government's response to the PAC report will likewise see fit to support the bill.

I commend the government's response to the Assembly.

Mr Smyth: Perhaps the minister could move that the paper be noted.

MR BARR: Can't you just respond in the bill?

Mr Smyth: There are just a few things I want to say now.

MR BARR: I am not going to, Mr Speaker.

Responsible investment policy Paper and statement by minister

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

Responsible Investment Strategy—ACT Government—Treasury Directorate,
July 2012.

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

Leave not granted.

Papers

Mr Corbell presented the following papers:

Justice and Community Safety—Standing Committee—Report 11—*Inquiry into Liquor Fees and Subordinate Legislation*—Government response.

ACT Criminal Justice—Statistical Profile 2012—June quarter.

Aboriginal and Torres Strait Islander Justice Agreement 2010-2013—A Partnership Agreement between the ACT Government and ACT Aboriginal and Torres Strait Islander Elected Body on behalf of the Aboriginal and Torres Strait Islander community in the ACT—Report card.

Planning and Development Act, pursuant to subsection 79(1)—Approvals, together with background papers, copies of the summaries and reports, and copies of any direction or report required—

Variation No. 312 to the Territory Plan—Hume West Industrial Estate—Hume, Section 30, Blocks 1 to 8—Change of zoning from IZ1 general industrial zone to IZ2 industrial mixed use zone, dated 6 July 2012.

Variation No. 313 to the Territory Plan—Calvary Hospital Car Parking—Bruce Section 110 Block 1 (part)—Change of zoning from non urban NUZ3 hills, ridges and buffer zone to community facility zone, dated 29 May 2012.

Subordinate legislation (including explanatory statements unless otherwise stated)

Legislation Act, pursuant to section 64—

Agents Act, Associations Incorporation Act, Births, Deaths and Marriages Registration Act, Business Names Registration (Transition to Commonwealth) Act, Civil Law (Wrongs) Act, Civil Partnerships Act, Classification (Publications, Films and Computer Games) (Enforcement) Act, Cooperatives Act, Court Procedures Act, Dangerous Substances Act, Emergencies Act, Fair Trading (Motor Vehicle Repair Industry) Act, Firearms Act, Freedom of Information Act, Guardianship and Management of Property Act, Hawkers Act, Land Titles Act, Liquor Act, Machinery Act, Partnership Act, Pawnbrokers Act, Prostitution Act, Public Trustee Act, Registration of Deeds Act, Sale of Motor Vehicles Act, Scaffolding and Lifts Act, Second-hand Dealers Act, Security Industry Act, Unit Titles (Management) Act, Workers Compensation Act, Work Health and Safety Act—Attorney General (Fees) Determination 2012—Disallowable Instrument DI2012-110 (without explanatory statement) (LR, 5 June 2012).

Court Procedures Act—Attorney General (Fees) Amendment Determination 2012 (No. 3)—Disallowable Instrument DI2012-126 (without explanatory statement) (LR, 25 June 2012).

Financial Management Act—Financial Management (Credit Facility) Approval 2012 (No 1)—Disallowable Instrument DI2012-208 (LR, 20 August 2012).

Food Act—

Food (Nutritional Information Displays) Exemption 2012 (No 1)—Disallowable Instrument DI2012-192 (LR, 9 August 2012).

Food (Nutritional Information) Amendment Regulation 2012 (No 1)—Subordinate Law SL2012-36 (LR, 20 August 2012).

Legal Aid Act—Legal Aid (Commissioner—Law Society Nominee) Appointment 2012—Disallowable Instrument DI2012-194 (LR, 9 August 2012).

Planning and Development Act—Planning and Development (Tidbinbilla) Plan of Management 2012—Disallowable Instrument DI2012-193 (LR, 8 August 2012).

Public Place Names Act—

Public Place Names (Canberra Central and Gungahlin Districts) Amendment Determination 2012 (No 1)—Disallowable Instrument DI2012-195 (LR, 9 August 2012).

Public Place Names (Ngunnawal) Determination 2012 (No 1)—Disallowable Instrument DI2012-196 (LR, 9 August 2012).

Road Transport (Alcohol and Drugs) Act—Road Transport (Alcohol and Drugs) Amendment Regulation 2012 (No 1)—Subordinate Law SL2012-35 (LR, 8 August 2012).

Petition—Out of order

Petition which does not conform with the standing orders—Contours car parking situation—Ms Porter (74 signatures).

Ms Burch presented the following papers:

Public Accounts—Standing Committee—Inquiry—Auditor-General's Report 1/2012—Monitoring and minimising harm caused by problem gambling in the ACT—Government submission, dated June 2012.

Public Accounts—Standing Committee—Report 24—*Inquiry into the Gaming Machine Amendment Bill 2011*—Government response, dated August 2012.

Petition

The following petition was lodged for presentation, by Ms Hunter, from 625 residents:

Dyslexia—petition No 138

To the Speaker and Members of the Legislative Assembly for the Australian Capital Territory

This petition of certain residents of the Australian Capital Territory draws to the attention of the Assembly that: currently, students living in the Australian Capital Territory who have a learning disability known as Dyslexia, do not have their diagnosis of dyslexia recognised by the A.C.T. departments responsible to students. Consequently, A.C.T. government and non-government schools are *not* provided with appropriate levels of funding to cover the costs of necessary effective support, including literacy and assistive technology, to address the disadvantage or discrimination these students endure.

Your petitioners therefore request the Assembly to: introduce, debate and pass relevant laws, or request the Executive or officials to act under existing law and policy (as the case may be) to recognise Dyslexia as a ‘learning disability’ or in some other manner, so as to enable financial and other assistance to be given to Australian Capital Territory government and non-government schools to deliver effective learning support, including literacy and assistive technology, to dyslexic students.

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

Public Accounts—Standing Committee Report 25

MS LE COUTEUR (Molonglo) (3.34): I present the following report:

Public Accounts—Standing Committee—Report 25—*Review of Auditor-General’s Report No. 1 of 2011: Waiting Lists for Elective Surgery and Medical Treatment*, dated 31 July 2012, together with a copy of the extracts of the relevant minutes of proceedings.

I move:

That the report be noted.

This was one of our shorter reports. We had one recommendation, which simply said that the Auditor-General should do a follow-up audit on this at the mid-point of the next term of the Assembly.

MR SMYTH (Brindabella) (3.35): This is another report on the management of this government in regard to elective surgery and I just want to bring a few items to the attention of members. On page 17, paragraph 3.3 states:

... the Committee notes that the Audit report observed that notwithstanding increased funding by the Commonwealth and the ACT Governments, elective surgery waiting lists had not shown improvements, and the ACT compared unfavourably to other jurisdictions in 2008–09. Furthermore, statistics in 2009–10 indicated a general worsening of the situation compared to 2008–09.

I think that is important given some of the debates that we have had earlier today about the Chief Minister and indeed the health minister’s management of the health system, the hospital system, and particularly elective surgery.

The committee made a number of recommendations and one of them was particularly about how the government addresses the whole system. It is important to read paragraph 3.31, which says:

The Committee notes that, notwithstanding the Government’s endorsement of the recommendations and acknowledgement that some of the systems in relation to the documentation of elective surgery needed to be improved—

again we have this problem with documentation—

the Government was concerned that the Audit report failed to give sufficient weight to the requirement that public hospitals have to balance the demand for elective and emergency surgery. This was coupled with a failure to acknowledge that a considerable increase in access to elective surgery and reductions in waiting times have been achieved in the 2010–11 financial year.

I think the committee said that what we need is a system that looks at the whole of the system. You cannot just treat various parts of the system in isolation and then blame another part when the first part does not deliver. And at paragraph 3.50 it says:

The Committee is of the view that short-term supply and demand policies to reduce waiting times are essential; however, this needs to be combined with supply and demand policies that lead to sustainable reductions in waiting times.

I think what we are saying there is that the ad hoc, knee-jerk reaction that we so often see from this government, and particularly this health minister—something goes wrong so there is another review, there is another series of changes, there are more words and there is another unit put in place—indicates that the government does not have a handle on how to run the health system as a whole.

There is only one recommendation in this report. As the chair said, we did not have time to do a full report given the number of Auditor-General's reports that come to the PAC committee. But what the committee recommends is that the Auditor-General should do a follow-up audit to examine the management of access to elective surgery at the mid-point of the Eighth Assembly, and that, I suspect, would be a very good thing to occur.

MR HANSON (Molonglo) (3.38): I would like to make a few brief comments about this report, and I commend Mr Smyth for his leadership on this issue.

Mr Speaker, this arose from a situation in 2010 when allegations were made by doctors and patients that elective surgery waiting times were essentially being manipulated—that people put on the urgent category, who should have been seen within 30 days, were having their categories downgraded without any clinical reason or, in many cases, consultation with the patient or the doctor.

When these allegations were raised, I brought them to the attention of the media and also raised them in the Assembly. I was attacked by the health minister; she was not then the Chief Minister. In her words she said that I was besmirching all of the staff—and the normal lines about “This is an attack on the staff” and so on. There was a categorical denial that this was happening—a categorical denial that there was this manipulation of elective surgery data.

We pursued this issue in estimates. Ironically, as I recall, the minister responsible was unavailable at one stage because she was in the south of France. And we all know who she was in the south of France with. It is ironic—the correlation that she was unable to answer questions about elective surgery manipulation because she was in the south of France with someone who then manipulated emergency department data.

What the Auditor-General found is this:

... 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 ...

The Auditor-General found:

In particular, downgrades of patients' urgency category, often without documented clinical reasons, raised considerable doubts about the reliability and appropriateness of the clinical classification for patients on waiting lists.

And the Auditor-General found systemic problems. She said:

ACT Health conducted an internal review of the outpatient services at TCH and a draft report in October 2010 found deficiencies in strategic planning, inconsistent application of policies and procedures ... ad hoc processes for managing the waiting lists, and poor and inefficient communications with clinicians, consumers and staff.

Further, the Auditor-General found:

The strategies implemented by ACT Health have not been adequate to address increased demand, and reduce the waiting lists for elective surgery.

We know that many people have waited far longer than they should have on elective surgery waiting lists. We know that this government did not maintain the funding required for elective surgery. In 2002, the then health minister, Jon Stanhope, when this was raised in estimates, said "There will be pain." And there was. He knew that not maintaining that funding would cause pain—pain for many thousands of Canberrans waiting for elective surgery.

What we are seeing here is another damning indictment of this government's performance in the health arena. But not only has elective surgery deteriorated under this government, just as emergency departments have deteriorated under this government; the Auditor-General found that with elective surgery waiting lists the data was essentially inappropriately changed—it was manipulated—just as it has been for the emergency department.

We hear from those opposite, and from the crossbench, that there are no problems. But what we are seeing from the Auditor-General, from her reports, is that patients are suffering, patients are waiting longer than anywhere else in Australia, and the truth about it is being manipulated. We know that it was changed in elective surgery leading up to 2010. And we know that not just one individual but, the Auditor-General found, probably a number of senior executives and other staff have been manipulating emergency department data.

It is worth making those notes to put this into context, particularly given the vote of no confidence that was brought against the Chief Minister this morning.

Question resolved in the affirmative.

Report 26

MS LE COUTEUR (Molonglo) (3.42): I present the following report:

Public Accounts—Standing Committee—Report 26—*Review of Auditor-General's Report No. 2 of 2011: Residential Land Supply and Development*, dated 31 July 2012, together with a copy of the extracts of the relevant minutes of proceedings.

I move:

That the report be noted.

I will just take a moment to give my appreciation to Dr Andrea Cullen, our committee secretary, and my fellow committee members, Mr Smyth and Mr Hargreaves. As the public accounts committee is presenting four reports today, I will not repeat them each time, but this is a collaborative work. As far as possible, PAC operates on a consensus and collaboration basis, and I very much thank all the other individuals involved.

With residential land supply and development, we made a total of nine recommendations. It is clearly a very interesting and complex subject. In fact, that is pretty much what we said in recommendation 1:

The Committee recommends that the ACT Government simplify the arrangements and the number of agencies involved in the delivery of land in the ACT.

It is a very complicated matter.

We also thought that it was very important that there was better information. That was recommendation 2:

... that the Land Development Agency make available better defined land release targets and measures that provide more accurate information on the status of land release and supply of 'shovel-ready' land ...

We also thought it was important, in recommendation 6, that:

... the Land Development Agency's Statement of Intent is appropriately amended to establish and report against financial KPIs that cover the Land Development Agency's specific performance ...

I commend the report to the Assembly.

MR SMYTH (Brindabella) (3.44): Residential land supply and development are very important to the ACT in so many ways. It is about where we live; it is about how we

fund a large part of the budget; and it is about the sort of city that we shape. As Ms Le Couteur has said, there are nine recommendations that the committee has put forward. I hope the government takes them to heart. It is particularly interesting, and it is on page 5 of the report, that the Auditor-General noted:

... direct responsibilities for land supply and development are distributed across a number of Government agencies. At the time the audit was conducted, these agencies included the Department of Land and Property Services (LAPS), the Land Development Agency (LDA), the ACT Planning and Land Authority (ACTPLA) and the Department of Territory and Municipal Services (TAMS).

And of course other organisations have their finger in the pie.

What the committee has said at recommendation 1 is this:

The Committee recommends that the ACT Government simplify the arrangements and the number of agencies involved in the delivery of land in the ACT.

It is important that we get it right. It is important that it is done properly. It is important that it is not overcomplicated to the stage where the government's own processes are holding up the release of land, which of course impacts on all of us.

The committee then looked at some of the things that the audit had found in the report. For instance, at paragraph 3.5, it said:

... notwithstanding the LDA had exceeded its land release targets in 2007–08, there was a lack of clarity and transparency in land release figures.

This is a problem for a lot of people when they look at it. The government says, "We've released X thousand blocks," but often it is that we have released a number of blocks with the potential for X thousand blocks. The real question is: are these blocks shovel-ready? At recommendation 3 the committee has made a recommendation about that. In the preceding paragraph it says:

The Committee notes that the Audit report highlighted that significant concerns were raised by industry stakeholders in relation to a shortage of 'shovel-ready' land and long lead times to access land for construction.

The committee recommendation is this:

The Committee recommends that the ACT Government establish a land bank with a minimum of 2,000 'shovel-ready' blocks of various sizes to be available at all times.

That is not what we draw out of each year; that is so that there is a standing stock that can be made available. So on top of what the government has in the marketplace at any time, the committee is saying that there should be 2,000 more blocks ready to go. It is of a great deal of concern in the industry that often the numbers that the government quotes really are blocks that will not be available for some time to come.

So it is important that the government get the language right—that when they say, “We’re releasing blocks,” they are actually blocks that people can build on and get access to.

On page 22 of the report there is the end of a section that starts on the previous page about the land rent scheme. There is some commentary there. In paragraph 3.9 it says that the committee notes that the two-year post-implementation review of the land rent scheme was included in the scheme’s original policy. Apparently that has been done. It cost the government \$36,000—or should I say it cost taxpayers \$36,000? The committee thinks it is time that the government release that report and hopes that it will be released by the last sitting day in August; that would be by Friday. It will be interesting to see whether the government will release that report or not. One would imagine that if it was a favourable report they would release it. It will be interesting to see whether or not that is now made available.

On page 24 there is a section regarding the reform of the ACT’s taxation system. It is worth reading paragraphs 3.19 and 3.20:

Whilst the proposed phasing out of conveyance duty has a number of benefits, for example, people wanting to move house may be pleased with the proposed reform, as might those wanting to buy into the lower end of the market, and households wanting to downsize will have an incentive, particularly if their home is located in an area with high land values. Conversely, those on fixed incomes will have an increased rates bill and those in retirement, who are asset rich and income poor, may have no other option than to sell their homes prematurely. More generally, investors may be driven towards the lower end of the market and in terms of property construction, a different type of construction standard may be encouraged ...

The Committee is of the view that this proposed taxation reform has the potential to impact on residential land supply and development in a number of ways, and in some cases, with adverse consequences.

The committee here is suggesting that there be a review two years after the implementation of the tax reform.

But it does go to some of the things that were said, for instance, in the estimates committee. A number of groups, like Shelter, the Youth Coalition and the elected body, said basically that housing affordability had deteriorated and was perhaps the worst that it had ever been in the ACT. When you link a number of the things that are happening with tax reform and the poor record on land release, you do have to question the management of this government in regard to one of the most fundamental services that the government offers—land for people to build their homes on.

It is a report that is worth a read. There are nine recommendations there, and we look forward to the government’s response.

Question resolved in the affirmative.

Justice and Community Safety—Standing Committee Scrutiny report 55

MRS DUNNE (Ginninderra) (3.50): I apologise for missing the call before. I present the following report:

Justice and Community Safety—Standing Committee (performing the duties of a Scrutiny of Bills and Subordinate Legislation Committee)—Scrutiny Report 55, dated 20 August 2012, together with the relevant minutes of proceedings.

I seek leave to make a brief statement.

Leave granted.

MRS DUNNE: I thank the Assembly for leave. Scrutiny report No 55 contains the committee's comments on two bills, 124 pieces of subordinate legislation, two government responses, one private member's response and comments on the government response to the committee regarding the Public Interest Disclosure Bill 2012. The report was circulated to members when the Assembly was not sitting.

Mr Speaker, this is anticipated to be the last report of the scrutiny committee for the Seventh Assembly. On behalf of the committee I would like to express our appreciation for the excellent support and assistance provided to the committee during this Assembly by Mr Max Kiermaier; Ms Anne Shannon; Ms Janice Rafferty when Mr Kiermaier was overseas; Mr Stephen Argument, our legal adviser on subordinate legislation; and Mr Peter Bayne, our legal adviser on legislation. I want to convey my personal thanks to them for the work that they do and the support that they give us and I want to convey my thanks to the committee members for the spirit in which the deliberations of the committee have been undertaken.

I commend the report to the Assembly.

Public Accounts—Standing Committee Report 27

MS LE COUTEUR (Molonglo) (3.51): I present the following report:

Public Accounts—Standing Committee—Report 27—*Review of Auditor-General's Report No. 3 of 2011: The North Weston Pond Project*, dated 31 July 2012, together with a copy of the extracts of the relevant minutes of proceedings.

I move:

That the report be noted.

MS LE COUTEUR: The committee made a total of eight recommendations on this. In the interests of time I will not go through them all. Particularly interesting, to me at any rate, is recommendation 5 where the committee recommends that the ACT

government report to the ACT Legislative Assembly on what measures it takes to hold third parties accountable for the quality of technical advice they provide to the government. This is a significant issue, because the government clearly does not have experts in every single field of endeavour and frequently relies on expert advice for all manner of things. What happens when the expert advice turns out to be not very good advice, as seems to have occurred in this instance? It is clearly a wider systematic problem and is something that demands the ACT government's attention.

Another thing which demands the ACT government's attention but is not quite as systematic is recommendation 7, which looks at establishing the feasibility of a centralised government-maintained asbestos register. This has been a recommendation in a number of forums—I have a feeling the estimates committee may have recommended this. Certainly, given the long gestation time for people who have been exposed to asbestos having adverse effects in the future, there is a need for some register of asbestos exposure. That would seem a very reasonable thing for the government to do. In the interests of brevity, I will leave it at that.

MR SMYTH (Brindabella) (3.54): Thank you, Madam Chair, for tabling the report. Perhaps I have been remiss; people will know that the public accounts committee has been very productive. Four reports are coming down today, and I would particularly like to thank the secretary of the committee, Dr Andrea Cullen, for the great work that she does. She is a pleasure to work with. I wish her well and thank her very much for all that she has done for the PAC over the term of this Assembly.

The review of the Auditor-General's report No 3 of 2011 could well have been a summary report of how this government delivers capital works. I note that the minister got a dixer in question time about, "How big is your capital works?" This is the explanation at the heart of why their capital works program grows and grows because of their ineptitude, their inability to scope things properly, their inability to deliver on time and their inability to deliver on budget.

For those who have forgotten the story of the north Weston pond project, it starts in September 2009 where we had a design for a large single pond. That pond was approximately 800 metres by 200 metres with a volume of 280 megalitres and an area of approximately 14 hectares. For those of you who know Point Hut pond in Gordon, as Mr Hargreaves does, it is about the size of that pond.

In January 2011 it was revised to two smaller ponds with a smaller volume of approximately 180 megalitres—so 280 down to 180—a reduction of 100 megalitres, or 30 per cent. Funding: remember, the size of the ponds went down. But what happened to the funding? Well, the funding goes up. The original funding in the September quarter 2009-10 capital works report was for the north Weston pond and bridge—first mention of the program—with a project value of \$12 million. It was a combined project as there was also a bridge. However, before the project had really begun, the project value had increased to something like \$20 million—an increase of 66 per cent or \$8 million. Remember the size has contracted by 30 per cent but it has grown in cost by 66 per cent.

By the time of the December quarter 2011-12 capital works report, which was released on 6 July 2012, the project value had increased to \$40 million, an escalation of 230 per cent. Remember, we are shrinking by 30 per cent, but it is costing us 230 per cent more. In the 2012-13 ACT budget presented on 5 June, there is more money for this project. An additional \$15 million has been allocated to this project, making the total project value of \$55 million, an escalation of 360 per cent over the initial cost of the project—and no bridge. Remember that. We have gone up 360 per cent on the cost and we have gone down 30 per cent on the volume. I think Mr Barr forgot to mention that in his dixer when he was spouting how good the government was on capital works. Yes, you can spend the money, but so often you cannot deliver on time, on budget or on scope.

What did the auditor say about the north Weston pond project? The auditor said:

ACT Government agencies did not effectively manage the North Weston Pond project to ensure the project was completed for the budgeted cost within the planned timeframe. The project has required significant redesign to address escalating costs due to risks that were known at the earliest stages of the project.

Does that sound familiar? We knew the risks. We ignored the risks. Taxpayers, you get to pay for the ineptitude of the ACT Labor government. The auditor continued:

The smaller capacity ponds approved by the Minister for Transport in January 2011 are estimated to cost \$43.4 million. This is \$22.6 million (or 109 percent) more than the originally budgeted amount ...

The location of the North Weston Pond presented significant risks to the project. These risks stemmed from the former uses of the site and existence of the critical Molonglo Valley Interceptor Sewer at the site. ACT Government agencies were aware of these risks from the beginning of the project. However, the growing knowledge and understanding of these risks, including their impact on the project, was not adequately recognised by ACT Government agencies and reflected in project design and cost estimates.

That is not a bad summary of just about every major capital works project from the Tharwa bridge to Gungahlin Drive, to the delivery of the prison, to the delivery of the car park at the Canberra Hospital and to the delivery of the women's and children's hospital. They are always over time, they are always over budget, and the scope is constantly changing.

What caused this? The auditor said:

Specific shortcomings in the management of the project included a failure by ACT Government agencies to:
apply a robust risk management framework;
implement appropriate project governance ...
critically assess the feasibility or otherwise of the pond at key points ... and
critically review the work and advice provided by consultants engaged in the project.

The audit findings go on to say:

There was no single project owner with responsibility for the project from its inception through to its construction.

Again, mismanagement that only an ACT Labor government could carry out. It goes on to say:

When contamination and geotechnical problems began emerging in the early stages of construction, no ACTPLA representatives with a detailed understanding of the environmental and contamination assessments were involved in the project.

So we had expertise, but we just did not involve them in the project. How typical of this government. The auditor goes on to say:

There was little documentation to support the rigorous examination of consultants' advice ...

The report goes on to say:

There was, and remains, some confusion as to the role and responsibility of the Environment Protection Authority and Contaminated Site Auditor during the pond project and the level of assurance that can be obtained from their participation.

This is all in the second chapter of the committee's report, which is a summary of what the auditor said. It goes on to say:

ACTPLA did not adequately recognise and cost issues identified during the environmental and geotechnical assessments ...

ACTPLA did not adequately document acceptance of the pond design or the risks associated ...

During the construction phase, ACT Government agencies (Procurement Solutions and Roads ACT) treated fill containing builders' rubble as asbestos containing material, which required it to be removed from the site ...

Decision-making processes at this time were not well documented ...

The records maintained do not distinguish between the type of material ... removed from the site.

We could not even keep records. It sounds familiar. The record-keeping, yet again, was appalling.

In chapter 3 we have the committee comment at paragraph 3.3:

The Auditor-General found that the Project was not effectively managed to bring it to completion on time (within the planned time frame) and on budget (for the budgeted cost).

Then there is a list of the shortcomings, which include issues concerning project management, risk management and record-keeping. A key shortcoming found by the Auditor-General was the failure to implement an appropriate project governance or oversight arrangement. This project seemed to have a life of its own because nobody was in control, nobody was in charge, nobody was making sure it happened.

Paragraph 3.8 states:

The Committee reiterates the comments and recommendations it made in its report entitled *Review of Auditor-General's Report No. 7 of 2008: Proposal for a gas-fired power station and data centre—site selection process* concerning improving future cross-agency, service-wide or whole-of-government work in the ACT public sector.

It would appear from 2008 through to 2012 that the government has learnt nothing—nothing at all. These are the same sorts of shortcomings and government process that PAC had to raise in 2008 with the power station, and here we are doing them again with the pond.

Page 17 states:

The Auditor-General was of the view that the impact of these risks on the Project was underestimated. In particular, knowledge of and understanding of these risks was not adequately appreciated by Government agencies involved and accordingly was not reflected in the Project design and cost estimates.

Even though she says earlier they were well aware of what these risks were, they were ignored. It continues:

The Committee notes that the Project had to be significantly redesigned to address escalating costs attributable to these risks. The completion of a revised, smaller capacity pond was approved by the responsible Minister in January 2011 with work recommencing on the site on 8 March 2011. At the time of the Audit report, the redesigned project was estimated to cost:

... \$43.4 million ...

We then go on to say in paragraph 3.12:

However, the Committee further notes that the 2012–13 Budget appropriated a further \$15 million to finish the Project. At July 2012, it appears that the cost overrun for the Project is now estimated to be \$58 million, close to three times the original budgeted cost of \$20.8 million.

It is important that we get these projects right. We only have limited funds that the taxpayer applies to us, and when we have failures of this kind it is the taxpayer that is

short changed. At paragraph 3.14 the committee says that the failure to apply a robust risk framework in the management of the project is incomprehensible. You had a debacle in 2008 called the power station and data centre. The committee report said, "Fix your processes up." The committee was ignored. The arrogance of this government and these ministers and their disrespect for the hard-earned taxpayers' dollars that they have squandered on this project that is now 360 per cent more than the initial cost is, as the committee says, incomprehensible.

We go to record-keeping at paragraph 3.15. The Auditor-General identified a number of instances of poor record-keeping in relation to various aspects of the project. At paragraph 3.16 the report states:

The Committee notes that throughout the Seventh Assembly it has made mention of the importance of robust record keeping practices *per se* in a number of inquiry reports and more specifically in its report reviewing Auditor-General's Report No. 3 of 2008: *Records Management in ACT Government Agencies*. The Committee reiterates previous comments it has made in relation to the need for effective records management practices in the ACT Public Service ...

And there are some recommendations there. But, yet again, another report in 2008, and we have a set of ministers who simply choose to ignore the work of the Assembly's committees because here they are, four years later, making the same mistakes, arrogantly ignoring good suggestions made to improve practices. They do not care because they have no respect for this Assembly, obviously no respect for the Assembly's committee and even less respect for the taxpayers and the dollars they take from them.

Page 20 of the report talks about contaminated sites transferred from the commonwealth at the commencement of self-government. As to recommendation 6, I think all would agree that we need the government and the Assembly to make representations to the commonwealth on behalf of the territory with a view to recouping the costs being given to us through these contaminated sites.

There is a section on the management of asbestos in the ACT. I remember the sterling job that was done when we had to clean up the sheep dip sites that we also inherited from the commonwealth. The then government went away, mapped those sites and alerted the community to them. It was an excellent process, and recommendation 7 states:

The Committee recommends that the ACT Government should examine the feasibility of establishing a centralised government maintained asbestos exposure register.

That is for individuals who may be exposed. Recommendation 8 states:

The Committee recommends that the ACT Government examine the feasibility of establishing a public register of all buildings, structures and sites in the Australian Capital Territory which contain asbestos.

We did it with the sheep dip sites. It worked exceedingly well. We were able to address a number of health concerns at that time in the community and make Canberra a safer place.

This is another good report from the public accounts committee. I would hope, having failed to heed what PAC had to say in 2008, that the government might take heed of what PAC has now said in 2012.

MR SESELJA (Molonglo—Leader of the Opposition) (4.07): I rise briefly to add some words to this debate. Far too many times—and this is another example—we have seen ACT Labor waste taxpayers' money through failing to manage projects. How many times are Canberra taxpayers going to be asked to fork out an extra \$10 million, an extra \$20 million, an extra \$50 million, an extra \$100 million or an extra \$300 million in project cost blow-outs as a result of a failure to plan by this government? After 11 years you would expect that they would have got their processes right for avoiding these kinds of ridiculous failures.

We have seen it with the GDE, we have seen it with the Cotter Dam, we have seen it with the emergency services headquarters, we have seen it with the busway, we have seen it with FireLink and we see it again here with north Weston ponds. How many times are Canberrans going to be asked to foot that bill? The Auditor-General I think makes some damning findings in relation to the management of this project, and they sound eerily familiar. The audit found:

ACT Government agencies did not effectively manage the North Weston Pond project to ensure the project was completed for the budgeted cost within the planned timeframe. The project has required significant redesign to address escalating costs due to risks that were known at the earliest stages of the project. The smaller capacity ponds approved by the Minister for Transport in January 2011 are estimated to cost \$43.4 million. This is \$22.6 million (or 109 percent) more than the originally budgeted amount of \$20.8 million. The original planned completion date of May 2011 has not been met.

How many times, Madam Deputy Speaker, will we see this? This is a government that, on its record in infrastructure alone, does not deserve another term. If it were to get another term, it appears that it has learnt nothing from these failures. It has learnt nothing from the GDE, it has learnt nothing from the Cotter Dam and it has learnt nothing from the emergency services headquarters. It has thrown away, through poor planning and poor management, literally hundreds of millions of dollars of taxpayers' money. That is money that could have been invested in important projects.

Imagine what we could have done in public transport with those hundreds of millions of dollars. Imagine what we could have done with our roads with those hundreds of millions of dollars. Imagine what investments we could have made in our schools or our hospitals or our local sporting facilities. It is money that this government has thrown away. It is absolutely inexcusable, after 11 years, to be faced with the same problems that we have seen time and time again.

That is why we need reform and that is why we need a change of government. We need a change of government so Canberrans can again have some faith that these projects will be managed properly, that they will be planned properly from the start, and that we will not see this wasting of taxpayers' money. It will reflect on ACT Labor, it will reflect on the Chief Minister, it will reflect on the Deputy Chief Minister and it will reflect on each of the ministers who have been responsible for these project blow-outs over the last 11 years.

Madam Deputy Speaker, reforms here are needed. The reforms need to start with a fair dinkum infrastructure plan. The government have not been prepared to make those reforms. They put together a list of capital works, things from various agencies, and called it an infrastructure plan. It was rightly condemned by every credible person in this space. It was condemned even by the Greens in this place. You know that the Labor Party have done something shocking, something pathetic, when even the Greens are prepared to stand up and criticise them in this place and call it for what it was. It was a joke. We need proper infrastructure planning.

This is not some academic debate. This is hundreds of millions of dollars of taxpayers' money that is being wasted. It is money that Canberrans are now being forced to repay, that Canberrans have been forced to pay for through higher taxes and charges. It is not good enough. They have run out of excuses and they have run out of time.

MR HARGREAVES (Brindabella) (4.12): With the leave of my colleagues, I apologise for not being here when Mrs Dunne gave her scrutiny of bills and subordinate legislation report. I was occupied in my office talking with a constituent. I would like to add my thanks to those people who provided a service to that committee over the time that I have been here, over 14½ years. I worked it out the other day that I have been on the Scrutiny of Bills and Subordinate Legislation Committee for 10 years of my 15 here, and all of that as the deputy chair. I need to express my appreciation to the secretaries of that particular committee and the people that have assisted it—Max Kiermaier and Tom Duncan in his time; Celeste Italiano and Anne Shannon are a couple that come to mind—without whose services we just would not have been able to do a thing.

I need also to thank expressly Peter Bayne for his service. He was here when I came and he will be here when I go. He is a world-recognised expert on the scrutiny of bills. He is certainly recognised around this country and applauded for his contribution to that particular discipline. I need also to thank Stephen Argument, who has provided a unique perspective on subordinate and delegated legislation which is, for many people, a dry subject.

However, I might say to the chamber that inappropriate scrutiny of delegated and subordinate legislation is the most dangerous thing that can ever be perpetrated upon mankind. It is the way in which governments of the day can actually introduce draconian exercises, activities or legislation without debate. Furthermore, one of my pet hates is delegation by reference. It is one that actually gets up my nose frightfully.

I have never liked Henry VIII, being the absolute republican that I am. These are the sorts of pet hatreds that Stephen Argument and I have shared for many a year and I would like to pay tribute to him.

In the context of the public accounts committee, I would also like to pay credit to the secretary of that committee, whom I believe to be the best committee secretary that I have experienced in my 15 years here—that is, Dr Andrea Cullen. She has the uncanny ability, with a self-effacing approach, to read the minds of three people and put it together in a cogent report. I doubt whether the three members of PAC could put together a cogent report individually, let alone collectively; yet Dr Cullen is able to do that. That is a rare talent and something this Assembly is privileged to have.

Turning to the Weston ponds report, I noticed that all of Mr Seselja's contribution was that this particular government has been plagued with incompetencies and inefficiencies since the day it was born in 2001. I might just remind members, however, of what the scorched earth was like prior to 2001. There was some allusion to that particular time frame when we talked about former Chief Minister Kate Carnell's contribution around Bruce stadium. But we did talk only about the painting of the grass green. The actual sin was not about the painting of the grass green. The sin was about the over-expenditure of \$60 million on the project for what was essentially a stadium. It was not exactly something to the benefit of the general community, but for a specific one. In fact, I was decrying it because it removed the possibility of playing AFL on that particular ground and people should be condemned for all time for doing that.

However, quite seriously, we forget that in terms of management of projects it was those opposite, in fact, that allocated \$32 million for the Gungahlin Drive extension in those days. It was going to stop at Belconnen Way; it was not going to continue past that. So to suggest that it was going to have two lanes was absolutely ludicrous, because you can get a slip lane for \$32 million and not much more. How they were going to deliver it on time and on budget is beyond me because they could not possibly do it.

We also had the "Feel the Power" process that people may remember and it was on the number plates. We got panned and we got ridiculed nationwide for that. I got belted in Perth, I got belted in Adelaide and I got belted in Melbourne because it was a stupid thing to do. If you are going to represent your community, you should at least do things which are not stupid and this one was stupid.

I thought that was the end of it, but no, it was surpassed, in fact, with the investment—I think it was \$100,000; it may have been two—to paint that very slogan on the side of a World War II aircraft. It was supposed to fly over the skies of Canberra with "Feel the Power" written on the side of it. But lo and behold, it never got off the ground, and neither did the slogan, properly.

We need to be reminded of some of these things. We talked about that great project, the blowing up of a hospital. That worked. That worked for me; it did not work for anybody else. What, blowing up a hospital? What part about that was a good idea? There was nothing about that that was a good idea.

How about the V8 car race? That was a good investment of public funds—\$8 million down the toilet. “Up in smoke” would be a better way of putting it. Did it bring extra tourism into the town? No. Did it thrill a whole stack of people? Not really. Did a whole stack of people in this city get upset? Yes, they did. Did it have a whole stack of noisy cars belching smoke around the parliamentary triangle and denigrate that particular part of the national capital? Yes, it did. It was a dozy idea at the beginning.

One of them that actually got my fancy was the Hall-Kinlyside debacle. That is where we found that the government of the day could not tell the difference between a block and a lease.

Mr Smyth: Madam Deputy Speaker, on a point of order—

MADAM DEPUTY SPEAKER: Mr Hargreaves, could you resume your seat. Stop the clock, please. Yes, Mr Smyth.

Mr Smyth: While it is interesting that Mr Hargreaves reminisces about his 14 years in the Assembly as some sort of prelude to Friday, you might draw to his attention that it is the north Weston ponds about which we are speaking.

MR HARGREAVES: On the point of order, Madam Deputy Speaker, I am merely responding to Mr Seselja’s dissertation, which had nothing to do with the Weston ponds but, rather, the delivery of infrastructure programs on time and on budget. That is what I am talking about in my speech here.

Mrs Dunne: On the point of order, in what sense do the V8 supercars relate to the delivery of infrastructure on time and on budget and in what way does the argument about Hall-Kinlyside relate to the delivery of infrastructure on time and on budget?

MADAM DEPUTY SPEAKER: Thank you, Mrs Dunne.

MR HARGREAVES: Madam Deputy Speaker, if Mrs Dunne would like to hang on to her patience just a little bit more, I will be only too pleased to tell her.

MADAM DEPUTY SPEAKER: Could you come to the infrastructure point of your dissertation?

MR HARGREAVES: Certainly, Madam Deputy Speaker. The V8 car races were about the infrastructure that was put in place.

Mrs Dunne: Madam Deputy Speaker, on the point of order—

MADAM DEPUTY SPEAKER: Would you resume your seat? Stop the clock. Mrs Dunne, I have already asked Mr Hargreaves to return to the subject of infrastructure.

Mrs Dunne: You have? I am sorry; I did not hear that.

MADAM DEPUTY SPEAKER: Yes, I did.

MR HARGREAVES: If you stopped talking, you would hear it. Madam Deputy Speaker, the infrastructure I talk about is all the infrastructure that was put around the parliamentary triangle. I mentioned that it was a dozy idea. It cost us \$8 million. That is where it was not put on the budget, unless of course the budget was to put \$8 million down the gurgler.

The Hall-Kinlyside one was around blocks and leases. How can you trust anybody to deliver an infrastructure program if they do not know the difference between a block and a lease? And how can you trust anybody who is prepared to give that away to the one person that rescued the Chief Minister after she rolled the car coming back from a cricket game?

Mrs Dunne: Relevance, Madam Deputy Speaker—

MADAM DEPUTY SPEAKER: Mr Hargreaves, that is not relevant to this.

MR HARGREAVES: You cannot trust them. That was the message Mr Seselja was giving. He was saying you cannot trust them, and that is the very message I am giving out now, Madam Deputy Speaker—that you cannot trust those guys opposite because they have a culture.

On the last one, in terms of infrastructure, I had a cunning plan when I came into this place to address that issue, Madam Deputy Speaker, and that was that big piece of infrastructure called the futsal slab. What I wanted to do, which would repay the citizens of Canberra for that debacle, was to chop it up, raffle it off and send it back to Argentina whence it came. What happened was that the then Chief Minister went on a nice freebie over to Argentina, thought it was a great idea to have an indoor soccer game outdoors and put an infrastructure project in place. And do you know what the best part of it was? The circus on it. It was a circus surrounding it, Madam Deputy Speaker. There was nothing bright about it at all.

Mrs Dunne: Relevance, Madam Deputy Speaker—

MADAM DEPUTY SPEAKER: Mr Hargreaves.

Mrs Dunne: On a point of order, Madam Deputy Speaker—

MADAM DEPUTY SPEAKER: Yes, Mrs Dunne.

Mrs Dunne: You have asked him to be relevant. The question is about the north Weston ponds. That is the subject of the report before the Assembly. Mr Hargreaves, in the last seven or eight minutes, has not mentioned the north Weston pond. I would ask that you ask him to be relevant to the Auditor-General's report.

MADAM DEPUTY SPEAKER: Will you be more relevant, please, Mr Hargreaves?

MR HARGREAVES: I certainly will, Madam Deputy Speaker. I observed that, in fact, in the entire time the Leader of the Opposition was on his feet he did not mention Weston, let alone north Weston.

However, Mr Smyth talked about how wonderful his government was in identifying the sheep dips. He did not identify all of the sheep dips. He only identified some of them, and he knows that only too well. Here we have got this smoke and mirrors thing: “I identified all of the sheep dips around town.” Well, he did not. There is a whole stack of undiscovered sheep dips around this territory. People are going to find out when they dig into their backyard or go and do some redevelopment and take a couple of houses out that they are right on top of a sheep dip. Nobody knows where they are because the list that this guy oversaw is incomplete.

The message from those guys over there is that you cannot trust this government. What you can trust this government about is the fact that you have got a forest of cranes over this city. You have got the largest amount of development in the city in the history of the ACT. You have got the largest amount of investment in infrastructure in the private sector and the public sector in this city since self-government and further back beyond that. Madam Deputy Speaker, you can trust this government to deliver and you can trust this government to deliver jobs for our kids. You cannot trust those opposite to do any of that.

Question resolved in the affirmative.

Report 29

MS LE COUTEUR (Molonglo) (4.23): I present the following report:

Public Accounts—Standing Committee—Report 25—*Review of Auditor-General’s Report No. 1 of 2011: Waiting Lists for Elective Surgery and Medical Treatment*, dated 31 July 2012, together with a copy of the extracts of the relevant minutes of proceedings.

I move:

That the report be noted.

For the information of members, this is the last PAC report for today, although there will be some more on Thursday and Friday. So stay tuned for the next thrilling instalment. The other thing I need to mention, of course, is that this report was circulated to members when the Assembly was not sitting. That was because of the considerable public interest in the contents and it was felt that it was better to circulate the report as soon as we could.

That probably leads me to recommendation 16, which is:

The Committee recommends that the 8th ACT Legislative Assembly Standing Committee on Public Accounts should give due consideration to conducting an inquiry into the process of future delivery of health care services across the Canberra Hospital and Calvary Public Hospital.

The public accounts committee considerably debated the best way in which we should approach this Auditor-General's report. The Auditor-General's report, as members will recall, was a report done at least partially at the request of the Assembly and the Chief Minister because of the considerable public interest in the issues of data manipulation at the Canberra Hospital.

Given the time that it came to PAC, had there not been the level of public interest that clearly was in it, I think it is quite possible that PAC would have taken the approach of saying, "There really isn't enough time for us to finish it and do justice to it, particularly considering that it is very unlikely that the government's response to the Auditor-General's report will come in the ordinary course of events within the scope of this Assembly." So it is possible that PAC would have said: "This is a significant issue. We haven't got enough time to deal with it and that, really, all we can do is hold it over for the next public accounts committee." One of the reports I will be presenting in the next couple of days is a list of all the matters which we have not been able to examine and which we are hoping that our successor will be able to.

So that is part of the context as to why we made recommendation 16 as we did. It is an issue that relates to the amount of time we had and, of course, the time in the electoral cycle. One of our intentions was to examine these issues in a calmer, more forward looking manner, and you will notice the recommendation says "inquiry into the process of future delivery of health care". We wanted to have a calmer, more reasoned discussion than was probably possible in the current part of the election time frame. I guess some of the comments this morning show the wisdom of PAC's words in looking at future stuff for the next Assembly.

I will just briefly touch on a few of the other recommendations. As I noted, in the ordinary course of events, the government would not respond to the Auditor-General's report within the relevant time frame. That is why recommendation 1 is asking for the government to respond earlier. You will notice all through our recommendations in general we have written "the government of the day" rather than "the government" because we are very aware that by the time anyone is able to act on our recommendations there is a fair chance that the election will have already happened and, thus, we have no knowledge as to who the government will be.

We also recommended that the Minister for Health make representations at appropriate national forums about regular audit by the commonwealth Auditor-General of health performance and data integrity as it relates to the commonwealth agreements through the recently amended legislative provisions of the commonwealth Auditor-General Act 1997. As has been well commented on, the software that is used in the ACT is used throughout Australia. And the pressures upon health systems that occur in the ACT occur throughout Australia. So we felt that it was very important that this be looked at as potentially a national issue, and I am pleased to note that the Minister for Health has clearly already taken that one on board.

We made a couple of recommendations about security of information and privacy. They are recommendations 3, 13 and 14, which all deal with security and privacy of information. And we felt, both from our observations and from the Auditor-General's observations, that there appeared to be issues with respect to that.

We then made a number of recommendations about IT. I am fairly confident that the government of the day will take these on because I think they are sensible.

Recommendation 7 is a recommendation that does not particularly relate, as I say, to this inquiry. It is a more general one and probably reflects PAC's experience over nearly four years. I will be echoing some of the comments that my colleague Mr Smyth made with respect to the previous inquiry. Recommendation 7 basically recommends that all government directorates and agencies have effective practices and processes in place to review all the reports of the Auditor-General and access the relevance of the findings and recommendations to their agencies regardless of whether or not the agency was involved in the specific audit. Basically what we are saying here is that the Auditor-General actually says some quite sensible things and it behoves all of the government to have a look at them, even if they have not yet been subject to an audit on those issues.

We also talked about communication guidelines and about looking at the organisational culture.

Given the short amount of time we have before us for the remainder of this sitting period and the fact that many of these issues have been canvassed already this morning, I will not speak for much longer, except to very much echo the comments that Mr Hargreaves made about Dr Cullen. Without her hard work there is no possibility we could have got this report together in the very limited time frame we had. We all owe her a significant debt of gratitude.

I think that, all things considered, PAC did a very reasonable job in this report, and I do commend it, both to the Assembly and to the future public accounts committee who may wish to follow on on this.

MR HARGREAVES (Brindabella) (4.30): Madam Deputy Speaker, I would like to again thank committee members for their contributions to this report. For the most part, there was a constructive dialogue, or "trialogue", within the committee. For the most part it was okay and we were looking forward.

I must say that when I first approached it I thought it had all the hallmarks of an unnecessary witch-hunt. I felt, in fact, that the estimates committee had had quite a deal of time to examine the issue; had done so in a very forensic way; had received a quite extensive amount of forensic evidence, from the PwC report to the Auditor-General's report; and had spent a goodly number of hours quizzing the Minister for Health, 60 per cent of which was done by members who are not members of the estimates committee but, obviously, had an interest to get as much out of it politically as they could. I approached this particular report with that in mind. I was not going to be a party to witch-hunts.

Most of the recommendations I did not have a problem with. I will not go through them all. People can read for themselves. Ms Le Couteur has indicated a couple of them. But there were three that I would like to comment on.

Ms Le Couteur touched very briefly on recommendation 16. It says that the Eighth Assembly ought to do this, that and the other. I have had a difficulty—and I expressed it in the committee—about one Assembly giving advice to a successive Assembly. I think that is inappropriate, and I disown that particular recommendation. I do not disown it to the extent that I wanted to put in a dissenting report, but I did disown it enough to make my views known in the committee.

It needs to be expressed in this place that when you see a recommendation in a committee report which says, “The committee felt X, Y and Z,” it does not necessarily mean that everybody on that committee agreed with the recommendation. What it does say is that the body of the committee, by majority, will do that. To say that the committee by majority will agree on X, Y and Z is tautological, in my view. So I wanted to put on the record that I did not agree with asking the Eighth Assembly to do anything. It is up to the Eighth Assembly to do whatever they feel like. They can look backwards, they can look laterally or they can look forward. It is up to them. It is not up to us to tell them.

Furthermore, it presumes that this report will sit there and do nothing. If it sits there and does nothing, it was a waste of time in the first place, and I rested my case on that one.

I had difficulties with recommendations 12 and 13. An examination of the minutes will reveal that I was not happy with those. I want to address those quite specifically.

Recommendation 12 talks about the Health Directorate taking some action to work out whether or not there is a prevailing organisational culture at the Canberra Hospital and whether it contributed to the circumstances surrounding the alteration and misreporting of performance data. Madam Deputy Speaker, when I was sitting on the hospital executive during the reign of Senator Gary Humphries, then Gary Humphries MLA, Minister for Health, we were heavied—the hospital was heavied—from the Assembly to achieve. There is nothing unique about it. There is nothing unique about any directorate or department receiving some pressure from the political entity, the government of the day. There is nothing unique about it at all.

Every single SES officer in the ACT public service and the commonwealth knows what this pressure is about. You do not see them breaking, like the unfortunate Kate Jackson did. My heart goes out to Kate Jackson, but you do not see that. Those people will actually leave the environment that they do not like. I described to my colleagues the example of a colleague and a friend of mine who now lives interstate who actually resigned from an SES job and took an ASO6 because he did not want the pressure. That is what is available to people if they want to do it. There is no unique culture.

But there is a unique culture of bullying, shall we say, in my view, and this is quite a consistent one. It is from those opposite, Madam Deputy Speaker. They talk about a culture of bullying. We have heard it a lot from those opposite. I can tell you from my experience in this place that there have been some appalling examples of bullying. I can recall taking Jacqui Burke to task for the amount of bullying that she did over children’s welfare officers in the then department of disability, housing and

community services. It was a disgraceful attack on people who were charged with looking after our vulnerable kids—a disgraceful attack. She should have known better. I was sitting here when Steve Pratt did exactly the same thing with the TAMS people. And we are seeing exactly the same culture with Mr Hanson attacking the Health people. There seems to be a thread of culture through here.

Mr Smyth: Point of order.

MADAM DEPUTY SPEAKER: Yes, Mr Smyth. You can resume your seat, Mr Hargreaves. On the point of order, Mr Smyth.

Mr Smyth: I understand that Mr Hargreaves wants to do his valedictory on Friday, reminiscing about things that have gone on. You might bring him to order and ask him to address the emergency department performance information.

MADAM DEPUTY SPEAKER: Mr Hargreaves, come back to the priorities.

MR HARGREAVES: Thank you very much, Madam Deputy Speaker. It is that prevailing culture of criticism of the departments and the directorates that makes people feel under the stress that they do. I remember sitting there in the then department of health feeling that same pressure myself when I worked there. I did not crack, but I got the same pressure. I got it from those opposite, those people opposite, when I was a public service officer in the department of health—in the hospital, in the hospital executive, when I was trying to run the rehab and aged-care service. That is when I felt it.

The pressure that was coming from above and the people putting the pressure coming out of this place are enough, you would think, to break a human being. What has happened is that their pressure has broken one of our own. I do not see them fessing up to that.

I think it is a bit rich for these people to continually talk about this culture, this dysfunctional culture, within public health.

I want to turn to recommendation 13. It is another one with which I disagree. Mr Smyth made a bit of a noise about it earlier on—about the lack of public apology. I have to take great exception to this one. Madam Deputy Speaker, the rank hypocrisy exhibited in the speeches coming from those people opposite is gobsmacking. I do not see any evidence of an apology from those people for the exposing of the Chief Minister's sister, the invasion of the privacy that they caused this nurse in our hospital system. She is owed an apology, and a public apology, from those people, if anybody is. Furthermore, there is a litany of that. There is a litany of this. They do not know how to do it. I do not think they can say "I'm sorry" if they stuff it up. I do not think they can.

Mrs Dunne did the same thing to my wife in this place. I ended up coming down here in an apoplectic rage. You do not invade the privacy of people outside this place.

Mrs Dunne: Relevance.

MADAM DEPUTY SPEAKER: Mr Hargreaves, resume your seat.

Mrs Dunne: Madam Deputy Speaker, this is just an “around the world for sixpence” rant by Mr Hargreaves on loose word associations. He is supposed to be talking to the report. This is the second time, the second successive report, where the opposition has had to take points of order on the fact that Mr Hargreaves is not being relevant to the report. If he wants to talk about recommendations in the report, that is fine. But what Mr Hargreaves thinks I may have said about a member of his family three years ago is not relevant to the Auditor-General’s report. If he wants to talk about the Auditor-General’s report, he should be asked to be relevant or he should be sat down.

MR HARGREAVES: Madam Deputy Speaker, on the point of order—

MADAM DEPUTY SPEAKER: Mr Hargreaves, you need to be relevant.

MR HARGREAVES: Thank you very much for that, and I will not go to the point of order. I am talking about the insistence of those people opposite, publicly and through this report, on the issuing of a public apology to an officer of the Health Directorate and how rich it is for them to do that.

When Bill Wood, a minister in this place, had his emails hacked into, and it was proven in the privileges committee here that an officer working in the Leader of the Opposition’s office had hacked into those emails, was there an apology to Bill Wood for that? No, there was not. Was there an apology for the hounding out of Mark Cormack from his CEO job in the Health Directorate? No, there was not. And that goes to this very subject—this very subject of a corporate culture and the need for an apology.

Mr Hanson: Madam Deputy Speaker?

MADAM DEPUTY SPEAKER: Yes, Mr Hanson?

Mr Hanson: You have repeatedly asked Mr Hargreaves to stay on topic. He has repeatedly ignored your requests. I remind you that you have warned a number of members on this side of the House for interjections, but you continue to allow Mr Hargreaves to ignore your rulings. I plead with you to please bring Mr Hargreaves to order, to make him relevant to the matter at hand, which is the emergency department performance.

MADAM DEPUTY SPEAKER: Thank you, Mr Hanson. Mr Hargreaves, you must remain relevant.

MR HARGREAVES: I am. Thank you very much, Madam Deputy Speaker. I am talking about recommendation 12 and recommendation 13—how an organisational culture can affect an officer’s performance and how in fact the culture in this place and its attack on our public service can affect the performance of those officers. And I am going to the point where these people here have, as part of their own organisational culture, that which will bring people to their knees in the public services. And I have proven it.

Mrs Dunne: Point of order, Madam Deputy Speaker.

MADAM DEPUTY SPEAKER: Just a moment. Mrs Dunne, resume your seat. Mr Hargreaves, I think the point has been well made, and I do not think you need to make it any more. I think you should return to the recommendations and be clearly relevant to those.

Opposition members interjecting—

MR HARGREAVES: You are so cool, you are. You are an irrelevance, you know. You are an irrelevance, you are. You are an—

Mrs Dunne: Madam Deputy Speaker, Mr Hargreaves's performance in this place is a disgrace. You have told him to be relevant and he immediately stood up and started—not addressing you, but just making asides and snide remarks across the chamber. Either call him to order or sit him down.

MADAM DEPUTY SPEAKER: Mr Hargreaves, please address your remarks to me only.

MR HARGREAVES: Thanks very much. Sure. Madam Deputy Speaker, I apologise to you for responding to the inappropriate interjections of the Leader of the Opposition.

MADAM DEPUTY SPEAKER: Thank you, Mr Hargreaves.

MR HARGREAVES: The issue about this manipulation of data—and this is the point quite often—is that one of our senior executive officers who is actually trained and educated in a human services discipline, operating in a management capacity, has succumbed to a perceived pressure. If you look at all of the pressure that has been mounted on that Health Directorate over the last three years, is it any wonder that those people in that place would feel under such pressure? I, for one, having felt that pressure, do not want it to continue.

If there is anything this report should have said, it is that it should have recommended to those opposite to lay off the people in the Health Directorate—to just lay off them with their venom. And Mrs Dunne is just as guilty in her attack on the child welfare kids as well.

MR SMYTH (Brindabella) (4.44): This is an important report and although some resisted the committee inquiry, what the committee has come up with is 16 recommendations based on fact and they are 16 recommendations that cover a number of areas. There are four recommendations that look generally at the processes and look at things like making sure that we get the response quickly. It looks at regular national audits by the commonwealth Auditor-General on health performance and data integrity. It looks at things like the practices and processes of all directorates responding to the Auditor-General. And it looks at emergency access targets under the national partnership agreement.

There is one recommendation about an inquiry, which is recommendation 16, and I will come to that at the close. There is a recommendation about an apology to the individual. And we are not excusing what the individual did. You cannot be part of the doctoring of 11,700 records and, I believe, expect to keep your job. She has done the right thing by resigning. But there was the way that she was treated, firstly, by the Chief Minister and, secondly, by the department when they deliberately outed her name by photocopying the transmission letter and attaching that to the front of the report. In my 14 years here, I do not think I have ever seen a letter like that accidentally photocopied. I do not think I have seen a letter like that made public in that way, full stop. It is just not credible.

The point here is that everybody is innocent until proven guilty, and even then people are entitled to their privacy, if it is appropriate. That did not occur in this place, and, yes, there have been acknowledgements that a mistake—if you could accept the mistake was made—was made but what there has not been is an apology. There should be an apology. As I said this morning, a large number of people have come to me when I have been out door-knocking or at shopping centres and have said, “This is a good nurse. What she did was wrong, but she really was a good nurse and she did make a significant contribution to the operation and administration of the Canberra Hospital.” What the majority of the community is saying about this is that that needs to be acknowledged and the government’s failure of process needs to be apologised for.

There are 10 recommendations that, when you take them as a whole, show the systematic failure of administration of the health portfolio by this government and, particularly over the last six years, by this minister. And they look at things as diverse as protecting patient information, training of staff, data validation, the rapid sign-on system, IT systems, throughput and triage targets, internal communications within the department, external communications from the department, the very culture that exists in the department, protecting the private information of staff as well as data.

If you look at that as a whole and if you go back and read the transcript of the Auditor-General’s evidence when she appeared before the committee, she said, “We did this report very quickly because that was the request. We didn’t have time to delve into the myriad of issues that were exposed simply by our looking at this data and the data tampering of the 11,700 records.” And I think if anybody reads this report and reads those 10 recommendations about that broad range of issues of failure of management of the system by this health minister, then there can only be one conclusion, and that is the system is not being managed properly. It is certainly not being managed to the benefit of the staff. We acknowledge and thank the staff for their dedication, because, I suspect, it is only the staff and their dedication that keep the system afloat. We say that this generally, as was revealed this morning, does have problems and may put people at risk. Of course, we had the new scandal that emerged this morning.

The last recommendation, recommendation 16, I will read out:

The Committee recommends that the 8th Legislative Assembly Standing Committee on Public Accounts should give due consideration to conducting an inquiry into the process of future delivery of health care services across the Canberra Hospital and the Calvary Public Hospital.

Paragraphs 4.5 and 4.6 on page 67 deal with this. Paragraph 4.5 says:

The Committee is firmly of the view that the circumstances surrounding the alteration and misreporting of performance information must be considered as part of a wider inquiry.

This is the tip of the iceberg. That is what the committee is saying here. It must be considered as part of a wider inquiry. It continues:

Due to the time constraints the Committee has not been in a position to progress an inquiry of this scale and scope.

Paragraph 4.6 says:

Accordingly, the Committee resolved to table an interim report and has suggested that the 8th Legislative Assembly Standing Committee on Public Accounts should give due consideration to conducting an inquiry into the process of future delivery of health care services across TCH and CPH.

I think that is very important. There are problems. The government refuses to acknowledge them. The committee report gives you a starting point where it details 10 distinct areas of failure of the administration of health by this government and this report hopefully informs the next Assembly and the public accounts committee of the next Assembly what we think they should do. Of course, it is not binding. But I would simply ask them to read the Auditor-General's report No. 6 of 2012, particularly page 23, where it says:

Since 2000-01, based on the Health Directorate's publicly reported performance information, there has been variable performance against waiting time indicators, and it is apparent that there has been an overall decline in performance over the last ten years.

There it is. The overall performance decline, of course, includes the tampered data. So it is actually an inflated or a better position than we truly have. It will be interesting to see whether the government manages to release that information before the end of the sitting, which is Friday of course, or, indeed, before the election. I would be betting that the Chief Minister would not be making that information available.

It is a good report. It is a sound report. This is a very serious issue. Again, I would finish where I finished this morning. The government is very good at spending money. The government is very good at taking credit for having spent taxpayers' hard-earned dollars. What the government is not very good at is delivering services. And if, indeed, all of the things that the Chief Minister and health minister said several times today that she had done, that her party had delivered, were actually

working, then there would be absolutely no need for any individual to feel pressured, politically influenced, to make these changes and then tamper and change 11,700 documents.

If what the Chief Minister said this morning was in any way credible, that they have improved the system, then why did an individual feel the need to tamper with whatever her share was of the 11,700 records? And clearly there is at least one other individual, because it started before that individual was in a position to do that. If things are as good as the Chief Minister and health minister says, there would be no need for the tampering to have occurred and there would be no need for this report to be on the table today. So clearly there is a problem.

I clearly suggest to the Chief Minister that she read page 23 of the auditor's report that says there has been an overall decline in performance over the last 10 years and actually take into account what is required by the people of the ACT and not her own political future, do the right thing and make sure that these recommendations, as far as she can before October, are implemented.

MR HANSON (Molonglo) (4.52): I think it is ironic, disappointing and shameful probably that, in the space of an afternoon, we find ourselves talking to two PAC reports about failure so endemic in this system—first on elective surgery, now on our emergency department. As Mr Smyth has highlighted, the Auditor-General found that there had been a decade of decline in our emergency department. But what the report has been unable to provide is any sign of what the truth is about what the state of our emergency department is. We have this extraordinary situation where, through the estimates process and through the PAC inquiry and even as we sit here today, we still do not know what the state of our emergency department is, because the fabrication has been so extensive.

What, I think, is important to note from this report is: what led to this situation in the first place? Why did this happen? Why did this dreadful situation eventuate? It is quite clear that it was a political imperative to make the numbers look good. And there are a litany of quotes that form part of the Auditor-General's report. But the Auditor-General found that the performance of the emergency department was of significant interest to the community, to the media and to the Legislative Assembly.

Indeed, about a year ago the Chief Minister came out with her own report card to say, "Don't listen to the AIHW. Here you go. I've got some new statistics." And I will quote:

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

And she made much political capital of that. I think you would be aware that there has been an ongoing debate about the performance of the Canberra Hospital and the health system. I make no apology for having been highly critical about a number of aspects of our health system. So the Chief Minister then made great political capital. She came into the Assembly. She put out media releases to say that she was fixing the system, when she was not, when it was based on a fabrication.

It is also important to note that this fabrication has been going on for a long time, and it was not related in most cases, in 11,000 of the 11,700 cases, to the NEAT data, to the data that relates to the money. It was all related to the ATS data, which essentially is the political data, the data that informs us about the progress of our emergency department, the data that is reported in the budget, the quarterly reports on health and annual reports and so on.

Who did this and why? The question of who remains unanswered. We know one person. We know one individual who did this, but the Auditor-General tells us that there were more. But it was the director of critical care. The director of critical care, if you look at the organisational chart, is two spots below the minister. We are not talking about some junior official. We are talking about someone two spots below the minister. And why did she do it? In her words, because of the political imperative—the political imperative—to get the numbers sorted!

Who sets the political imperative? The minister? I think it would be a reasonable assumption that that is set by the minister, unless the minister has given up and is not running the department that she tells us that she is. The individual who doctored the data has also told us she did it because of her feelings of isolation, of fear. She was fearful for her staff. It does not excuse her actions, but when the Auditor-General told us that many other staff felt the same way, it certainly goes some way to making it understandable why that happened. And it is quite clear, as Mrs Dunne outlined in her speech earlier today, that the individual concerned was—and probably still is by many people—highly regarded across the health system. And people were genuinely shocked.

But what the Chief Minister has done, in her decision not to pursue anyone else that was doing this, in her decision not to pursue the systemic issue that led to this, has essentially hung this individual out to dry and said, “She’s the scapegoat. Don’t come looking after me. Don’t go after any of the other executives. Let’s just hang this individual out to dry.” It does not excuse what this individual does, but I do not think that this individual should be carrying all of the blame, which is clearly what Katy Gallagher is attempting to achieve.

So that is Katy Gallagher’s legacy: a hospital system in decline, be it elective surgery or emergency departments; massive fabrication of the results that made it look better; people saying that there was a political imperative; and staff working in a culture of fear, isolation and distress.

The other element that is not addressed fully in the PAC report is the issue of the conflict of interest. And it is relevant, because it was not addressed by the Auditor-General. The Chief Minister’s position has been a bit of, can we say, a moving feast on this one. But what we do know is that on radio she was saying she told the Auditor-General and now has changed that and has said she did not tell the Auditor-General. The common-sense test is: if you go to the south of France for an extensive holiday—and I believe in the same house with an individual, for a period of about a month and, as we know, Katy Gallagher was telling us and was boasting when she came back in 2010 about her sipping rose—if you spent a month with an individual

and that same year that individual started fabricating data at the Canberra Hospital on a massive scale, the effect of which made you look better, when the Auditor-General has found that this is a political hot potato and the individual concerned said it was a political imperative, don't you think for a moment, Mr Assistant Speaker, that to then say that you just had a professional relationship and say that you put on the table everything that there was to know about this matter, when that piece of information was absent from both the Auditor-General's inquiry and the inquiries that were held through the estimates process and PAC and through to the community, that shows a gross lack of honesty and a gross lack of judgement? She should have been up-front. She should have said what happened.

It leaves questions. People have asked Katy Gallagher, "Did you have conversations about the hospital while you were on holiday in the south of France?"

MR ASSISTANT SPEAKER (Mr Hargreaves): Excuse me, Mr Hanson, could you come to the subject a little more directly, please.

MR HANSON: This relates to the doctoring and the fabrication of emergency department data, which is the subject of the PAC report, and it goes to the issue of why this occurred, Mr Assistant Speaker.

MR ASSISTANT SPEAKER: Sure, Mr Hanson, but you did say in your speech "departing from the subject", and then you went on to that. Now I am asking you please to come back to it.

MR HANSON: The issue at hand is: was this issue discussed in the south of France? Katy Gallagher's response is, "I can't remember." That is just not credible. You spend a month in the south of France with an individual that works in the hospital in a senior role, and you cannot remember if you talked about the hospital or not, again—

Mr Barr: Can you say the south of France one more time? And where was it again, Jeremy?

MR HANSON: Andrew Barr wants me to repeat it. He wants me to repeat that Katy Gallagher was in the south of France. He has asked me to say again for the *Hansard*—

Mr Barr interjecting—

MR ASSISTANT SPEAKER: Order, minister, please!

MR HANSON: He has requested me to say that, and I can only guess his motive. We know that Andrew Barr has some—

MR ASSISTANT SPEAKER: To the report, please, Mr Hanson. To the report, please.

MR HANSON: To the report, indeed.

MR ASSISTANT SPEAKER: Thank you.

MR HANSON: The last issue I would like to go to is: are these waiting times important? And the answer is yes. Ask the woman with mastitis that we spoke to recently who went to the media about waiting in the emergency department for 10 hours; the person I met at the Mawson shops the other day who talked about her mother who was in the emergency department for about 36 hours; ask members of the community; and listen to the Auditor-General:

Staff generally supported an overall 'length of stay' target, as the concept of minimising a patient's stay in the Emergency Department was widely supported in medical literature and a 'length of stay' indicator could consequently serve as a useful quality indicator.

So, as a final measure, let us not buy into the myth that waiting times are not important.

MR SESELJA (Molonglo—Leader of the Opposition) (5.02): I just want to add a few thoughts in relation to this matter, particularly on one of the recommendations in this report around the apology to Kate Jackson. I think this is an important point of principle, and I am pleased that in this case probably the most independent thinking of the Greens in Ms Le Couteur has obviously used some of that independence to draw some reasonable conclusions, along with Mr Smyth. The idea of apologising to Kate Jackson should be supported; it should occur, and the Chief Minister should do it without delay.

This is an issue where, as Mr Smyth has highlighted, Ms Jackson has done the wrong thing. No one is going to say that she has not. She has done the wrong thing, and that is clear. But she has also done the honourable thing, having done the wrong thing: she has resigned and taken responsibility for what she has done. We believe the absolutely deliberate leaking of her name is a political ploy. It was designed to get her picture and her name on the front page of the *Canberra Times*, which is exactly what happened. It was done in order to shield the Chief Minister from responsibility.

We do not believe that there should only be one person who resigns as a result of this. We believe she has been made a scapegoat. There are others who were involved. There was political pressure, and in the end the responsibility lies with the Chief Minister. But, at the very least, having not done the right thing but having taken responsibility in the way that Ms Jackson has, I think Ms Jackson is owed an apology. We have been hearing from staff within the hospital. We have been hearing from many staff within the hospital. Many of them have been telling us about serious problems they have with the culture in that place. But I have not heard any of them say a bad word about Ms Jackson. And that suggests to me that her reputation for good work and hard work was a well-deserved reputation.

Whilst this decision that she made to alter data was the wrong decision, she has taken responsibility for that, and I think that the decent and right thing to do now would be for the Chief Minister to offer an unreserved apology for seeking to make Ms Jackson a scapegoat—as the scapegoat for this scandal. She is not the only person involved, she is not the only person responsible, but she is the only person who has copped any

blame. She has received all of the blame. She has been the only one who has paid a price when it comes to this data-altering scandal, and I think that that justifies an apology from the Chief Minister. So the Canberra Liberals would wholeheartedly endorse that recommendation that there be an apology; that we do not make one individual—as much as she did the wrong thing—the scapegoat for something that is the responsibility of more than just one individual; that is clear from the Auditor-General's report.

This process in relation to the review of the Auditor-General's report has been a sad reflection on this government. We had a motion today that went down, but this reflects on this government in its entirety. It reflects on the culture of this government; a culture that led to the fabrication of data, to the systematic altering of data. It is not isolated; it has happened before in health. We have seen it with other Auditor-General's reports in relation to elective surgery. We have seen it in elective surgery. We have seen it in emergency surgery. We have seen the reports of bullying and the 10-year war. There is something amiss in our health system. We need to get to the bottom of it. We cannot keep pretending that the minister is doing the right thing and that things are heading in the right direction. Clearly they are not. The hardworking staff deserve better than what they are getting. They deserve better than a minister who pretends that there are not serious problems, who refuses to take responsibility for those.

So in conclusion I will simply say that we should not have just one person made a scapegoat for what are much broader failings. Only one person has paid the price and we think that that person deserves an apology for the way she has been treated.

But there are much bigger problems in this health system. They are systemic and we need to get to the bottom of them. If this minister is not going to do it and this government is not going to do it, it may be left to an incoming government to fix what is a massive mess in our health system that has been left to us by 11 years of ACT Labor.

Question resolved in the affirmative.

Financial Management (Investment) Legislation Amendment Bill 2012

Debate resumed from 9 May 2012, on motion by **Ms Hunter**:

That this bill be agreed to in principle.

MR BARR (Molonglo—Deputy Chief Minister, Treasurer, Minister for Economic Development and Minister for Tourism, Sport and Recreation) (5.08): The government will not be supporting this bill today. We understand that some might be disappointed with this outcome, but we remain firm in the view that legislation is not the best way forward.

The government's position is that legislation in this area is not required, because matters of responsible investment are more appropriately addressed by way of

documented investment policies. A policy on responsible investment is simpler, it is cheaper, it is more efficient to administer than legislation and it will achieve the same objectives.

The proposed legislation is prescriptive and would involve setting up an extensive bureaucracy to administer investments. Further, determining ethics of a particular investment decision within legislation is difficult and would possibly make every investment decision subject to debate within the Assembly rather than the preserve of government and the Treasury.

The government has taken into account the views of the community and stakeholders through the recent inquiry into responsible investment and has listened to the position proposed by some in this place. The government has responded and indeed earlier today I tabled the government's responsible investment policy. This policy is a significant step forward. It is a policy based on a measured and sensible assessment of responsible investment issues in this inherently difficult area.

The government has already taken immediate steps towards the implementation of the policy, with relevant share investment managers instructed to divest any holdings that are now an excluded activity. The policy will continue to be implemented progressively during the financial year and the government will continue to monitor the policy and amend it where appropriate.

The principles for the responsible investment framework that are applied to the management of directly owned share investments will be enhanced by requiring the financial analysis and decision-making process to also take into account norms-based investment criteria, namely the United Nations global compact.

I think it is worth advising the Assembly that in relation to proxy voting on direct-owned shares the government will develop its own policy and direct our external investment managers to vote in accordance with that policy and we do commit to increased annual reporting disclosure in relation to responsible investment activities.

I believe that this demonstrates our commitment to the policy, to relevant share investment management, and to ensure that the administrative and procurement actions required to fully implement the scope of the responsible investment policy will be undertaken over the course of the 2012-13 fiscal year.

So, in conclusion, the government will not be supporting this legislation today, but we believe the policy approach we have adopted is a sound balance and should be supported.

MR SMYTH (Brindabella) (5.11): The opposition will also not be supporting the bill. This is a reworked bill from Ms Hunter after the failed bill that the public accounts committee reported on, highlighting so many of the flaws that existed.

What the bill seeks to do is to divide investments into two groups of activities. The first group are activities in which investment will be prohibited; that is, tobacco, arms and armaments, cosmetics in which animal testing is used, and things breaching

international labour obligations. The four activities mentioned are generally recognised as being reasonable within the context and this already happens in Australia and elsewhere.

Of particular note is the approach of Ms Hunter. She proposed that the prohibition be applied when these activities comprise a material part of a company's activities. Clearly there is a major issue in determining what is material, and yet Ms Hunter says in her explanatory statement that determining what is material should be easy to apply in practice. We would all know that it is very easy to pick and choose once you determine something, and that is why laws need to be concise so that there cannot be evasion. So, if it is easy to apply, as is stated in the explanatory memorandum, why has she not specified what is actually material? I think she has failed to complete her argument in her bill but has also created a major flaw in a legislative regime on which prohibition decisions would be based. We all have a vested interest in this matter given our superannuation funds are invested. We must demand better prospective laws from our legislators.

The second group covers activities in which investments may be prohibited. There are seven separate activities mentioned in this bill. It is largely a list of the usual suspects from the Greens, those troglodytes who seek to deny the very foundations of contemporary economies around the world. We go to the same old cases. These include uranium mining, processing and sale; coal mining, processing and sale; crude oil mining, processing and sale; gaming equipment; intensive animal farming; and certain timber products.

Members will recall that Ms Hunter had tried to restrict the investment policies of the SPA with an earlier version of this bill released through an exposure draft in 2010. Fortunately, after inquiry by the public accounts committee, Ms Hunter withdrew the exposure draft. What has happened this time around? Ms Hunter has this time separated the activities into two groups: prohibited activities and activities which could be subject to prohibition.

One aspect that is really interesting this time around is that Ms Hunter has dropped her opposition to two activities: firstly, the manufacture and sale of liquor and, secondly, genetically modified crops. Why has she omitted these two activities? Are they now respectable activities, or is too difficult to target them? Or perhaps she just enjoys a drink, as do all of us.

As with Ms Hunter's original exposure draft, there are substantial holes in the legislative framework which is proposed by Ms Hunter in this bill. The opposition, for those reasons, will be opposing this bill.

MS HUNTER (Ginninderra—Parliamentary Convenor, ACT Greens) (5.14), in reply: Of course I am disappointed, although not surprised, that neither party is willing to support the bill. Certainly there were plenty of reasons to support the bill and not a lot of reasons not to support it.

There was a change between the draft bill that I put out and this bill today. I said at the time that I would be putting that draft bill out so that we could gauge some

comment from the community and have that inquiry by the public accounts committee. That was an important part of the consultation process. The Greens were always very open as to how we might refine the way we might move forward on this, which is exactly what we did.

The original bill did have a series of negative screens that were taken from some very large and reputable companies across the world. They are very common screens. But we did, as I said, go ahead and refine what we put into the bill that I tabled recently and that we are debating today.

I am sure that if someone put a scenario to the Liberal and Labor parties and said, “Do you think it is okay to make money from companies who use children as slave labour?”, for example, they would say no, it is not okay. The people of the ACT would not want to benefit from an investment like that. I do not think Mr Smyth will publicly criticise Christian Super for their ethical investment charter and argue that they should be investing in weapons and should not proceed with their plans to create new policies to deal with issues like child labour this year.

I do not think that when Mr Coe had the opportunity to meet the Queen he told her that she was making a mistake in the way she invested her money. She is, after all, one of the world’s largest investors in renewable energy.

I welcome the fact that Mr Barr has just said that the government will develop a proxy voting policy. This is good news, and this is exactly what was proposed in the bill, so that is another thing that has been picked up. This will mean that we can vote according to the policies of the territory and the values of our community in a number of votes that occur around the world—votes that we can take part in and participate in.

Certainly the Greens are very pleased that, even though this bill will not pass today, it has been the catalyst for significant change. That should be acknowledged. I am pleased that, because of this bill, we will no longer directly invest in tobacco, cluster bombs and landmines, and that a record of all proxy voting actions for the financial year will now be published.

I would make the observation, though, that the fact that we will continue to invest indirectly in some types of companies through indexes and other vehicles is inconsistent with the values the new policy purports to promote. This certainly is not the end of this issue. I think that, over time, there will be more and more pressure to change the way that we invest our money. And we are not alone.

It is important to reiterate the point that all this bill does is apply the same standards to our investments as we do in our daily lives. It is unlawful in the ACT for a public authority to act inconsistently with rights recognised in the Human Rights Act. It is unlawful to make children or adults work in sweatshops. It is unlawful to test cosmetic products on animals. Any attempts to paint this as anything other than applying the standards we apply to every person in the ACT every day to the way we invest our money is disingenuous.

It is telling that neither party was prepared to say why we should not have an independent board tasked with writing a policy for the way we vote on resolutions that is consistent with the other laws we have passed in this place. We have a law that says we will reduce our emissions by 40 per cent by 2020, yet we voted against a resolution to put to Woodside Petroleum to make them try and reduce their greenhouse gas emissions. But, as I said, it is good to see we are going to have some movement on that.

Another issue that is very important in all of this, often mentioned by those who are opposed to the idea of responsible investment, is the return that you will get. The only certainty in terms of debate on returns is that there is no definitive answer. The best conclusion is that there is no decline in returns from investing in this way. I will draw members' attention to the Responsible Investment Association Australasia report for 2011. The 2012 one will be completed towards the end of the year. In that 2011 report it says:

Responsible investment funds have outperformed their benchmarks in every one of the 12 categories covered in this report—over one, three, five and seven years and across Australian shares, international shares and balanced

The most comprehensive review of this issue that I could find was undertaken by Russell Research, one of the biggest fund managers in the world. They found that there was no loss in returns from investing responsibly. In fact, that report goes through each of the main arguments used against changing to responsible or ethical investing and explains why they are inaccurate and wrong.

On the question of whether or not we should be legislating in this area, the first point I would make when the argument is made that other countries have not legislated is that they have not needed to because the issue is not controversial in these places. In the US, for example, both sides of politics actively push the issue. In fact, many state pension funds are actually the ones driving the resolutions to make companies change the way they do things. Of course, we all know about the Norwegian fund, the world's largest sovereign wealth fund. They have a similar model to what is proposed, where they appoint an independent panel that makes specific recommendations for the exclusion of particular companies they do not believe are consistent with their accepted values. These exclusions are applied by the ministry of finance without fuss and with a very good rate of return.

I would also make the point that in New Zealand the Labour Party in 2010 tried to legislate to improve their investment practices. The bill was supported by the Greens but rejected by the conservative government.

There is no reason why we should not legislate in this area. Just as this place determines what the community does and does not find acceptable for many other matters, this is the best place to determine exactly what our city thinks it is and is not okay to invest in. That is our job each and every day we are here, and this issue is no different. Certainly we have an obligation to fulfil our responsibility to future

generations to ensure that we can pay our debts. Equally, we have an obligation to invest money in infrastructure and services that will also deliver future returns and prevent future liabilities. The way we invest our money should not be seen any differently. It should be done for a competitive return, but we do not have to give up on all our other values to achieve this. We do not have to rely on things that may damage the environment and damage communities.

As I have said, I am very pleased the government has made progress on this issue. I hope that the ideas set out in the policy, particularly the materiality test, are applied diligently. This is certainly an issue that the Greens will continue to raise. I am very confident that we will continue to see the growth of responsible and ethical funds available in the private sector as other governments increase their participation in this space. And the ACT will continue to be a progressive jurisdiction that better and better aligns our investment practices with the rest of our community values.

My bill set up a robust framework for our investments. It set out four things that I am surprised we cannot agree that it is not okay to profit from. And it created a statutory role replacing the advisory board that already exists and gives it the specific task of responding to other controversial issues where we should have a public policy about what we will and will not invest in. It is important to respond to the setting up of a massive bureaucracy. We already have a board. This was just around making it an independent and statutory board.

I will respond to the Liberals. I remember that when I first tabled the exposure draft Mr Smyth went down to do an interview and in that interview did not answer any of the journalists' questions about the substance of the issue. Instead, he repeated some utterly ridiculous accusations about me and investments that were totally baseless and showed that he was just terribly ignorant on this issue.

Let me go to his colleague Mr Hanson. Mr Hanson, during debate about this issue, did actually say that he had no problem investing ethically. He said, and it is in the *Hansard*:

... I have no problems with investing ethically, absolutely not ...

He went on to say that he believed the exclusions should not extend to weapons companies generally as these companies supplied the military. And he then said:

If it is going to be weapons that have been outlawed under certain conventions that Australia has signed up to, to do with mines or cluster bombs, then that is fine.

He then continued his opposition to excluding weapons generally.

This is exactly the type of debate we should be having—what do we think or what community values should we accept and reject.

Mr Hanson and I may have a different view about where our money should be invested, what sort of weapons should be allowed and so forth; but that is the sort of debate we should be having. It is a shame that we have not been able to have that

debate and discuss the specific reasons for, I guess, the rejection of the proposals in the bill. Instead, Mr Smyth has really not engaged at all on this issue. On any of the occasions it has been raised, he has just shut it down—unlike his colleague Mr Hanson, who seems to have a better handle on it.

One of the great strengths of investing in this way is that it encourages companies to change the way they do things. This is really what it is about. Norway, which, as I said, has got the largest sovereign fund, has had this experience. They provide the best example, because they publish on the internet specific instances where companies have changed the way they do things and this has led them to be taken off the exclusion list. Being on the exclusion list does not do any good for companies, and it is an important driver for change. If governments make the decision to be active and responsible investors, it will drive change, sending important messages to the institutions and super funds that things are changing and that more will be looked at than just last year's dividend and share price. I would say that this is a great way for us to be looking at how we can invest in those businesses and the companies and the industries of the future—the sustainable ones, the ones that will not only have environmental benefits but also social benefits and, of course, a good economic return.

It was interesting to go to a talk the other day by Simon Crean about regional development. I know Mr Smyth was there. He might have been a little unhappy with it because Mr Crean spoke about what an important region we live in, in the ACT, and how we could be the renewable energy region of Australia. That is where our investments should be going. That is what we should be looking at.

Mr Crean went on to speak about the triple bottom line approach to investment, a triple bottom line approach to the way that we do business. It was very pleasing to hear that, having been in this place for four years talking about the triple bottom line—which, I am pleased to say, was put in the parliamentary agreement and has been acted upon. But unfortunately there are people like Mr Smyth, who does not understand things like the triple bottom line and the importance of moving to sustainable businesses and the investments of the future that will have the economic, environmental and social benefits that we want here in the ACT. Mr Hanson does seem to have a bit more of a handle on it.

Just to reiterate, I think it is a bit of a shame that we could not get up something around particularly those companies that breach international labour conventions. As I said, we are talking about child labour; we are talking about sweatshops. I would have liked to have seen that in the policy. We will continue to push for that, because I think it is only a matter of time. But I will acknowledge that this change to policy here in the territory has been significant—of not investing in tobacco, of not investing in cluster bombs and landmines that maim people, that kill people, that destroy lives.

This is a good step forward. I am, as I said, disappointed that this legislation will not get up today, but I look forward to future debates and discussions in the ACT and further progression in putting in place responsible investment. The Greens believe that it is not only a good thing to do and the right thing to do but also that it will give the rate of return that we need on our investments to ensure that we can provide the sorts of places, infrastructure and services to make, and continue to make, Canberra a great place to live at the same time as playing our role as a global citizen.

Question put:

That this bill be agreed to in principle.

The Assembly voted—

Ayes 4

Noes 11

Ms Bresnan
Ms Hunter
Ms Le Couteur

Mr Rattenbury

Mr Barr
Dr Bourke
Ms Burch
Mr Coe
Mr Corbell
Mr Doszpot

Mrs Dunne
Mr Hargreaves
Ms Porter
Mr Seselja
Mr Smyth

Question so resolved in the negative.

Payroll tax administration

MR SMYTH (Brindabella) (5.34): I move:

That this Assembly:

- (1) affirms its commitment to all ACT businesses paying their payroll tax obligations in accordance with ACT law;
- (2) notes that:
 - (a) the Government presented a bill on 6 December 2007 to align the ACT's payroll tax legislation with those applying in NSW and Victoria;
 - (b) the bill was passed on 17 March 2008;
 - (c) since that time, there has been increasing consternation within the ACT business community about how the ACT Revenue Office has been applying the amended Act;
 - (d) there are concerns in the business community:
 - (i) about the delay in the ACT Revenue Office making decisions on payroll tax matters;
 - (ii) that the ACT Revenue Office is not accepting decisions made by the ACT Civil and Administrative Tribunal;
 - (iii) that the ACT Revenue Office changes its position on matters relating to payroll tax administration;
 - (iv) about the approach of the ACT Revenue Office to the interpretation of the payroll tax legislation; and

- (v) that the payroll tax regime in the ACT is now not as closely aligned with the regimes applying in NSW and Victoria as could be the case; and
 - (e) the current approach to applying the payroll tax legislation is making businesses in the ACT uncompetitive with respect to businesses operating in other jurisdictions; and
- (3) calls on the ACT Government:
- (a) to implement a four month moratorium on the ACT Revenue Office taking legal action against ACT businesses until such time as the way in which the legislation is applied is clarified; and
 - (b) that during the period of the moratorium, no interest be applied to any outstanding payroll tax.

Payroll tax is an important component of the ACT's revenue stream. According to the latest consolidated financial reports released last week, payroll tax generates 26 per cent of all ACT taxation revenue and eight per cent of the ACT's overall revenue. This is a significant revenue flow. Consequently, it is important to ensure that the integrity of the ACT's payroll tax regime is maintained and to ensure that there is no leakage of revenue.

A critical aspect of a payroll tax regime is the way in which the legislation is administered, as the obligation to pay payroll tax depends on the circumstances of the different entities. There is a significant administrative responsibility placed on the ACT government to ensure that, on one hand, the payroll tax regime is ensuring that the correct tax is paid and, on the other hand, it is equally important to ensure that the application of the payroll tax regime does not disadvantage businesses through inappropriate administrative decisions which are not in accord with the intent of the legislation.

I have become aware in recent times that there are serious concerns within our business community about the way in which the ACT's payroll tax regime is being administered. Before I get into the detail of this matter, I need to make a couple of general comments to provide a context for my motion.

First, as I noted, payroll tax is a critical source of revenue for the ACT's budget, and we completely support the appropriate management of the payroll tax regime to ensure that all entities that should be paying payroll tax do so, that all entities pay the correct amount of payroll tax, and that any exemptions and other matters are administered appropriately. I emphasise that in no way do I condone any activities on the part of entities to avoid their legitimate payroll tax liability according to the law.

As I noted a moment ago, how the ACT payroll tax regime is administered is critical to the life of the private sector in the ACT. The broader consideration of the administration of the payroll tax regime must be consistent with the government's overall approach to business. I recall the comedy of the 2003 economic white paper

when the then minister Ted Quinlan said that the ACT government will be “unashamedly pro-business and committed to actions that will make the ACT the premier business friendly location in Australia”.

More recently, the current Minister for Economic Development, Mr Barr, who is the Treasurer as well, released his growth strategy—growth, diversification and jobs—in which he said that the government is creating jobs, growth and diversification by creating the right business environment. The ACT government has also implemented progressive business development policies, and the government wants to ensure that the territory is open for business.

The intent of these statements made nearly 10 years apart is quite clear. The government wants to encourage business development and it wants to do this, in part, by having a competitive policy environment. A common theme running through these statement objectives is to create a positive economic policy environment in which businesses could prosper.

A concomitant objective is to ensure that business activities are not strangled by unnecessary red tape—that is, any regulations must be relevant and contribute to creating a good policy environment. Clearly, this objective is imperative if the ACT is to become a sound and sustainable economy.

This brings me back to the contemporary situation relating to the ACT’s payroll tax regime. I have said there are concerns about the way in which the payroll tax regime is being administered. These concerns deal with such matters as the way early decisions of the ACT Revenue Office, such as are contained in public circulars, are interpreted; the way the grouping provisions are interpreted; the way the discretion to de-group entities is applied; the way beneficiaries of trusts are dealt with, including how grouping provisions are interpreted and how beneficiaries of gifts are treated; the way any liabilities to pay payroll tax attach to directors of companies; substantial delays in the issuing of notices of assessment; substantial delays in making decisions on objections; delays in issuing letters of demand; the way the decisions of the ACT Civil and Administrative Tribunal, ACAT, are observed; and the way the payroll tax regime in the ACT is administered in contrast to approaches in New South Wales and Victoria. The 2007 bill passed in 2008 was, of course, to align us with New South Wales and Victoria.

I want to illustrate these concerns with a couple of examples of the significant delays which have been experienced by entities in the ACT. In one instance, an entity was issued with a notice of assessment in late 2006 for the period beginning in mid-2000. That is a delay of six years to start with. The entity objected to that notice within weeks. The ACT Revenue Office made a decision on that objection in mid-2010—that is, it took a further 3½ years to have a decision on the objection, meaning it had taken nine years to the point since the matter had first begun.

In another instance an entity is being investigated by the ACT Revenue Office. The investigation starts in early 2006 and a notice of assessment is issued in early 2010. That is a delay of four years. The entity objected to the notice and a decision on this objection was made in early 2012—that is, another delay of two years. This matter

began in mid-2000, so there was nearly 12 years before the decision was made on the objection.

The administration of a significant area of business policy with such delays as these is not conducive to effective business management. At a broad territory-wide level, these instances are not indicative of a business-friendly environment. There are also entity-specific concerns arising from these delays. It is very difficult for any business to be certain of its true operating position with clear implications for determining the appropriate financial management of the business and the tax position of the business if there are outstanding decisions on payroll tax matters that are lasting years and years. And there could be implications for directors if there are claims that certain directors are considered to be liable for payroll tax liabilities. Quite simply, delays like these are unconscionable.

As a member of parliament, however, I am particularly concerned when I hear that legislation is not being administered consistently and where decisions of courts and tribunals are being ignored or reversed. In the instance of the administration of the legislation, I am concerned that the ACT Revenue Office has set out the definitive position on particular matters and people and entities have made decisions on their commercial activities relying on that information. And yet the ACT Revenue Office has subsequently withdrawn the publicly released information and changed its interpretation of the facts. This is a completely untenable environment in which businesses have to make commercial decisions. It is not a business-friendly environment.

Equally, where a court or tribunal has made a decision, this must be respected by the administrative unit and applied appropriately. If there is reckoned to be a problem with the decision of the court or tribunal, it needs to be resolved by the parliament and not by administrative fiat or, in this case, the ACT Revenue Office. Again, this is a completely untenable situation facing businesses as they attempt to operate in a very competitive environment.

As I reflect on the list of concerns, I am amazed. These are matters that go to the heart of how the ACT payroll tax regime operates in practice, and they also raise serious concerns about the role of the executive and the judiciary. If there are serious concerns with these types of matters, this should be an issue of paramount concern to the ACT government for a number of reasons. In proposing this motion, therefore, I propose two actions: first, that there be no further legal action initiated by the ACT Revenue Office until the government has clarified the way in which payroll tax legislation is to be administered; and, second, in relation to any payroll tax matters, that no penalties by way of interest be charged to any claimed liability for payroll tax during that period.

These two proposals are intended to give the government the opportunity to resolve any issues with respect to the application of payroll tax to ACT businesses while, at the same time, ensuring that businesses are not penalised for this hold on any legal action. I would also make a plea to the ACT Revenue Office and to all agencies of the ACT government—try talking to people and entities with whom you are meant to be working. It is invariably much easier and far less costly to resolve matters by talking with each other.

I am disappointed that I have had to bring this motion before the Assembly. But the weight of concern from the business community has been too large to ignore, and the consequences of not doing anything can only harm the prospects for the ACT economy of becoming more competitive and more prosperous. I commend the motion to the Assembly.

MR BARR (Molonglo—Deputy Chief Minister, Treasurer, Minister for Economic Development and Minister for Tourism, Sport and Recreation) (5.43): The government will not be supporting the motion, as it improperly interferes in the administration of tax laws. Even more seriously, the motion seeks to suspend ongoing legal processes through the imposition of a four-month moratorium on legal action by the Revenue Office.

With this motion it appears that the opposition are suggesting that the legislature should interfere with the operation of matters before the judiciary. It is not, I stress, improper to seek to challenge the administration of taxation; nor is it improper to challenge tax law. But there are accepted and legitimate processes that can be exercised where a taxpayer believes that the commissioner has administered the tax law inappropriately.

Taxpayers have a range of objection and appeal mechanisms that they can exercise. Likewise, the commissioner may legitimately contest the propositions of a taxpayer. Tribunal and court procedures are the appropriate fora where complex matters of fact and law can be tested and challenged by all parties.

The Commissioner for Revenue is, by statute, an independent officer. As such, neither the executive nor the legislature can interfere in the execution of their duties under the legislation. Our tax laws impose a range of obligations, powers and discretions on the Commissioner for ACT Revenue. These powers cannot be exercised under direction from any person or entity. The commissioner must exercise these powers, functions and discretions independently and without the influence of any external third party.

The collection of revenue and the administration of taxation, which is conducted according to proper processes and laws, should be independent of politics and not subject to political interference such as we are witnessing today. This attempt at a moratorium seeks to politicise and interfere with the collection of taxation.

There are of course very good reasons why we have legislated that the commission should be an independent body. It is so that taxpayers within the territory can have confidence that the work of the commissioner is not influenced by special interest groups, taxpayers' details are kept secret and taxpayers' issues are dealt with fairly and equitably. Different taxpayers in the same circumstance should be dealt with consistently in the context of and with reference to the legislation that we as an Assembly have approved. So we should simply let the commissioner do that job.

The ACT Revenue Office operates according to legislation and prescribed guidelines on the collection of payroll tax. The government supports the independence and the

work of the Revenue Office and the Commissioner for ACT Revenue in administering the tax laws of the territory. For these reasons we will not be supporting this motion this afternoon.

MS HUNTER (Ginninderra—Parliamentary Leader, ACT Greens) (5.46): The Greens will not be supporting this motion.

I have to say that the idea that the Assembly would support a motion to not enforce a law of this place is worrying. It would set a very poor precedent and send a wrong message to the community. I would echo Mr Barr's comments around the fact that this is not an area the Assembly should be getting itself involved in. There is not a place for politics in all of this. There is an independent commissioner, there are laws in place, and we need to allow them to be carried out.

I make the observation that it is highly problematic and very worrying that the Assembly is being asked to base this—and Mr Smyth has based his motion—on a series of assertions, and we do not have evidence of those assertions. I will come back to this when addressing the substantive matter, but it is worth making the general observation that, no matter what the subject is, to accept assertions without evidence I do not think is the proper and right way to go.

I have read the paper that was put together by the Business Council and I have sought further information from them. I have also had a briefing from the Commissioner for Revenue and his office. I have to say that, prior to last week, I have not had a single representation from any particular business about this issue. Certainly in the most general sense the Business Council have raised the issue of reducing the rate of payroll tax a number of times. Given that we now have the lowest taxing scheme in the country for businesses that pay less than \$4.7 million in wages, I cannot imagine that that continues to be the issue that it was for the council previously.

The motion itself recognises that we are part of a harmonised payroll tax scheme; that is, except for schedule 2, we have exactly the same scheme as New South Wales and Victoria. The motion is basically asserting that the commissioner is incorrectly applying the law. This is a serious allegation and one that I could not find supporting evidence for. Having spoken to the Commissioner for Revenue, I understand that there are a number of interjurisdictional processes that have taken place over the last two years which have not raised any concerns about the inconsistent application of the law here in the ACT and that there are also ongoing initiatives to ensure the consistent and effective application of the harmonised legislation across the different jurisdictions.

I have also had my office look through the court and tribunal decisions, and there simply is not evidence that the commissioner is incorrectly applying the law. In fact, in ACAT the only published decisions concerning payroll tax are: Paan Investments Pty Ltd—which is in liquidation—and the Commissioner for ACT Revenue, which upheld the commissioner's decision; and Dataflex, which ultimately went to the Court of Appeal, which also upheld the commissioner's decision. Equally, I cannot find any decisions in the Supreme Court concerning the misapplication of the Payroll Tax Act. There simply are not court decisions overturning the commissioner's application of the act.

I understand that there are unpublished interlocutory decisions that do disagree with particular elements of decisions, but I cannot see how they amount to fundamental misapplications of the law or support the argument that the commissioner is not accepting decisions, because if that were the case why then did the matter not proceed to final judgement?

If the commissioner's decisions are incorrect, I fail to understand why taxpayers are not challenging them in the courts and winning, particularly given the sums of money concerned. This is what happens in relation to every other administrative decision. People subject to those decisions have a right to judicial review if they feel those decisions are incorrect, and that is the proper place to deal with this issue; that is, in the courts, not in this parliament.

I cannot see how we can possibly support the assertions in the motion when there is no evidence, or I certainly have not seen evidence, to back them up. I have no doubt that there are taxpayers who do not feel that the tax liability that they have been issued with is the amount that they should pay, and I also have no doubt that the commission could do things better. But that really should not be enough for us to forgo the taxation revenue as proposed in this motion.

What would happen if the commonwealth Treasurer decided to direct the ATO not to prosecute people for not paying their tax? It would be a ridiculous situation. And imagine if Mr Smyth decided that he did not like one of our criminal laws and put up a motion asking the DPP not to prosecute it. It is just a ridiculous thing to try and do things in this way.

It does raise a real concern about how the Canberra Liberals think our system of government works and what value they place on the separation of powers. It is just a bad idea for this place to start doing this sort of thing. There are appropriate mechanisms to ensure that decision makers act lawfully. If Mr Smyth has an issue with the way the law itself operates or the way the accountability mechanisms work, he should propose reforms, table a bill to change the law. Motions like this are just not the way to go about sorting out these sorts of issues.

One other claim in the motion is that the commissioner is slow in making decisions on payroll tax. I did put this to the commissioner and the office for revenue and they accepted that, particularly for the complex cases, on some occasions they were slow at making decisions. But they made the point that there is a published list of time frames in which decisions are made and that they have complied with those time frames. They did recognise that the time frames were quite long and said that work was being done to attempt to improve the decision-making process. I look forward to hearing about progress on that work.

If anything, surely the more responsible route to address this type of concern would have been to provide greater resources to the Revenue Office, or call on the minister to take steps to change the office to make it able to make those decisions in a more timely manner, rather than just directing it not to pursue the money that the territory is rightly entitled to.

In relation to the argument that the commissioner is failing to exercise a discretion to de-group companies that are legitimately separate operations, the commissioner's office made the point that any doubt that this is actually happening is quickly dismissed by the fact that these decisions are notifiable instruments and up for all to see on the legislation register. For the sake of completeness I have had that checked and there were eight in 2011.

What this motion is calling on the government to do is a little bizarre, I must say. Mr Smyth wants a part of the executive to stop enforcing the law and then, to add another sort of layer of strangeness, he wants to prevent any interest from being charged on anyone who breaches the law. This is the same as inviting every payroll tax payer not to pay their taxes for the next four months, with impunity. The idea of giving everyone a four-month interest-free holiday on their payroll tax liability is a little out there, I have to say.

If Mr Smyth wants to offer interest-free periods to the world, he should go and work for Harvey Norman. I reckon he has got a good chance at a gig on TV where he could spruik all the interest-free periods he liked and even throw in a set of steak knives. But the idea that he can stand up in this place and just give away what the community is rightfully entitled to is fundamentally ignorant of the way our system should work and it is economically negligent.

This year the budget estimate is that about \$324.5 million will be paid in payroll tax. If the motion were passed and taxpayers were given a four-month holiday but would ultimately be liable for the same amount, which, given that Mr Smyth is not proposing to change the law, must ultimately be the case, the total cost in interest forgone to the budget would be about \$5.4 million. Basically the Canberra Liberals want to give some businesses a \$5.4 million subsidy—and I think that they should tell us what services they would cut to pay for it. Will they be taking this initiative to the election and will they have it fully costed by Treasury?

Our payroll tax rates are very competitive and have been recently reduced and the Greens believe that at this stage the right balance and thresholds have been put in place. If there was a problem and it was readily apparent that the law was leading to a poor outcome clearly contrary to the intention of the legislation, it may well be appropriate for the Assembly to take remedial action to give us time to fix the law. But I have yet to really see the evidence for that.

But, if there is a case and the law does need to be changed, then we go and do that considered work, we move ahead, we table the amendments and we change that law. That is the right way to do it—not with a motion that has been quickly thrown together in the heat of the moment by Mr Smyth without giving it the proper consideration that it needs. This would set an incredibly dangerous precedent and it is something that the Greens simply cannot support. We will not support this motion today.

Visitor

MR SPEAKER: Members, I just want to take this opportunity to point out that former member of the Assembly Mr David Lamont has joined us in the public gallery. I welcome you, Mr Lamont.

Sitting suspended from 5.57 to 7.30 pm.

MADAM DEPUTY SPEAKER: It being past 6 pm I propose the question:

That the Assembly do now adjourn.

MR BARR: I require the question to be put forthwith without debate.

Question resolved in the negative.

Payroll tax administration

MR SMYTH (Brindabella) (7.32), in reply: Madam Deputy Speaker, why am I not surprised that the Greens and the Labor Party will not give some consideration to the business community of the ACT? I have to say that the level of ignorance displayed by Ms Hunter before makes me think she has not even read the motion. What I might do is read it to disavow her of her notion that somehow we are going to have a tax holiday for four months. It is not what is in the motion. If you have not read that then I think what you are showing is a degree of ignorance that you should be ashamed of.

Paragraph (3) of the motion, having outlined in (i) and (ii) that there are some problems and concerns out there, provides a path to actually allay those concerns and finetune the system so that it works for the benefit of all. It is not some sort of tax holiday, as described by Ms Hunter. What it says, Ms Hunter—and you have obviously failed to read it, or are incapable of reading it—is that we call on the ACT government to implement a four-month moratorium on the Revenue Office taking legal action against ACT businesses until such time as the way in which the legislation is applied is clarified.

I think that is the appropriate thing to do here. I note Ms Hunter says: “Oh, you’re lazy. You should have brought in legislation.” Whatever happened to the new way of doing business? It is interesting: the Greens propose a new way of doing business and it is innovation. The Liberal Party says, “Let’s not go the route of more red tape, more legislation, more regulation, more whatever; let’s just have a bit of a chat, a quiet conversation, and see if we can’t work this out,” and suddenly that is transformed into a four-month tax holiday.

I think you show your ignorance and your lack of understanding of how the system works. I think you show your ignorance and lack of consideration for a very significant part of our community, the part of the community that pays an enormous amount of tax—eight per cent of the total revenue that the ACT government has. I am amused, I am bemused, that the Greens are not interested in confirming the application of the law.

I have not asked that the Assembly start determining payroll tax for individual entities. That is not what I have asked. That would be inappropriate, but it is entirely appropriate for this place to say, “If there’s a problem out there, how about we come up with a solution where we can have a conversation before we have to resort to new legislation, to more red tape, to more regulation?” That is all the motion is proposing.

Mr Barr: And the commissioner is doing it.

MR SMYTH: The commissioner is doing it, apparently. If the commissioner is doing it then surely the passing of this motion will not affect that.

Mr Barr: Yes, it would.

MR SMYTH: The minister says the commissioner is doing it. If the minister says the commissioner is doing it—

Mr Barr: Because you want to put a four-month moratorium on.

MADAM DEPUTY SPEAKER: Members, we are not having a conversation across the chamber.

MR SMYTH: Well, I am sorry; the business community is not feeling that. Ms Hunter said: “We talked to the commissioner and said, ‘Are there any problems?’ and the commissioner said, ‘No, there aren’t any problems’.” Of course they are not going to say there are any problems. They are applying it as they see it. I hope Ms Hunter has gone back and actually read the Payroll Tax Amendment Bill 2007 tabling speech by Mr Stanhope. I am sure she has not. What was promised is not being delivered. If you go to that speech on 6 December 2007, it says:

The bill will also introduce new grouping provisions. The ACT has agreed to adopt a model consistent with Victoria and New South Wales in relation to the grouping of businesses for payroll tax purposes.

I am told that we are now inconsistent with Victoria and New South Wales and that because of the way that things have been announced and then withdrawn and re-determined there are serious consequences that the non-alignment is bringing about. Indeed, some businesses have told me that it would be very easy, given the portability of their businesses, to simply pack up in the ACT and go across to Queanbeyan. They would be happy to be under the New South Wales payroll tax regime because it is certain and it is clear—

Mr Barr: It is exactly the same as the ACT’s.

MR SMYTH: Mr Barr says it is exactly the same as the ACT.

MADAM DEPUTY SPEAKER: Mr Barr, no conversation across the chamber, please.

MR SMYTH: I am not sure that it is. The tabling speech goes on to say:

The commissioner has a discretion to exclude a member from a group where they operate independently. ... The bill widens this discretion ...

That is part of the problem. There is uncertainty over the discretion that the commissioner is exercising. I am simply saying that, given this has come about quite late in the term, if you want I can duck out tonight and get a bill drafted and I can bring it in tomorrow. Like Mr Corbell, I am sure I would be given the same consideration to table a bill in a sitting period and then have it passed in the same sitting period, if that is what you want, Ms Hunter. But I actually think (1) I would not get leave and (2) we would not be debating it, I suspect, because that would not suit your purpose.

You create a situation of uncertainty for people. We talk about the new way of politics. The new way of politics only seems to be the Greens way of politics and it only applies to the Greens. When somebody puts together a reasonable suggestion that avoids additional red tape and additional burden, somehow that is political interference. It is not. Here is a new way of doing something. Why do you not give it a try? There you go: here is a new way. But of course that is not going to happen, is it, minister? That is not going to happen, is it, Ms Hunter? No, of course it is not.

Ms Hunter, I can only assume you have not read this motion. When I get the *Hansard* in the morning I will make sure everybody knows that your understanding of this was so shallow and so infirm as to be ridiculous. What it says is that the Assembly affirms its commitment to all businesses paying their tax in accordance with the law. That is fantastic. Paragraph (2)(a) through to (e) outlines the history of this and some of the things that have been raised with me as matters.

I have spoken now to half a dozen different firms of varying sizes, most of whom are of long standing in the territory, who have been slammed with rather large payroll tax bills for things that really come down to a discretion inside the department that they do not feel is being applied consistently. They feel that it is inconsistent with New South Wales. But if we cannot sit down and have a discussion about this then after the election when the next opportunity will occur we will bring back some legislation and we will change the things that are making it difficult for businesses in the ACT.

Mr Barr interjecting—

MR SMYTH: I said I would bring back legislation.

MADAM DEPUTY SPEAKER: Mr Barr!

Mr Barr interjecting—

MR SMYTH: I said I would bring back legislation.

MADAM DEPUTY SPEAKER: Mr Smyth and Mr Barr, you are not going to have a conversation across the chamber. This is not a discussion.

Mr Barr: I am sorry, Madam Deputy Speaker.

MR SMYTH: You should stop him. Why do you not warn him? You warned several of us today for interjecting. He constantly interjects and you do not warn him.

MADAM DEPUTY SPEAKER: You were having a conversation with him across the chamber.

MR SMYTH: Stop applying a double standard, Madam Deputy Speaker.

Mr Barr: I apologise, Madam Deputy Speaker.

MADAM DEPUTY SPEAKER: Thank you very much.

Mr Hargreaves interjecting—

MADAM DEPUTY SPEAKER: Mr Hargreaves, you are not helping.

MR SMYTH: Mr Hargreaves never helps, Madam Deputy Speaker, and you should know that; he ignores you completely.

MADAM DEPUTY SPEAKER: Will you just continue and address the chair.

MR SMYTH: The vote of the Greens and Labor tonight is, in fact, a snub to the business community. This is a reasonable request. It is slightly different to the way that we would normally do business, but I thought there was a new paradigm. What happened to that new paradigm and the changing way of doing business in the Assembly? Apparently that does not apply to proposals from the Liberal Party or any proposal that might seek clarity for the business community.

By opposing this proposal tonight it will simply lead to more red tape. It will certainly lead to continued uncertainty into the future until this can be resolved clearly by the next Assembly. I think it is unfortunate that we cannot set up a process that allows people to be heard. Ms Hunter said, “We talked to the commissioner and there’s apparently nothing wrong.” The commissioner is applying it as he sees fit to do so. Perhaps that is his right as outlined under the law, but what we are saying is that people are saying that they cannot get a fair hearing. They are not being heard and nothing is changing.

I am not saying that everything should change. What I am saying is that there should be a period where people are not subjected to further legal action when perhaps this can be resolved in a more orderly fashion. That is simply the position that we are putting forward here tonight. I would have thought that under the new paradigm people would have been accepting of this proposal, but I think the closed minds of the far left and the inability of the left to actually come to an arrangement with business shows that there is only one party in this place that is interested in business in the ACT and that is the Liberal Party.

There are a number of firms who employ large numbers of people in the ACT who are being subjected, they believe, to unfair application of the payroll tax. I think it is important that the government of the day do something about it. I understand some of these groups have asked the Chief Minister and the Treasurer for meetings, which have been denied under the excuse of “We can’t talk to you because you’re in dispute with the commissioner.” I think that is unfortunate. If we had a government that had some sense and would listen to people this could have been resolved.

Indeed, this matter should have been resolved without getting to the motion here in the Assembly tonight. Clearly, the motion will not get up, which means the next Assembly will face the prospect of having legislation to fix a problem which perhaps could have been sorted in a far more amenable way. The unfortunate thing is that there is now uncertainty over the business community. That uncertainty will continue for at least the next three, four, five months, perhaps longer, and it will damage the reputation that the government supposedly seeks to have in place of being a business-friendly jurisdiction.

Question put:

That **Mr Smyth’s** motion 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.

Homelessness

MS BRESNAN (Brindabella) (7.47): I move:

That this Assembly:

- (1) is concerned for people who are homeless and sleeping rough in Canberra;
- (2) acknowledges the initiative and efforts shown by Safe Shelter and local churches to provide overnight shelter for people who are homeless and sleep rough; and
- (3) calls on the ACT Government to work with Safe Shelter and the churches to facilitate the proposal proceeding.

The issue of rough sleepers in the ACT is almost a hidden one. We do not know exactly how many people sleep rough, but estimates range from between 50 and 100. We also know there are many people who move in and out of temporary accommodation, who couch surf or sleep in cars. There are a number of homelessness services in Canberra doing an exemplary job, but there is unmet demand for homelessness services and also other crisis accommodation services.

While I recognise the government's objective or policy of housing first, this is not always going to be appropriate for people experiencing homelessness. In many cases people will not be ready, for a range of reasons, to go into a house or even transitional housing and who will need shelter at night to begin making that transition to having more stable accommodation. This is an issue Ms Le Couteur and I discussed with the people behind the safe shelter proposal and something they see and recognise in being the people who come into contact with people who are homeless each day.

In moving this motion today, the Greens wish to acknowledge and congratulate the efforts of safe shelter and the seven local churches which want to provide rough sleepers with an option for overnight shelter. The churches came together in 2011 and developed a proposal to open their church halls on a rotating basis to provide safe shelter and trained volunteers. The project came together with the help of the Early Morning Centre. These churches recognise that people sleeping rough not only face cold climates and rough conditions, but also do not get enough sleep to be able to function every day.

The safe shelter group approached the ACT government mid last year to seek its approval of the proposal, and the response was that they needed to seek an exemption under the Building Code as they did not meet the minimum standards for accommodation. It should be noted that the church halls are not proposing to act as permanent accommodation; they are proposing to provide temporary emergency shelter, and there does not seem to be anything in the code that prevents their proposal from proceeding.

I recognise there are genuine concerns from government about whether the church halls can safely shelter small groups of people overnight. It is important that the halls have adequate and appropriate fire alarms and emergency exits. Having visited St Columba's in Braddon last week, I know the building or room where the shelter is proposed has fire alarms and emergency exits with appropriate signage. If the ACT government have already conducted a safety check of the halls, it would be most appreciated if this information could be provided and that they could outline what problems were at each of the locations. Safe shelter has advised that the churches' insurers do not have a problem with the scheme and the churches are covered for the proposed activity.

The ACT government has also expressed concern about the safety of the clients and volunteers if they are put together in an overnight shelter. Placing a small number of potentially vulnerable clients together requires risk management. Safe shelter has recognised this and worked with Anglicare's Early Morning Centre to develop training for volunteers and put safety protocols in place. For example, St Columba's

has recently commenced a trial afternoon drop-in service where people can rest in a quiet location. Volunteers have been trained on how to manage the clients, and protocols have been put in place with the St Vinnies night patrol, which is located next door.

The proposal put forward by safe shelter is already happening elsewhere in Australia with the support of local governments. The Canon community in Sydney support two church hall shelters. One is at the Waterloo Uniting Church on Wednesday nights and another is run Saturday nights at Christ Church St Laurence near Central Station.

The Christ Church shelter has been running for 10 years. It has four volunteer teams each rostered once every four weeks. There are normally two volunteers who set up and cook dinner, and then three male volunteers who sleep over with the guests and provide a simple breakfast and clean up in the morning. The shelter only takes male clients. The church hall does not have shower facilities, just toilets. It is limited to 10 guests at a time and a small number of volunteers, which is what the insurance provider has agreed to.

The state government has not been involved at all in the proposal. The shelter has the full support of the Sydney City Council, which has provided the church funds to buy quality mattresses covered with hospital grade coverings. The shelter only accepts referrals from the homelessness hotline run by the Sydney City Council. The hotline knows what the abilities and limitations of the shelter are and refers clients on with that understanding, including an understanding of the personal challenges of each of the clients. There have not been any significant incidents with the shelter.

There are also churches in the UK which open their halls during winter. Seven churches in the Bradford diocese ran a trial program in 2010. That was successful and has now expanded to nine churches. That shows that there are examples of this working. It shows that, if you put appropriate risk management protocols in place, it is workable, and that is what has been proposed by safe shelter. As I noted, they have worked with the Early Morning Centre, which deals with these sorts of issues, to put in place risk management strategies and protocols and to provide training to staff. So it is something that can work.

What we are asking of the government is to be constructive and work with the churches for a common solution and to have this project proceed. There is an important role for the non-government, community and private sectors to play in providing services such as homelessness services, and where they come forward and offer to do so, they should be encouraged. There should not be unreasonable barriers put in their way. The churches behind the safe shelter proposal are not asking for financial assistance and have done the right thing by going to government before proceeding with their proposal.

These sorts of proposals and services are successful elsewhere, as I have already noted, and it can be achieved in the ACT. By having a safe shelter, it is not an admission of defeat in addressing homelessness; it is an acknowledgement that we need a service that is appropriate for some people.

I would like to acknowledge Brendan Kennedy from the Early Morning Centre who was instrumental in getting this proposal to go forward. Brendan died late last year, and I acknowledge his wife, Myung, who has also been behind this proposal.

I know this is quite a brief speech, but it is a fairly straightforward proposal and a very worthwhile proposal that has been put forward. I think it deserves the support of everyone in the community and government. As I said, if a group comes forward and says they are willing to do this, we should be assisting and helping them, not putting barriers in their way. I urge all members of the Assembly to support this motion tonight.

MRS DUNNE (Ginninderra) (7.55): I thank Ms Bresnan for proposing this motion today. The Canberra Liberals will be supporting it. I want to congratulate safe shelter on their initiative and their commitment to the vulnerable people of the ACT. This motion points to a government and, in particular, a minister in Minister Burch with no idea of the work that community-based organisations like safe shelter can do for the community. It points to a government and a minister in Minister Burch with no appreciation of the expertise of workers and volunteers in community-based organisations in dealing with some of the most vulnerable in our community. It points to a minister and a government in Minister Burch so obsessed with process that it is blind to outcomes. It is a government and a minister creating insurmountable barriers and making up the rules as they go along.

It points to a government and a minister in Minister Burch with an ageist prejudice, a blatantly discriminatory attitude that shows a lack of confidence in people who have been helping others for years and perhaps for decades. It points to a government and a minister in Ms Burch more concerned about having meetings than making available beds or coffee or a meal or extending a hand to a vulnerable person who might benefit from care.

So what are these barriers? The government has talked about lack of showers, exits and training. We have heard about the Building Code and lengthy bureaucratic processes to apply for exemptions. We have heard about no formal responses to letters and meetings that did not occur. We have heard about claims that volunteers are old and incapable of doing the job they have set out to do. The thing that is most disturbing about this whole sorry saga is that Minister Burch basically told these people to go away because she thought that they were too old. This from a government and a minister in Ms Burch who would put vulnerable at-risk children in a house with no bedding, no hot water, no electricity, no heating and broken glass on the floor. Where was the Building Code when Minister Burch put these children in a place of care—sorry, it is not “a place of care”, it is “a place where care is given”. Where was the expertise then? Where was the compliance with the law?

This motion moved by Ms Bresnan points to the disgraceful hypocrisy of this government and this minister. It points to a government and a minister in Minister Burch who do not have answers to the problems of homelessness. This is a minister who will go for the publicity event. We know from the minutes of meetings from her own department that the minister likes the department to find her publicity

events. She goes to the CEO sleepout and she talks big, but when she is offered a practical solution, what does she do? She creates barriers. Perhaps this government and its ministers are even jealous of a community-based organisation that is willing and able to create a solution, albeit a temporary one, on their own initiative and able to implement them quickly to meet a need.

In supporting this motion, I would like members to consider two scenarios. Jack is homeless. He spends the night sleeping under a bridge in the damp, in freezing temperatures with a few sheets of cardboard and an inadequate sleeping bag. There is no danger to him of lack of exit signs. He does not have to worry about whether there will be a shower in the morning—he knows there will not be. Even if there was food for breakfast, there is no table to put it on and there will be no-one to talk to him and give him a help along. John, on the other hand, spends the night in a warm bed in a building that only has one shower or maybe none at all, waking up to a healthy breakfast and being cared for by people who want to make a difference in our community. Who would you rather be, Madam Deputy Speaker—Jack or John?

This, of course, is a rhetorical question because the answer is so obvious. It is a pity that this government and its minister in Minister Burch cannot see how obvious this answer should be. I commend Ms Bresnan and I commend first and foremost the safe shelter group for their initiative.

MS BURCH (Brindabella—Minister for Community Services, Minister for the Arts, Minister for Multicultural Affairs, Minister for Ageing, Minister for Women and Minister for Gaming and Racing) (7.59): I thank Ms Bresnan for bringing this motion on and we will be supporting the motion. The government welcomes the motion and the government recognises the community's initiative in finding new ways to help people who are sleeping rough in Canberra. These are indeed some of the most vulnerable members of our community. The idea of utilising church halls to provide overnight shelter for homeless men is one such initiative.

Addressing the needs of homeless people, and rough sleepers and homeless youths in particular, remains a strong priority for this government. We are working hard on this issue in close partnership with many existing service providers, as well as delivering our own programs.

None of us wants to see people sleeping rough. I support community initiatives in this area. As we should all reflect, the whole community has a role to play in helping those that are homeless. Indeed, I have spoken often about the fantastic work that church-based organisations carry out for some of the most vulnerable members of our community—for example, St Vincent, with their street to home program, and, more recently, the Salvation Army with its support for homeless youth.

However, the government must ensure that services provided to homeless people do meet standards such as safety. That is where concerns have been raised about the initial proposal from the safe shelter group. I recognise that Ms Bresnan has the commonsense to recognise that regardless of what the response is, it needs to be one that is done in the safest possible way.

One concern is that the proposed sites do not currently meet health and safety requirements for buildings that operate as overnight shelters. More importantly, we need to ensure that, should there be a critical incident such as a fire, there are safety systems in place that allow people to exit the building in a timely manner. It is a very glib response from those opposite to say that sleeping rough is an unsafe experience and to ask if this is the better alternative. We are not saying that sleeping rough is not indeed unsafe and that those people are not in a risky environment, but if we are to give support to this we need to be sure that we do it with our eyes open.

We know that people experiencing homelessness are likely to be facing many challenges as well as sleeping rough, and it is important that people who support them are equipped to do so. I have never, ever said that volunteers are too old. That is just absolute nonsense continued by Mrs Dunne over there. I have concerns about people who volunteer. I recognise that Ms Bresnan has also acknowledged that, I think, UnitingCare church has talked about volunteer training, training for the volunteers that would participate in this activity. While churches have long been involved in supporting vulnerable members of our community, my understanding is that the safe shelter proposal is to be run by volunteers, and I have concerns for their safety as well.

None of that is a reason to say an absolute no to safe shelter, but it is simply a reason to work with them to make sure that we get it right. We want to ensure that the safe shelter group has in place a safe and sensible plan, and Building Code compliance, so that the initiative can have the best chance of success.

We have heard from Mr Seselja on this, and now Mrs Dunne. No doubt we could even hear more. But what do the Liberals really believe that we should be doing on homelessness? They believe, according to one of their candidates, in a letter authorised by their party office, that support for homelessness is “negotiable”. Since I raised this two months ago, they have done nothing to withdraw that statement. Today is their opportunity, but I do not believe that we will hear that at all.

Mrs Dunne spoke about hypocrisy and said that we should be doing all we can to extend a helping hand to vulnerable people. I have got a letter that is tabled today—I am quite happy to table these letters—suggesting that Mr Smyth is actively opposed to youth accommodation in Chisholm. So Jack, who is homeless, sleeping rough—could he be supported? He could be, but, according to Mr Smyth, not in Chisholm. Mr Smyth is actively opposed to supporting the Salvation Army supporting up to six homeless youth.

So here we are. Talk about hypocrisy. Those over there say that homelessness is simply negotiable, at the bottom of the list: “We’ll get to it some time.” That is according to Mr Smyth, in the letter that I showed him today. I said, “Is this your position?” He scurried back to his side.

Mr Smyth interjecting—

MS BURCH: He can deny it now; I encourage him to. It is about contacting Brendan Smyth, who actively opposes the proposal.

Mr Smyth interjecting—

MS BURCH: I can table this letter, Madam Deputy Speaker, and Mr Smyth can either deny his opposition to helping with youth homelessness or he can stand on that letter and we will know where the hypocrisy and the shame rest.

As vulnerable as short-term shelter is, it does not address the problems that lead to homelessness. Forming a relationship through long-term engagement is needed, and having appropriately skilled teams to provide that support is of great importance in assisting people who are sleeping rough. It is only in this way that the cause of homelessness for each person can be addressed.

The ACT government has a longstanding commitment to providing support to people experiencing or at risk of homelessness in the ACT, through funding specialist homelessness services run by experienced community sector organisations. The government has shown this by implementing a range of measures aimed at addressing homelessness, including the establishment of the street to home program and support for the early morning drop-in centre. Both of these services particularly target those sleeping rough in our community.

The street to home program provides assertive outreach, with the aim of working with people sleeping rough, to address underlining causes of homelessness and assist people to move into stable accommodation when the time is right for them. This program was initially funded in 2010 through the national partnership agreement on homelessness, with \$850,000 invested over approximately three years. Building on the success of that program, we committed an additional \$240,000 to expand that program. The program has also recently been provided with a number of Housing ACT properties to meet the immediate accommodation needs of people sleeping rough.

The street to home program provides crisis and long-term accommodation options within a supported environment. This is assisting chronically homeless people to move off the streets faster and to work towards addressing the underlying issues that may have contributed to them becoming homeless in the first place.

The ACT government has also invested \$680,000 for the refurbishment of the Early Morning Centre, which provides warm food and shelter for the homeless during the day. The refurbished centre now provides shower and locker facilities and assists in linking homeless people to further supports as required.

The safe shelter proposal could very well complement other programs currently supported by the ACT government that assist people in our community who are experiencing homelessness. When the safe shelter groups first spoke to me about their plans last year, I encouraged them to work through the Community Services Directorate and ACTPLA and also to consider who they were targeting, particularly in light of the fact that the face of homelessness in the ACT is women and their children escaping domestic violence.

I am meeting with Reverend Park and Rhonda Back, and so will the Community Services Directorate and other relevant agencies, through this week and when Rhonda Back returns from leave. She is on leave, I understand, for a couple of weeks. We will continue to work with them and assist them with their proposal. The Community Services Directorate will take a coordinating role in this for some of the matters raised across agencies. As one would understand, it does not wholly sit within the Community Services Directorate.

Again, Ms Bresnan, I thank you for bringing this on. When it was raised just recently, I got in touch with the church group and made it very clear that there are concerns, and it is right that there should be concerns, around this. But as far as this being a short-term initiative from church groups that do great work in our community, I have asked the Community Services Directorate to work through those issues as they arrive, to give it every chance—every chance—of success.

Going back to those opposite, I again repeat the invitation for them to refute that homelessness is, in their policy, simply “negotiable”—in other words, to put effort into homelessness and not put it on a list that is negotiable, to be got to when their mind is put to it. And I also wonder if Mr Smyth has the gumption to stand up and say—I could use Mrs Dunne’s example of Jack who is homeless—that young homeless youths that want a chance in life under the guidance of the Salvation Army will be supported and welcome in the community of Chisholm.

MR CORBELL (Molonglo-Attorney-General, Minister for Police and Emergency Services and Minister for the Environment and Sustainable Development) (8.10): Minister Burch has outlined very well the government’s position in relation to this important issue. I wish to simply reiterate the perspective of the building regulator on this issue, as this is a matter which has encompassed the responsibilities of the Construction Occupations Registrar, who looks after compliance with the Building Code in the ACT.

It is worth observing that the use of buildings in the ACT, and right across the country, is governed by building acts and, through them, the Building Code. A building built for one purpose is not, in all circumstances, fit for use for another purpose. The Building Code exists to ensure that each different type of building is safe for the use that it is proposed for and will not, in the event of an emergency, trap or cause harm to the users of that building.

Churches and church buildings, I am advised, are not necessarily designed or constructed to be used for accommodation purposes. That is not to say that they cannot be adapted for that use, as Minister Burch has outlined. But there is a process that needs to be followed to ensure that buildings are fundamentally safe for the people who occupy them. Looking at the proposal in question, with the churches in the inner north of the city, given their relative age of construction, it is highly unlikely that they would be fitted with smoke detectors or with emergency lighting, both of which are important in an emergency.

Far from being a technicality, the rules set out in the Building Code are there to protect occupants. The Building Act requires that the Construction Occupations Registrar ensures that buildings are fit for the purpose for which they are used.

I do not think we can downplay the importance of this. Imagine if there was a fire in a building that was not permitted to be used, for example, for overnight accommodation, and was not fit for that purpose. Imagine if there was a fire, if there was smoke in the building, if there were people sleeping in that building and if there was no lighting, no clear emergency exit and no smoke detector. It would be a tragedy, and the government would have to accept the responsibility for allowing that to occur.

It is important that we make sure that these issues are addressed. It is not to say that it cannot be done. It is not to say that the Environment and Sustainable Development Directorate is not willing to assist—because it is. But the Building Code is there for a reason; it is there to protect lives.

There are obviously potential issues around this, other issues around this, in terms of the care and the supervision of people who may be using such an arrangement. Minister Burch has outlined those. But from a practical building safety perspective, if there are issues, for example, with people smoking, and if that causes a fire, we have to make sure that these issues can be managed in an emergency. We do not want people to be trapped; we do not want people to be overcome by smoke inhalation if the worst happens. That is what the Building Code is all about.

I reiterate my directorate's willingness to work with the organisations involved to resolve these issues and to make sure that what is absolutely a well-intentioned and charitable proposal is able to be progressed, but progressed in a manner that also has regard to ensuring safety in the event that there is an emergency in a building.

MS BRESNAN (Brindabella) (8.14), in reply: I thank members for their contributions. I think everyone is agreeing, although I am a little uncertain after everyone's speeches.

I will just go to a few of the points I made earlier. I note, and agree with Ms Burch, that there is a range of services that can be provided to people who are homeless. That includes shelters and it includes proposals like Common Ground; there is a range of things that can be provided. But, as I said, providing a shelter is not admitting defeat in providing people with stable accommodation; it is recognising that that is actually a part of providing homelessness services, and in many cases providing people with a transitional readiness to be able to go into housing.

As I said, there is a range of reasons why people sometimes are not ready to go into housing. From speaking to the group behind safe shelter—Ms Le Couteur and I visited them—I realise that they recognise this, because they see it every day. People, for whatever reason, in whatever circumstances they have in their life, are not always ready—whether it is about taking responsibility or dealing with other issues in life—to go into stable accommodation. Shelter is one way of going towards that. And no, it is not permanent; I do not think anyone is saying that.

I will just go to issues of safety, which Mr Corbell and Ms Burch have raised again. Yes, I did acknowledge in my speech that they are legitimate concerns. But Ms Le Couteur and I visited St Columba's in Braddon. The hall that they propose to use has fire alarms, fire exits, appropriate signage and an emergency light. And it has smoke detectors, as far as we are aware, and also toilets. As I said earlier, if there has been some assessment made that that is not appropriate and does not meet the code, that information should be provided. From seeing the site itself, and Ms Le Couteur has some knowledge of this issue as well, I can say that they have those measures in place. There needs to be some clarity over that. Mr Corbell has raised it again, but they had all those things in place.

We also need to recognise that the safe shelter group have done the right thing by going to government first. They could have just gone ahead and done the proposal, but they did the right thing.

Around those matters of safety, it is encouraging to hear that Ms Burch is meeting with the organisers, because where it is proposed to go they have those things in place. We need to stop finding reasons for it not to go ahead and start progressing this, because they are addressing all the concerns that have been raised today.

I acknowledge Ms Burch's comments. As I said before, everyone acknowledges that shelter is not a permanent solution—as do safe shelter themselves. But it is a way of providing a safe space for people. I go to the point Mrs Dunne made that sleeping rough in itself is dangerous. If a community group is willing to provide a shelter, it should be facilitated and encouraged. We have groups who are providing sleeping swags to people. Some people may want that, for whatever reason, but if we can provide a safe shelter that is warm and that protects people, we should be encouraging that.

As I said earlier, there are examples from other states. I gave examples in Sydney where this works. I have got examples from overseas. They are able to address all those safety concerns; they are able to address issues around staffing and training. They do it and there have been no incidents in many of these places. We can look at how it has been done elsewhere and put in place those processes.

Ms Burch and Mr Corbell raised the issue around staffing. The safe shelter group have already recognised this—and the Early Morning Centre, obviously, who are also very much behind this proposal and were in the initial stages in driving this. They have actually done that training. They have talked to Vinnies night patrol; they have put in place all those processes. So again they are addressing the concerns that government has.

It is time that we had these discussions with the government and safe shelter so we can see what the concerns are. It appears that in all respects, from Ms Le Couteur and I meeting with them and talking with them quite a number of times, they are addressing the concerns that have been put forward.

Again I thank members for their contributions. It is good that we have unanimous support of a sort on this today. I hope we can see this proposal up and running very soon in the ACT. Again, I point out the issue about showers. The Early Morning Centre, which is involved in this, have showers, as Ms Burch has referred to, and breakfast is provided there. So there is a way that this can work with the services that are already provided. It can be successful and we can have something like this in the ACT, which we do not now.

Motion agreed to.

Roads—school zones

MR COE (Ginninderra) (8.20): I move:

That this Assembly:

(1) notes that the:

- (a) Australian Road Research Board found that flashing lights in school zones were effective in reducing vehicle speed outside schools during the operation of the 40 km/h school speed zone;
- (b) NRMA stated that a motorist's awareness of school zones and ability to comply with the speed limit had been significantly improved where flashing lights have been installed, with positive implications for road safety;
- (c) NSW Commissioner for Children and Young People believes that every school in NSW should have a flashing light warning system in place so that all children enjoy the same level of protection; and
- (d) Federation of Parents and Citizens' Associations of NSW said flashing lights remind drivers of the presence of a school in the area and therefore the presence of students as pedestrians; and

(2) endorses the Canberra Liberals' policy to deliver flashing lights for every school zone in the ACT.

The safety and security of citizens is an important responsibility of a community, and we as representatives in the ACT Legislative Assembly have a duty to take all reasonable steps to play our role in safety initiatives. It is for this reason that in May Zed Seselja and I announced that a Canberra Liberals government would deliver flashing lights for every school zone in the ACT. We believe such infrastructure is an important additional way to remind motorists to treat school zones with caution and care for students, teachers, parents and friends. Our \$6.8 million commitment will ensure that every school in Canberra receives flashing lights within the first term of a Canberra Liberals government.

My office received many positive responses to our policy, including the following couple from school principals in Ginninderra:

Great Policy. I hope the end result is as positive. Thank you for your support as this project will save lives and families may even walk to school.

Secondly:

If I understand the thinking aright, the proposal is to clearly identify the zone and the time of day in which speed restrictions are in force. This has to be a positive move, especially in areas where there is high traffic volume. The purpose is to alert drivers to changing their behaviours rather than catching them doing the wrong thing! I like it very much.

They are just two of many positive responses we have got as a result of releasing this initiative. However, despite receiving positive feedback from parents, teachers, principals and others, the education minister, Chris Bourke, described the policy as “bizarre”. Whilst the notion of installing flashing lights in school zones is too complex for Minister Bourke to comprehend, calling it bizarre is just plain weird, even by Dr Bourke’s standards.

I wonder if he thought the New South Wales Labor government’s trial of flashing lights was bizarre. When Morris Iemma said, “This new technology is reliable, highly visible and doing a good job slowing people down in school zones,” was that bizarre? The only thing that is bizarre is how under Hare-Clark the person who came 13th in the election can somehow become a minister—if not a minister in performance, certainly one by salary.

Schools across the border are benefiting from a New South Wales government initiative to deliver similar lights and signage at their schools. We believe ACT schools should be afforded the same safety measures. Whilst some motorists will consciously speed through school zones, most, I believe, do so because of a momentary lack of concentration or poor signage. Whilst this is no excuse for speeding, it is an issue which flashing lights can help address. If these lights save one life, they will be a success. If these lights help avoid an accident, they will be a success. If these lights help more people feel confident walking to school, they will be a success. If these lights raise awareness of schools in our community and remind people of the community reach of suburban schools, they will be a success.

Our policy will complement existing policing, community awareness and school-specific measures aimed at combating speeding and other road safety issues in and around Canberra’s schools. Our policy, as I said earlier, will complement other strategies which we believe are already partially effective, but lights will be even more so. We believe all schools are deserving of such lights, and that is why the opposition supports the implementation of these lights across the city.

There is considerable evidence and much support for the rollout of flashing lights in school zones across Australia. In fact, a number of governments are implementing similar policies to the one Mr Seselja and I announced in May. Whilst the safety risks differ according to the circumstances of each school zone, we believe all schools would benefit from flashing lights.

The following information was published by the New South Wales RTA in 2006:

An evaluation of flashing lights in 40km/hr school zones carried out by the Australian Road Research Board for the then RTA in 2006 demonstrated that: Flashing lights were effective in reducing vehicle speed outside schools during the operation of the 40 km/hr school speed zone.

There is considerable published research from the United States and other countries detailing the efficacy of flashing lights in reducing speed. In 1993 Neil Hawkins wrote an article entitled “Modified signs, flashing beacons and school zone speeds” for the Institute of Transportation Engineers (USA). He said:

Following installation of the new signs [with flashing lights], average speeds were reduced by 9.3 percent. One year after installation the average speeds maintained a 7 percent reduction. Before the installation of the flashing beacons, the highest speeds were found in the afternoon studies. One year after installation, the afternoon speeds maintained an 8.8 percent reduction while the morning speeds maintained a 5.6 percent reduction.

A New South Wales parliamentary committee received the following comments in the form of submissions to an inquiry. Mr Mark Wolstenholme, the senior policy adviser for traffic and roads from the NRMA, said:

NRMA believes that a motorist’s awareness of school zones and ability to comply with the speed limit has been significantly improved where flashing lights have been installed, with positive implications for road safety. This is based on a variety of evidence including NRMA’s own observations and feedback received from NRMA Members that flashing lights help motorists identify both the school zone and when it is operational, enabling them to adjust their speed accordingly.

Research shows that flashing lights reduce ambiguity about a school zone’s operational status, and thus improve compliance with the 40km/h speed limit. It is in everyone’s interest to maximise compliance, and so it would appear to be logical that flashing lights should be deployed first at those locations which have the greatest differential between the normal speed limit and the school zone limit.

Ms Vanessa Whittington, representing the New South Wales Commissioner for Children and Young People, said:

... the Commission believes every school in NSW should have a flashing light warning system in place so that all children enjoy the same level of protection. The Commission supports the Auditor-General’s recommendation to improve the visibility of school zones by increasing the use of flashing light warning systems and fitting flashing lights at all school zones with non-standard operating times.

Mrs Kelly MacDonald from the Federation of Parents and Citizens Associations of New South Wales said:

Flashing lights remind drivers of the presence of a school in the area and therefore the presence of students as pedestrians. It is unfortunate that drivers can sometimes choose to ignore road signs around schools especially when trials have shown that drivers reduce speed significantly when flashing lights operate.

The Canberra Liberals value the safety of our city's school children and we want them to be as safe as possible. I hope the Assembly takes on the advice of the Australian Road Research Board, the NRMA, the New South Wales Commissioner for Children and Young People, the Federation of Parents and Citizens Associations of New South Wales, school principals and many others and supports this motion.

MS GALLAGHER (Molonglo—Chief Minister, Minister for Health and Minister for Territory and Municipal Services) (8.29): I move:

Omit all words after “notes”, substitute:

- “(a) the importance of continuing to improve pedestrian safety at schools and in the wider community; and
 - (b) the current policy in the ACT regarding school speed zones, which includes the use of 40 kilometre per hour speed limits between 8 am and 4 pm on school days; and
- (2) agrees to adopt the principle of evidence-based decision-making in relation to local services such as road safety, based on expert assessment and agreed criteria in decisions to prioritise municipal services.”.

I am pleased to speak to this motion. The ACT has a good road safety record in comparison to other parts of Australia. We have the benefit of an established and well-designed road system, a general urban environment and a small, well-defined geographic area. Despite this, there is no room for complacency. In the last five years from 2007 to 2011 an average of 13 people were killed and 641 people were injured on ACT roads each year.

In November last year the ACT government released its ACT road safety strategy 2011-20. The strategy, which provides a framework for addressing road safety issues in the territory, is supported by a list of specific action items in the ACT road safety action plan. These documents complement work at the national level under the national road safety strategy and provide an integrated approach to improving road safety using a range of education, encouragement, engineering, enforcement, evaluation and support measures.

Road safety engineering measures, while part of the picture, are not a panacea of solving all problems. A strategic goal of the road safety strategy is to have an ACT community that shares the responsibility for road safety. There is little point in having traffic control arrangements on our road—this includes school zone requirements with or without flashing lights—if drivers do not take responsibility for their own behaviour.

Turning to the issue of school speed zones, the ACT was the first amongst states and territories in Australia to introduce 40-kilometre-per-hour speed zones in the vicinity of primary schools. These speed zones were introduced back in 1985. Since then our safety record around schools has been very positive and is considered to be one of the best in the country already.

In general, very few crashes involving a child within school zones are reported in the ACT. In 2011 there were seven reported crashes at school crossings out of a total of nearly 8½ thousand across the ACT. To support the school zone infrastructure that is in place, the Justice and Community Safety Directorate and ACT Policing have ongoing programs covering road safety awareness and enforcement relating to school zones. Based on our evidence and advice from experts, flashing lights in school zones as a general measure are not needed to reduce vehicle speeds or improve safety in school zones in the ACT.

I am aware that there are different arrangements for school zones in other jurisdictions. As we know, New South Wales has a program of installing flashing lights in school zones. But I would say that—and Mr Coe did not draw our attention to this—there are different arrangements in New South Wales. The zones in New South Wales generally operate between eight and 9.30 in the morning—and I know this is true for Queanbeyan as well, as I was going through a school zone there the other day—and then again from 2.30 to four in the afternoon. Flashing lights in the New South Wales system, therefore, assist motorists often in high traffic conditions to recognise when that 40-kilometre school zone is in operation. That is quite different to the ACT where school zones operate between the hours of eight and four every day and that period between 9.30 and 2.30 remains at 40 kilometres an hour.

There are a few other differences between New South Wales and the ACT. Unlike New South Wales, ACT schools are generally located within residential areas and, with a few exceptions, are generally clear of major roads. The result of this is that our school zones do not generally affect major high-traffic routes. I think the ACT's all-day school zone time period is much simpler and one of the best features of the ACT system. The time penalty or inconvenience of having an all-day speed reduction is considered relatively small. Given the positive all-day safety record of the current system the government has no plans to change the current policy.

Turning to the specific motion that is before us—that the Assembly endorse a policy of delivering flashing lights at all school zones in the ACT—as I have said on previous occasions, I believe we need to take these decisions based on evidence. The Assembly is not an expert in such matters and we therefore look to the relevant information and advice from experts in the field.

In relation to the costs involved, the TAMS directorate is aware of an approach from a manufacturer of supplying flashing lights which are supposedly available at a cost of around \$2,000 per school. In January 2009 the New South Wales Road Traffic Authority issued a media release refuting the claims of installing flashing lights at schools as being a very low cost item. The true cost back in 2009 was about \$13,000

per location. The approximate cost for New South Wales to add new lights to its control system in today's market is around \$20,000 per location, depending on the work involved at the individual site. The \$2,000 flashing lights are intended to be operated manually without any feedback to the traffic authority, hence, any fault would not be automatically detected, making the zone less safe. The view of the New South Wales Roads and Maritime Services is that a centrally controlled system, similar to traffic light signals, is essential to ensure proper operation and maintenance response when required.

There would be a very high cost of installing flashing lights at all schools in the ACT. The ACT would also need to establish a management system for the lights similar to that in place in New South Wales. Given hardware, trenching, connection and construction costs, the costs of installing flashing lights would be about \$35,000 to \$40,000 per school. Based on a cost of \$30,000 per school and some 250 schools, including preschools, the total cost of implementing this initiative would be in the order of about \$7½ million.

Members may have noticed that the ACT has some pedestrian crossings with flashing lights. They are in place, for example, on Constitution Avenue, near the convention centre and CIT. The use of flashing lights at pedestrian crossings in the ACT may be considered after applying the traffic warrant system criteria based on the number of pedestrian and vehicle movements. The criteria for the use of flashing lights at pedestrian crossings also relates to the visibility of the crossing to approaching traffic being insufficient. For example, flashing lights may be considered in instances where the crossing facility blends with the background or where the crossing is not clearly visible. Such problems are rarely encountered in school zones in the ACT, and it can be strongly argued there is no general need for flashing lights in school zones.

While the government will not be supporting this motion, it has considered the proposal to install flashing lights at all school zones in the ACT in detail. Roads ACT has advised there may be scope to use flashing lights at school crossings as a special treatment and to consider them where special circumstances or hazards exist, as is currently the case for normal pedestrian crossings. These special circumstances could include particularly high levels of pedestrian or traffic movement, sight distance, traffic geometry, visibility problems or other special factors.

The government takes road safety and, in particular, road safety around our schools very seriously and considers every proposal to improve safety in detail. In fact, any correspondence I get from a constituent concerning school safety and pedestrian access safety of students is investigated immediately and, if needed, measures are put in place. I am not aware of one where a recommendation from that investigation has been to install flashing lights. It may be improving signage, making sure that the pedestrian crossing is clearer or looking at how parking arrangements are managed around schools. These are all the issues that are taken into consideration by the road engineers and the experts.

I do not know that we need to get into the position where the Assembly is being required to endorse Liberal Party policy. By all means, Mr Coe, go out and do your best with that one. I am sure you will. But the amendment I have moved should not be

objectionable to anybody, leaving aside the fact that the government does not feel the need to endorse Liberal Party policy. The amendment acknowledges the importance of continuing to improve pedestrian safety at schools and in the wider community. As to the current policy in relation to the school zones, Mr Coe did not go to the issue of the differences between New South Wales and the ACT so I am not sure whether Liberal policy includes changing the hours of operation for the school zone. The amendment agrees to adopt the principle of evidence-based decision making in relation to local services such as road safety based on expert assessment and agreed criteria and decisions to prioritise municipal services.

I say this as a person who has lost a loved one on a road. I do not take this motion lightly. The biggest thing we can do is encourage drivers to drive responsibly on our roads. The person I lost was riding a bike and was cleaned up by someone travelling 110 kilometres an hour in an 80 zone. Accidents do happen. We need to make sure that drivers are encouraged to abide by the current road rules. I certainly do not take this motion lightly; I have considered it in depth. I am a person who has been directly affected by a death on the roads and my very firm belief—even being involved in that court case and the response to that court case and my work now as minister for TAMS—is that the best advice we can take is from the road engineers and other road safety experts.

At this point in time none of them are recommending a standard approach or a blanket approach to flashing lights around school zones. From my experience, the safety issues that affect one school are always different to the issues that affect another. I accept that we must ensure that they are dealt with promptly and if any remedial actions are necessary that they are taken immediately.

MS LE COUTEUR (Molonglo) (8.40): I am very pleased that the Assembly is debating pedestrian safety today. It is obviously something which is of importance to Canberra and, as I keep saying, we are all pedestrians at some stage and so this is the basis of our transport system, you could even say.

We will not be supporting Mr Coe's motion about flashing lights in school zones today, and I will go through some of the reasons why. We will, however, be supporting the government's amendment. The government's amendment, basically, is a lot broader. What it is doing is drawing everybody's attention to the issue. I know it is not my motion but I would think that the issue before the Assembly is pedestrian safety at schools and for the wider community.

I also totally agree with the suggestion that we adopt evidence-based decision making in relation to local services. And I must admit one of the concerns I have had during the Assembly is that when the Assembly tries to become a road engineer, which we have tried to do a few times, it has always made me a little nervous as to whether we actually know enough about what we are talking about. Anyway, as I said, we are big supporters of pedestrian safety.

Earlier this week, the Greens, through me as our active transport spokesperson, launched a \$14.7 million pedestrian/cycling safety package. That included, of course, funding for pedestrian safety as well as funding for cyclist safety. There was a specific

\$600,000 in that which would be reserved for pedestrians. It would do things like triple the number of new pedestrian crossings and increase the number of 40-kilometre zones.

Forty-kilometre zones, of course, are mainly outside schools but they are also very important in terms of pedestrian safety in other locations. As a result of the Greens-Labor agreement we now have them in Gungahlin and Woden, and I would very much like to see—and I think there is some work being done on this—they extended to other areas because they have been successful there. They have been successful outside the schools—and Mr Coe's motion implicitly acknowledges that they are successful outside shopping centres—and there are lots more places where lower speeds significantly increase the safety of a considerable number of pedestrians and, to a lesser extent, cyclists. Your chance of surviving a crash if you are run into by a car that is travelling at 50 ks, I think, is only half that if you are run into at 40 ks. As they say, speed kills. That is why we have these lower speed zones. The Greens are big supporters of them and we look forward to a further rollout of them. But we are very pleased that we are, this afternoon, debating pedestrian safety.

Looking specifically at the use of flashing lights in school zones, we think that they need to be part of a wider package of school pedestrian safety measures. We have had a lot of discussions with people over the years about school pedestrian safety and other pedestrian safety issues, and I must admit no-one has ever suggested to us that this is what we should be doing. There have been many things that have been suggested to us. As Ms Gallagher said, the suggestions usually are very site-specific, whether it is trimming a tree for better visibility, putting a new pedestrian crossing in, changing how the car park works. All of those things have been suggested to us, but not flashing lights for school zones.

Another point to be made is that \$7 million is a significant amount to spend on one measure. While I have no doubt flashing lights would be a positive contribution, I have severe doubts as to their cost effectiveness in terms of the other things that can be done to increase pedestrian safety, in particular pedestrian safety at schools. It would be useful if there was a bit more information, I guess, about this policy in terms of asking the Assembly to endorse it. I am not sure how many lights will be installed at each school and what happens if there are multiple pedestrian crossings and different speed zones at the school. Some schools will have multiple road entrances. What sorts of signs will be installed?

In 2007, the Australian Road Research Board looked at a number of different flashing light systems and ranked them in terms of most to least effective. The report concluded that analysis shows the ranking can and does vary depending on criteria being used and the ranking will vary across speed zones and road environments. This backs up our concern that we should not be putting all our pedestrian safety emphasis, or money to be precise, on one issue. So we are concerned about this.

I was going to talk a bit more about costings but Ms Gallagher has talked about them at even greater length than I was planning to talk about them; so I will not repeat this.

We have some other concerns. We are a little concerned that if we have flashing lights at school zones where there are pedestrian crossings, there is a small possibility this may make other pedestrian crossings slightly less safe because people in Canberra might start to think, “We have to have a flashing light for a pedestrian crossing.” Certainly, though, motorist awareness is not enhanced by the different rules for different crossings and I think that that point has probably been well made by Ms Gallagher and Mr Coe.

I note that one of the points in the Liberal Party’s press release on this subject was avoidance of fines for motorists. I guess nobody wants to be fined but I think that that should not be one of the most important goals of this policy. I think pedestrian safety should be the major goal.

One of the things that the Greens would be doing if we were in the position to implement our election initiatives relates to the money set aside for pedestrian safety. That will include education about vulnerable road users. We would like to see all learner drivers learn about pedestrians and pedestrian safety. We would like to see that drivers, as a whole, have a much better idea about the issues for unprotected human beings if they are hit by large metal objects such as cars. We would really like to see vulnerable road users be a greater part of the education for drivers.

Looking at some of the evidence that Mr Coe quoted, the Australian Road Research Board assertion in Mr Coe’s motion is that flashing lights in school zones are only effective in reducing vehicle speed outside schools during the operation of the 40-kilometre school speed zone. It is not clear, of course, then, from this, what happens in speed zones at other times, particularly noting that in New South Wales they have a much more restrictive time than we do.

There are also, of course, potential greenhouse gas emission implications for installing flashing lights at all 122-plus schools in the ACT. I understand that in New South Wales the proposed flashing lights would be solar powered, and certainly the ACT Greens would like to see that if flashing lights were in fact implemented by a Liberal government they would look into the greenhouse gas implications of this and follow the lead of their colleagues in New South Wales and go for solar power.

In conclusion, it is really good to see that all three parties in the Assembly think that pedestrian safety and school pedestrian safety is an important issue. We, however, are not convinced that a one-size-fits-all approach is the way to go. This is why our policy initiatives are different from the Liberal Party. Every school and every set of crossings are different. We are looking for something which is a bit more nuanced than that but which could consider other safety measures such as speed cameras, speed humps, dragons teeth, school crossing monitors, more pedestrian crossing, trimming trees et cetera. There are a range of possible responses. I think flashing lights can be part of the menu, but I do not think they should be the entire menu. So the Greens will be supporting Ms Gallagher’s amendment.

MR SESELJA (Molonglo—Leader of the Opposition) (8.49): I commend Mr Coe for his motion and for the well-researched policy that he has assisted in putting together.

There is no doubt that it is good policy. It is backed by experts across the board. It is noted in the motion that the Australian Road Research Board found that flashing lights in school zones were effective in reducing vehicle speed outside schools during the operation of the 40-kilometre an hour school speed zone. The NRMA stated that motorists' awareness of school zones and ability to comply with the speed limit had been significantly improved where flashing lights had been installed, with positive implications for road safety. It has got the backing of the New South Wales Commissioner for Children and Young People and the Federation of Parents and Citizens Associations of New South Wales.

What we have here is evidence-based policy and what we heard in response to it was a mishmash of ridiculous assertions backed by nothing other than a hunch, particularly from the Greens. We have two different positions from the Labor Party and the Greens in opposing better safety around our schools through flashing school lights. We have the Labor Party saying, through their education minister, that it is a bizarre policy. He thinks that a policy endorsed by numerous road safety experts rolled out across the country, which protects our children in school zones, is bizarre. This was what the education minister said, and that is clearly why it is being opposed by the Labor Party. Clearly Katy Gallagher shares the view that the experts are wrong and that this is a bizarre policy. We do not think that protecting our children by alerting drivers in a much clearer way is in any way bizarre, is anything other than responsible and a responsible use of taxpayers' money.

We heard a mishmash of concerns from Ms Le Couteur, none of which made any sense. The overarching theme from Ms Le Couteur was that if we cannot have everything, we are just not going to agree with anything. She said, "There are other things you can also do." Do them. Suggest them. Do not oppose this policy on the basis that there are other policies you could do on top of it. We have never suggested this is the only way of keeping kids safe around schools but it is one very important way. Based on that, you would not even implement 40-kilometre zones around schools, you would not bother, until you can do every other conceivable thing to slow cars down around schools. It is this classic extreme view of the world that we are seeing from the Greens, both nationally and locally, which is that if they cannot get it all, they will vote against anything, if it is not their perfect solution. This is an important part of the safety mix.

We heard concerns about financing. This is a Labor-Greens government that seems to take great pleasure in rolling out twisted pieces of metal on the side of the road at about half a million dollars a pop, yet when it comes to protecting our kids it is too expensive. This is a party that is saying to us now, "What about the greenhouse gas implications?" The Greens are putting the safety of our kids behind the fact that, God forbid, we should actually use some electricity in doing this.

Mr Coe: Solar powered, mostly.

MR SESELJA: And much of it would be solar powered. But the point is that if I had a choice between using electricity and making our kids safer or not doing it at all because of the Greens' concern, I know which way I would go. I would go for school safety. I would go for the safety of our children. These are ridiculous assertions.

I think what it comes down to is that the Liberal Party has put it forward and therefore the Labor Party and the Greens feel that they have to oppose it. I think there is a time and a place to occasionally just say: "Well done. We agree," and move on, instead of opposing everything that is put forward by the opposite number. And that is what we are seeing here from the Greens and the Labor Party.

They have different, ridiculous reasons, I would hasten to add, but ridiculous reasons nonetheless, none of which is backed by evidence; whereas, as Mr Coe has pointed out, he has the evidence on his side. His policy has the evidence on its side. The road safety experts back it. The school groups back it. It is sensible policy and it makes sense because we all know that there are times when people lose concentration.

Ms Le Couteur asserted that it was about stopping people getting fines. It is not about stopping people getting fines. It is about slowing people down. If that means there are fewer fines, good. That is not the purpose. The purpose is to slow people down so that our kids remain safer than they are at the moment around school zones.

I commend the motion. I find it quite extraordinary that it will not be supported, that the Labor Party and the Greens are today voting against school safety. They are voting against flashing lights around our school zones. I guess it will be just one more point of difference as we lead into the election. It will be just another example of the Liberal Party getting on with the job of good local services, making sure we deliver those local services for our communities and the Labor Party and the Greens focusing on far less important issues.

MR COE (Ginninderra) (8.55): Of course it is very disappointing that the government and the crossbench will not be supporting the motion put forward by me today. And it is a letdown to all the families who have loved ones at schools across the ACT, because flashing lights in school zones will make them safer. There is no doubt about that. All the evidence suggests that flashing lights slow down motorists.

It is all very well for Ms Le Couteur to come into this place and say, in effect: "We are not road engineers. Therefore we cannot talk about road safety." She is not an environmental scientist; yet Ms Le Couteur regularly talks about climate change issues. Does that mean we should be banned from talking about anything? What is the point in having an Assembly if we are not meant to assess information, analyse it, make decisions and implement them? What is the point of this place if we are not meant to act on the advice and our own research? All the research suggests that flashing lights slow down motorists. I ask Ms Le Couteur or anybody in this place to point to any evidence whatsoever which says that flashing lights outside a school zone do not slow down motorists.

In fact, a Joint Standing Committee on Road Safety report presented to the New South Wales parliament included this statement:

The Committee also recognises that flashing light technology constitutes the most effective warning system for alerting motorists to the presence and operational times of school zones and recommends that Roads and Maritime

Services aims to install flashing lights at all school zones as part of a longer term child pedestrian safety strategy, based on a standardised and rigorous assessment of priority.

I did not see too many dissenting comments in this report from the Labor members. I did not see too many comments saying that they were too concerned about the carbon emissions to install flashing lights. Perhaps we should get rid of every single streetlight in the ACT, get rid of them all, if that is going to be the new criteria, if we suddenly value avoidance of embedded carbon emissions over safety in school zones. That is what the Greens are advocating. That is one of the reasons why Ms Le Couteur said she could not support this motion.

Dr Bourke called this policy bizarre. I would like to see whether Dr Bourke shares that same assessment of Ms Le Couteur's contribution to this debate.

The need for the flashing lights, I think, is apparent across Canberra. I think we have all seen people speed through school zones, whether they be ones in the middle of the suburb on seemingly low-speed roads, or often older schools on arterial or sub-arterial roads.

One school that I know that faces regular issues with regard to road safety is St Thomas Aquinas in Charnwood. I have been contacted by parents, by representatives of the school and others about concerns they have for their children's safety. And despite my repeated attempts, and perhaps those of others in this place, the government has done next to nothing to combat speeding outside that school zone. Flashing lights would help improve the safety at that site.

In fact in a letter from Mr Stanhope, when he was the Minister for Territory Municipal Services, he said:

Outside St Thomas Aquinas on Lhotsky Street, the results indicate that motorists travelled at an average speed of 42 kilometres per hour during school times and 54 kilometres an hour outside of these times.

Both of those were above the speed limits. Forty-two is an average at Lhotsky Street; yet the government has said no lights. I explicitly asked for flashing lights for this school a couple of years ago. The government said, "Can't be done." The average is above the speed limit.

To not prioritise this issue and perhaps avoid this issue altogether because of embedded carbon emissions in the construction of flashing lights, I think, is absolutely absurd. The staggering thing is that in spite of this school zone having an average speed above 40 kilometres an hour, it is No 38 in the list of priorities for traffic calming devices. If you have got a school zone with a speed limit of 40 kilometres an hour and people are driving at 42—and that is No 38; there are 37 worse scenarios in the ACT—then it really is a worry and it shows me that there is a systemic problem with road safety outside our school zones. A systemic problem needs a systemic solution, and the solution that we put on the table today, flashing lights, we believe is a good one and we believe the community deserves it.

Question put:

That **Ms Gallagher's** amendment be agreed to.

The Assembly voted—

Ayes 11

Noes 6

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

Question so resolved in the affirmative.

Motion, as amended, agreed to.

Retirement Villages Bill 2012

Debate resumed from 6 June 2012, on motion by **Ms Porter**:

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) (9.06): The government is pleased to support Ms Porter's Retirement Villages Bill 2012. Before I make my detailed comments on this bill, I congratulate Ms Porter on her dedication and her commitment to improving the protection of consumers in the retirement village industry. Thank you, and congratulations to Ms Porter.

This bill is based on the New South Wales Retirement Villages Act 1999, and it will replace the existing retirement villages industry code of practice, which is a mandatory code under the Fair Trading (Australian Consumer Law) Act 1992. To be clear, neither the existing code nor this bill regulates aged care facilities or parts of retirement villages that provide aged care facilities. These are regulated by the Commonwealth Aged Care Act 1997. The existing code and this bill only regulate independent living units in retirement villages.

There are 28 retirement villages in the ACT, housing up to 1,600 independent living units. Some villages are operated for profit while others are run by not-for-profit organisations. This is an important industry for the ACT, as it provides not only a long-term housing option for older Canberrans, but also a lifestyle option that many older residents prefer. Aside from the social aspects of retirement village living, residents are able to enjoy both the benefits of independent living and the security and services offered by the villages.

Some retirement village residents enter their retirement village by paying a substantial ongoing contribution as a “loan” under a loan-licence agreement or by purchasing a unit in a unit titled village. This often necessitates the sale of the resident’s family home to fund the loan or purchase. Some residents pay a more modest ingoing contribution or, infrequently, obtain their right to live in their village under a standard residential tenancy agreement. In any case, residents often move into retirement villages because of the security of tenure offered by them, and it makes sense that there is legislation protecting the rights of residents and their existing entitlements under their contracts.

The bill codifies and builds on the existing consumer protections for residents of retirement villages currently provided for in the code of practice. The bill also introduces some new important protections for residents, including the creation of a statutory charge over village land to secure residents’ exit entitlements, specific rules surrounding the closure of villages and rules about proposed increases to recurrent charges. The bill also provides a legislative framework for the day-to-day management of retirement villages by operators, in a way which is consistent with sound management practice.

I would like to commend Ms Porter on her decision to introduce a bill based on the New South Wales act, an act that the government views as striking an appropriate balance between the rights of residents and operators. It is also an act which is more applicable to the diverse ACT retirement village market, with its mix of loan-licence agreements, sublease agreements, residential tenancy agreements and unit titled developments.

I would also like to commend Ms Porter on her extensive community consultations in the development of this bill as well as her ongoing involvement and keen interest in issues affecting older Canberrans. This is evidenced by the initiative she has taken, as a private member of this place, to table a paper on the issue of retirement villages in the ACT titled *Retirement villages in the ACT: a discussion paper*. Members will also remember that Ms Porter took the initiative to address concerns raised with her by a number of concerned constituents, through her tabling of her earlier draft bill in 2010 and the introduction of the earlier retirement villages bill in 2011.

As Ms Porter explained on the introduction of this bill, the introduction of her 2011 bill acted as a catalyst for industry and resident representatives to clearly articulate their views and concerns. These representatives approached Ms Porter’s office, and my own, with the consistent feedback that a New South Wales model would be a preferable approach. On the basis of these discussions, it is to Ms Porter’s credit that she made the decision to table a new bill which is based on that legislation.

Industry and resident representatives, as well as individual operators and residents, have provided a high level of information and advice to the government in formulating our response to this bill. This has included giving advice about the content of appropriate regulations to ensure that existing arrangements can transition with respect to the requirements of the bill. These stakeholders have also offered to provide further advice to my officials about these and other matters relating to the commencement of the scheme, should this bill be adopted today.

In addition to congratulating my colleague Ms Porter on her decision to introduce this bill, I want to thank those stakeholders for the assistance they have provided to me and to my officials in informing the government position.

From the government's perspective, the best approach is one which strikes the most appropriate balance between the rights of the affected parties and addresses their concerns. The best approach is also one which encourages, rather than deters, investment in this important industry, and which has minimal effects on current arrangements and the market.

Following discussions with stakeholders, and after careful consideration, the government is satisfied that this bill achieves those ends.

Firstly, in discussion with industry representatives, including the Retirement Village Association and individual operators, it became apparent that a large number of operators in the ACT either have established villages in both New South Wales and the ACT or are considering establishing operations in both jurisdictions.

Many of the operators who have moved into our market from New South Wales have imported the contracts and management practices that have been developed in New South Wales in accordance with that state's act. Operators who have cross-border interests or who wish to invest in New South Wales have indicated that ACT legislation that is consistent with legislation in New South Wales is the most sensible approach as it will reduce compliance costs that would otherwise be associated with two different regulatory schemes. This bill achieves that purpose. It brings the ACT into line with legislation in New South Wales and ensures that investment across the border can occur with minimal compliance costs.

Secondly, individual operators, both those who operate only in the territory and those with cross-border interests, have indicated to my directorate that they are already largely compliant with this bill. This may be as a result of the New South Wales legislation having evolved from a code of practice similar to the ACT code, so that a number of the requirements in the code, such as the obtaining of resident input into the setting of budgets, are provided for in the New South Wales act and in this bill. Also, the higher level principles in the ACT code are accommodated in a comprehensive and detailed way in the New South Wales legislation.

For example, the ACT code requires operators to exercise sound management, which includes managing the village cost-effectively and in a financially prudent manner and ensuring that financial accounts have been prepared in accordance with recognised accounting standards. The bill expands on the code principle by providing a number of detailed rules about matters such as the maintenance, repair and replacement of capital items in a village. It also contains detailed rules about budget setting and the accounts of the retirement village. The bill provides for the code requirement that residents approve the annual budget and that audited annual financial statements be provided to residents. Certain requirements that are additional to the current code requirements, such as the provision of unaudited quarterly financial accounts to residents, are unlikely to impose high costs on operators. A number of village

operators have mentioned to my directorate that the provision of unaudited quarterly accounts to residents is an example of a requirement which, although not specifically required by the existing code, is already a normal practice of their village.

Thirdly, from a resident and prospective resident viewpoint, this bill improves consumer protections. These protections include the codification of important resident rights that are currently set out in the code. For prospective residents, there are more comprehensive rules about promotion and advertising of villages. Residents' basic rights, such as the right to privacy and autonomy, are codified. The bill also provides for residential input into the management of the village, which is similar to the code requirement.

In addition to all this, there are new rules that build on these basic requirements, including clear rules about proposed increases to recurrent charges, often a source of concern for residents of villages. Recurrent charges may only be increased in accordance with a fixed formula in the village contract. If there is no fixed formula, and a village operator proposes that the recurrent charges be increased more than the CPI, the consent of residents is required.

Similar to the code, the bill provides for residents committees, but their roles and functions are clearer in this bill. There are also rules to ensure the independence of residents committees from village management and rules to promote resident participation in residents committees, again a provision which has been formulated as a result of feedback from the residents of villages.

There are three new important consumer protections for residents that are not currently provided for in the code in this bill. These protections would ensure adequate safeguards to resident funds and security of tenure. They are: the creation of a statutory charge over village land; new rules about proposed closures of retirement villages; and access to the Civil and Administrative Tribunal.

The creation of a statutory charge over village land is designed to protect residents' exit entitlements, where an ingoing contribution has been paid and the resident is entitled to the whole or part of the ingoing contribution. The statutory charge is for the amount of the refund under the village contract. The charge is removed when the village contract is ended and the exit entitlement is paid, or when the land is sold in accordance with part 11 of the bill.

The bill provides clear rules about the closure of villages. Under the code, village management would need to prove to a contract referee that management would, in the special circumstances of the application for termination, suffer undue hardship if the resident's right to occupy was not terminated.

Under the bill, an operator can only seek to close a retirement village where it is proposed that the retirement village land is to be used for a different purpose. In these circumstances, there are strict rules that need to be complied with by the operator before any resident's right to occupy his or her unit can be terminated. These include giving residents written notice of the operator's intention to close the village, and offering new accommodation for residents that is approximately the same standard as

residents' existing premises. A resident's right to occupy their retirement village can only be terminated by the ACAT, unless a resident voluntarily vacates. This is an important new protection, given that residents often choose to live in retirement villages for the security of lifetime tenure. A person should only be required to leave a village in exceptional circumstances, and no resident should be worse off because of a closure of the village.

Under this bill, the ACAT has power to make a range of orders in relation to retirement village disputes. This provides not only a significant new consumer protection for residents, but also an important recourse for operators. Currently, under the code, neither residents nor operators have access to the ACAT. Of course, resolution in the ACAT should normally be seen as a final resort once dispute resolution within a retirement village or alternative forms of dispute resolution have been exhausted.

This bill provides a robust legislative framework for the regulation of retirement villages. It builds on the existing principles and consumer protections for residents set out in the code of practice and introduces some new important concepts. The bill has received broad support from both industry and resident representatives, although it is likely that transitional regulations will be necessary to ensure the scheme is as consistent as possible with the New South Wales scheme.

The government is pleased to lend its support to this bill. My congratulations go to Mary Porter for her advocacy and for her strong ongoing interest in protecting the rights of Canberrans, older Canberrans, who choose to make their home in retirement villages.

MR SESELJA (Molonglo-Leader of the Opposition) (9.20): Retirement villages are an important source of housing choice for seniors in the ACT. In the ACT there are 28 retirement villages with a total of 1,429 units housing 2,300 seniors. It should not be a surprise that these villages are a vital infrastructure for our seniors and more so that they are an effective means for seniors to access social support, improved lifestyle and security of tenure. In this regard, when considering Ms Porter's bill today, we need to balance the imperatives between residents' interests and ensuring that operators have a business environment that allows them to plan their businesses with a reasonable degree of certainty.

On average 5.25 per cent of seniors in Australia live in retirement villages, with an expected increase to 7.5 to eight per cent in the next 15 years. Our demographics do not deviate from this trend and, as such, we need to be mindful of fostering an environment that is conducive to future investments in this sector. In this regard, I note that this is Ms Porter's second attempt at introducing her Retirement Villages Bill. Can I say that, whilst we still have some concerns with this bill, it is a significant improvement on the disastrous piece of legislation that was first put forward.

I note that in the first bill Ms Porter had cut and pasted bits and pieces of legislation from other jurisdictions, which rendered her tabled bill unworkable. It was legislation that was inconsistent and could not function as a whole. In fact, this bill was so badly criticised by industry that Simon Corbell wrote to the Chief Minister warning that,

even though it was a private members' bill, the negative reaction from developers and managers, perhaps in the form of a pause in the development of villages, may lead to criticism of the government.

Here are just a few examples of what industry was saying:

The proposed adoption in the ACT of yet another distinct style of regulation, which contains onerous obligations is going to increase this cost on us and on the industry. If Lend Lease had been aware of those onerous obligations proposed in the bill at the time of lodging its tender for Isabella Plains, we would have viewed the ACT retirement living market differently and we most probably would not have proceeded with the acquisition.

Goodwin had this to say:

The Bill in its current form imposes considerable compliance costs that operators will have little choice but to pass on to clients. Goodwin estimates the additional costs may be between \$500 and \$1,000 per annum on residential units. This sum may not appear significant, however, this cost will be significant to a client group that is mostly reliant on fixed pensions. Of greater concern is that no tangible benefit will be offered, conversely we believe there will be an adverse impact ...

The Property Council said:

The proposed legislation seems unnecessary in terms of the protection of residents' rights, but secondly, which would have the effect of causing an extremely onerous compliance burden on retirement village operators. Annual compliance costs will inevitably have an impact on services and/or costs to village residents. This is in direct conflict with current policy that seeks to lower accommodation and care costs for older people.

This sentiment was not coming just from industry. Residents also had concerns, such as the St Andrew's townhouse residents committee, which noted that:

I found the Retirement Villages Bill 2011 too detailed, difficult to interpret easily and too long. It could also be argued that it was too prescriptive in places.

Even the government's own agencies expressed concerns:

The Office of Regulatory Services ... receives a low number of complaints about ACT Retirement Villages. Since January 2008, there have only been five formal complaints to ORS about retirement villages.

That was an email from Manuel Tania.

This is an email from a JACS officer:

We proposed consulting industry and the community more generally as in initial discussion it appears that there is very little knowledge of the bill and contents. The bill will have significant impact on industry and people buying into retirement villages.

I have said this before: this is complex and important legislation, and I do not think the first version was treated very well. It would have led to some terrible, unintended consequences. I note that neither of the bills was backed by a regulatory impact statement.

As to the current bill, I note that this bill has the support of the retirement villages sector. We have consulted widely with this sector and residents alike, and there is general consensus that the second bill is more acceptable than the first. It was noted that many operators in the ACT also operate in New South Wales and, as such, it makes operational sense to adopt the equivalent legislation as in New South Wales. That said, by doing so, we will be adopting the benefits and the shortcomings of this New South Wales law. Either way, the benefit of this legislation as opposed to Ms Porter's first bill is that it is familiar legislation for most operators.

The bill promises greater rights for residents, for example, an increase in the cooling-off period from five days to seven days; provisions for a 90-day settling-in period; a decrease in the liability for current charges from six months to six weeks after vacating their units; security and refund entitlements owed to certain creditors should a village be sold due to insolvency; greater access to ACAT for the resolution of disputes; quarterly reporting requirements on the part of the operator; greater say by residents on how profits should be spent and greater involvement by residents in the preparation of the village budget; and narrower scope for the closure of retirement villages and assurances that residents must be rehoused in accommodation of the same standard and cost.

That said, the fact that ACAT has had no recent cases leaves me to conclude that the code has been operating reasonably well. As one industry body has noted, Ms Porter's second bill is the lesser of two evils. It is unfortunate, I think, that there was not more consideration for looking at ways of making the code stronger, and there are a number of concerns with the bill.

The retirement villages industry code of practice has legal effect status through the Fair Trading Act; it is not just a document with conventions. The concerns around introducing prescriptive legislation would not guarantee any further certainty for operators and residents that could not be achieved by strengthening the code. It would not necessarily be beneficial to alter the entire structure of the operational aspects of retirement villages without first getting the code administration committee to review the code or reform the current system before opting for legislation. More complexity and more compliance can potentially mean more costs if not handled well. New South Wales has legislation to regulate approximately 600 retirement villages. In contrast, the ACT has only 28. I think that all of these things need to be taken into account.

Some additional concerns that have been raised in relation to the legislation are the bill's effects on existing contracts. There is uncertainty regarding this matter, and sections 501, 502 and 261 in the bill do not provide clear guidance, although it does infer that existing village contracts would become residents' contracts, retaining their existing terms and conditions unless they were contrary to this bill. I think it is fair to say also that, whilst this bill gives residents greater rights, this is complicated legislation and it is not always easily understood by most people.

Residents have also highlighted section 242(1) which states that a charge over land will be created on the day a contract was entered into. However, the question needs to be asked that, since existing contracts would have been signed prior to this bill coming into force, will the charge over land apply to all existing village residents? These are just a few of the concerns.

I suspect we will have to revisit this legislation at some point in the future once it is passed. I think the second part of this process has been somewhat rushed. That said, we are prepared to take the advice and representations of representatives of both residents and industry and give the bill a chance. I flag that, in order to make sure there is enough time to bed down the changes, I will be moving an amendment in the detailed stage seeking that the commencement of this bill be 1 March next year.

MS BRESNAN (Brindabella) (9.29): The Greens will be supporting the Retirement Villages Bill. The creation of retirement villages has been a positive innovation in our community. They provide safe, comfortable community lifestyles to older people needing to step back from maintaining a large home. The proportion of Australians aged 65 and over living in retirement villages has increased over the last two decades. This trend is likely to continue, particularly with the ageing of the population across the country.

Along with the many benefits that retirement villages present, there are, of course, risks which must be managed. People invest a significant amount of their money when they move into a retirement village, and if problems arise it is difficult for them to move elsewhere. The bill being proposed today enforces through law the financial and tenancy rights of older people living in retirement villages, something that, until now, has only been subject to a code of practice.

The Greens believe older people should be given proper rights and protections when it comes to whatever living situations they may be in. Many people who live in retirement villages are widows and they do not all have the self-advocacy skills or affordability to defend their rights. The Greens believe, as I said earlier, older people have the right to feel safe and the laws being proposed today assist in achieving this.

It is important to note that the ACT has been the only jurisdiction in Australia that has not provided legislative protection for people living in retirement villages. The Office of Fair Trading operates a retirement villages code committee, but the committee does not meet often and residents did not seem to be using the process, despite having concerns.

The bill we are debating today is comprehensive and replicates New South Wales legislation. I appreciate a great deal of work was put into the previous version of Ms Porter's bill, but negotiations have led to this version of the bill that we are debating today.

The Greens have had several meetings with both the bodies representing the industry, the Retirement Villages Association and the Retirement Villages Residents Association. We have also been contacted by a number of individual residents of

retirement villages. These meetings included discussing what legislative model could be adopted that will provide both minimum disruptions to operators and maximum benefits to residents.

Although the bill today is reasonably different to what was originally proposed, the Greens support it as a step forward in providing surety to the industry and increased rights for residents. From our meetings we understand that both the industry body and residents support the current bill.

Concerns were raised by a specific retirement village in the last couple of days. These were around the definition of “retired person”, the subletting of properties by residents, operators’ budgeting requirements and association requirements including rules, by-laws, annual meetings and the tenure of officeholders. My office discussed these matters with the industry body, the Retirement Villages Association, and found a number of the operator’s concerns were not accurate. In the case of budgeting and association provisions, there are existing requirements on operators. We advised the operator to contact the Retirement Villages Association for assistance with the provisions of the bill and to discuss any ongoing concerns they may have.

I am informed that the Retirement Villages Association actively encouraged its members—of which the operator who raised concerns is one—to be involved in their consultation prior to debate on this bill and prior to a meeting I had with the Retirement Villages Association. I am confident the bill’s transition process in conjunction with the government’s information sessions for the retirement villages will more than adequately address any concerns operators may have.

In looking at the detail of the bill, there are a number of positive aspects to point out. Residents will be provided with standard form contracts, making them easier to understand. There will be a settling-in period of 90 days. After a resident passes away or moves out of a unit, their financial liability to the operator will only exist for six weeks as compared to the current six months. Operators will be required to prepare written safety and emergency procedures and take reasonable steps to ensure that residents and staff are familiar with such procedures. Residents’ financial interests are protected if a village folds. Their interest is given priority over certain other creditors. Disputes can be taken to ACAT rather than just the code administration committee. There is clarification about which capital items are the responsibility of the village operator and which are the responsibility of a resident. There is greater transparency about how an operator must set aside money for long-term maintenance. Accounts are to be provided readily to residents and be audited annually. Governance requirements are to be established for residents’ committees.

In conclusion, the Greens, as I have already said earlier, will be supporting this bill. It makes the necessary advancements in the rights of retirement village residents. We are pleased to see the bill being passed, as are many retirement village residents. I acknowledge that we have representatives from the Retirement Village Residents Association here today, and I congratulate them on the bill passing. I obviously also congratulate Ms Porter and her office on their work and for working cooperatively with the Greens and stakeholders on this bill.

MS PORTER (Ginninderra) (9.34), in reply: I wish to thank members for their contributions to this debate. As members know, this bill represents a positive move forward for residents of retirement villages in the ACT as well as a comprehensive and clear legislative framework for operators. Before I proceed to a discussion on the benefits provided by this bill, I would like to respond to some of the comments which have been made during the debate. I would especially like to thank the attorney for his support. As he said, we have a very important retirement village industry in the ACT, a diverse market and many village residents.

It is important that this bill is passed this evening to give this large number of older persons and our growing older population in the ACT, who have chosen or may choose to live in this type of retirement village, certainty—and also, of course, the industry itself certainty. I thank Ms Bresnan for her support and for her comprehensive understanding of the bill. I thank her for the work that she has undertaken to consult with residents and the industry at all times. I also thank her for speaking so eloquently tonight with such a sore throat.

Turning to Mr Seselja's comments, he notes the low level of complaints that were received. However, he obviously does not understand the reluctance by older people to try to resolve matters when concerns arise, which sometimes are quite serious in nature, when they believe that the code has no mechanisms to attend to those concerns and to protect them.

The argument that New South Wales has 600 retirement villages and the ACT only 28 and that somehow negates the necessity for this bill is a nonsense. We only have a small number of public hospitals in the ACT. I hazard a guess that Mr Seselja would not recommend that we do not have legislation to govern our health system. We do not have as many schools or universities in the ACT as New South Wales has, but I am sure that Mr Seselja would like laws to protect students and teachers. Somehow he seems to think that just because we have less of something there does not need to be any legislation to govern that industry in the ACT or to support it.

As we know, many older people look to downsize and find more manageable and affordable options. Retirement villages suit some; however, not all. But we do have a growing industry in the ACT which offers a number of different models and products to meet retirees' needs. Because the industry is growing and changing in many ways, it presents prospective residents with many challenges when deciding where they want to live. I think it is essential to remember that, for the most part, living in a retirement village is a very positive experience for residents. However, it is essential that we 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 and at the same time supporting the industry.

As members will recall, when I tabled this bill in June I outlined the extensive community consultation with both industry and resident representatives. Both before and after I tabled the exposure draft of the Retirement Villages Bill in 2010, representations were made to me from a number of retirement village stakeholders. These stakeholders included individual residents, the ACT Retirement Village

Residents Association, the Retirement Villages Association and Aged and Community Services Australia. I received around 30 submissions during my public consultation period for the Retirement Villages Bill 2010 exposure draft bill as well as a number of comments from the community.

I also hosted a number of community forums which gave members of the public an opportunity to speak to me about what they wanted from retirement village legislation. I considered all of this input as well as investigating different approaches taken in different jurisdictions with respect to the regulation of retirement villages. The introduction of the Retirement Villages Bill 2011, as the attorney said, led to a number of stakeholders who had not previously made representations to me approaching me and raising their concerns about the bill. Other stakeholders who had previously made submissions to me in the course of my public consultation period reconsidered their position and identified their main concerns.

The consistent message received since the introduction of the Retirement Villages Bill 2011 from both residents and the industry is that legislation based on the New South Wales legislation was their preferred approach and, as Mr Corbell said, it was something that was very strongly said to him also. It was because of this strong support that I had from the industry and the residents that I made the decision in June to introduce this bill. I thank the residents association, some of whom are with us this evening, and the industry peak body, the RVA. I note that even today both of these organisations have applauded the bill and have expressed the hope that it will pass this evening.

I considered the impact the legislation has had in New South Wales, which previously had a code of practice similar to the ACT code and which has a similar retirement village market, although, of course, it is a much larger market than that in the ACT. I also note that a number of retirement village operators are familiar with New South Wales legislation as they originally established themselves in New South Wales and have moved into the ACT. These operators have largely indicated a preference for the New South Wales scheme.

Members can have confidence that this bill is based on a scheme which has proven to be functional and viable. This bill provides a number of protections for residents, most of which are already in the code of practice; however, now with more rigour. Existing protections are built on in some areas, such as improved disclosure to residents. New protections provided by this bill include the statutory charge over village land which secures the exit entitlements of residents who have paid an ingoing contribution and who have a contractual right to have some or all of it refunded at the end of the contract.

The bill also provides a recourse to residents and operators to the ACAT in the event that a dispute cannot be resolved internally or using dispute resolution processes. The bill is based on an enforcement regime which is consistent with other laws in the territory which involve contracts between parties. It avoids rewriting bargains already struck between parties and leaves enforcement of rights to the parties, with minimal intervention by regulatory bodies.

I submit that this bill achieves a high level of consumer protection for residents with a minimal cost impact for operators. I understand that the requirements in this bill, including rules relating to the sound management of retirement villages, are already largely being complied with by operators. I also understand that a common concern relating to the existing code is that it does not provide an adequate framework within which village management can operate; whereas this bill provides the detail to guide village management to operate effectively. It also provides those who have established villages here who also operate in New South Wales with familiar ground to allow them to continue to invest here.

I would like to thank all those who have been in any way involved in getting to this point and helping with the consultation and advice with regard to this bill. I thank them very much. I know that they are very glad, as am I, to be at this point. As I said, the bill before us tonight will make a significant difference to many residents and, of course, to the industry. It will give them certainty, as was said today in the media release by the retirement village industry. Again, I thank everybody for their assistance and I thank members for their contributions to the debate on this important bill.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail stage

Bill, by leave, taken as a whole.

MR SESELJA (Molonglo—Leader of the Opposition) (9.45): I move amendment No 1 circulated in my name [*see schedule 1 at page 3325*].

Amendment No 1 is about the commencement; it would see the bill commence on 1 March 2013. This is for a couple of reasons. As I said in my earlier speech, we had a process of a couple of years where there was a bill that was consulted on and it was roundly rejected. Ms Porter is very sensitive to the criticisms about this particular bill, but these criticisms are not mine. They are criticisms coming from government departments, ACT government departments. They are criticisms coming from her own ministers and from the industry. I am really pleased that, through FOI, we were able to get that out there so that it was clear just how flawed that bill was.

Ms Porter has had to then go and rush through another piece of legislation and adopt the New South Wales legislation. I think in the context of that rushed legislation it is appropriate that we allow just a little bit of time before it commences so that we can smooth out any problems and so any necessary regulations can be made. I think that would be a good process. It will potentially save us from any unintended consequences of having rushed the second iteration of this bill through.

Ms Porter, in her sensitivity in responding to my criticisms, seemed to be indicating that we were voting against it. Of course, we have not voted against it; we have voted

for it. But we are now seeking to improve it slightly by ensuring that there is a reasonable amount of time before it commences. That will enable whoever is in government after October to do the right thing and make sure that there is a smooth implementation of this legislation.

Whilst Ms Porter is very sensitive to these criticisms, I should at least commend her on having a much more positive attitude to seniors than her colleague Ms Joy Burch, who, as we have seen in recent days, does not think that seniors in our community are up to basic tasks like contributing as volunteers and looking after people in our community.

Mr Corbell: A point of order, Mr Speaker.

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

Mr Corbell: It is on relevance. This is not about Ms Burch or what Mr Seselja alleges Ms Burch has said or done. It is about the amendment before us in relation to Ms Porter's bill. I would ask you to ask Mr Seselja to remain relevant.

MR SESELJA: On the point of order, they are very sensitive to this. I was simply commending Ms Porter for her work. I was just drawing a comparison in relation to the work that she has done on this bill. This bill is about—

MR SPEAKER: Thank you, Mr Seselja. I think at this point there is no point of order, but I would ask you to move on, Mr Seselja.

MR SESELJA: I will, but I do note the sensitivity of Mr Corbell in jumping to Ms Burch's defence.

In conclusion, I commend this amendment to the Assembly. I think it will prevent any unintended consequences. We have raised some potential concerns. There are still some concerns out there. Even though industry have come out and said, "Yes, we can accept this," and residents have said, "Yes, we can accept this bill," and the second bill has been a much quicker process, there are still concerns out there. I think a 1 March start date would be very sensible and would potentially prevent some unintended consequences from occurring as this bill is passed into law.

MS BRESNAN (Brindabella) (9.48): While I appreciate the intent of the amendment from Mr Seselja, I do not think it is necessary and the Greens will not be supporting it. I do not think this has been a rushed process in terms of the previous bill. Through this whole process, the issues, the concerns, have been addressed throughout. That is why we have come up with the current bill. As we know, the bill would start in six months. I think that actually allows plenty of time. I think it is best to allow the main stakeholder groups involved in this process to determine within that six-month period when the bill should be implemented. We might find that it can be implemented before that six-month period. I do not think we would want to prevent that from occurring if that was the case. I know that there are a number of people waiting for this bill to come in and I think we should allow the stakeholders to control that process. For those reasons, we will not be supporting this amendment.

MS PORTER (Ginninderra) (9.50): I and my government will not be supporting the amendment proposed by Mr Seselja. As Ms Bresnan just said, the current clause allows flexibility around the date for commencement. This means that the bill can commence at a time which is convenient to stakeholders. I think that is extremely important, given the need to consult with stakeholders and to make sure that we get this very important part of the whole package right. I am sure that this work will be undertaken with much enthusiasm by the stakeholders. As Ms Bresnan said, it may in fact happen sooner. They have waited a long time for this bill. We would like to make sure that we obviously get this right but we also do it in the time frame that is convenient to the stakeholders. Mr Seselja's amendment would strip away this flexibility and make legislation dictate a time frame which may not be convenient for the stakeholders.

Question put:

That the amendment 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

Amendment negatived.

Bill, as a whole, agreed to.

Bill agreed to.

Canberra Symphony Orchestra

MRS DUNNE (Ginninderra) (9.55): I move:

That this Assembly:

(1) notes the:

- (a) long-standing and important role of the Canberra Symphony Orchestra (the Orchestra) in the musical life of Canberra;
- (b) contribution the Orchestra makes to the education, training and professional development of aspiring and professional performance musicians;

- (c) inequity of funding provided to the Orchestra by the Commonwealth when compared to the other State orchestras, particularly the Tasmanian and Adelaide Symphony Orchestras;
 - (d) resultant missed opportunities for the Orchestra, including the unrealised potential for the Orchestra's collaboration and partnership with the Australian National University School of Music; and
 - (e) funding of the Orchestra provided by the ACT government;
- (2) expresses its ongoing support for the:
- (a) Orchestra and its role in our community; and
 - (b) funding of the Orchestra provided by the ACT Government; and
- (3) calls on the:
- (a) Government to pursue securing a commitment from the Commonwealth to increase its funding for the Orchestra to a level comparable to that provided to other State orchestras, particularly the Tasmanian and Adelaide Symphony Orchestras; and
 - (b) Speaker to write to the Prime Minister, the Commonwealth Minister for the Arts and the Commonwealth Minister for Education to advise them of the Assembly's resolution.

It is perhaps fitting that the Canberra Symphony Orchestra is actually performing as we speak tonight, with a concert under the baton of maestro Nicholas Milton, who is conducting a program of Peter Sculthorpe, Gustav Holst and Wolfgang Mozart, while we are here in the Assembly considering the importance of the Canberra Symphony Orchestra to our city.

The Canberra Symphony Orchestra has held a special place in the hearts of Canberrans for more than 60 years. Far from being the small community orchestra it was in the 1950s, the CSO today is a professional orchestra led by a world-leading conductor and artistic director.

Even so, the Canberra Symphony Orchestra remains integral to the Canberra community. It has strong links with ACT schools through its "Noteworthy" music education program, and through its symphony in the park concerts associated with the Canberra Festival. Of course, its annual concert season, along with its gala concert and its ever-popular prom concert in the grounds of Government House, is a centrepiece of its events.

The Canberra Symphony Orchestra also has an important role to play with the ANU School of Music, although this seems to be under something of a cloud with the ANU's current and quite unjustified attitude towards the school. The School of Music aside, the Canberra Symphony Orchestra and the School of Music in the past have had quite a valuable partnership. Teachers at the school also play in the orchestra, and the orchestra has a very proactive policy of engaging students in its ranks.

When I add up all the activities of the Canberra Symphony Orchestra and I look at the funding it gets, I am amazed at what it achieves.

Members interjecting—

MR SPEAKER: One moment, Mrs Dunne. Members, there is a lot of noise in the chamber. I am having trouble hearing Mrs Dunne. If we could just quieten it down a bit, thank you.

MRS DUNNE: Mrs Dunne is having trouble hearing herself, which is pretty unusual.

MR SPEAKER: You are free to continue, Mrs Dunne.

MRS DUNNE: More importantly, with a better financial foundation, I am even more amazed by the opportunities that would present themselves to the orchestra and to our city. Let me mention just some of the opportunities that come to mind. We could have a full-time orchestra; a closer collaboration with the ANU School of Music, including the provision of part-time teachers, master classes, student fellowships, internships and mentoring programs; regional concerts; commercial recordings; a more extensive and diverse concert program; more community-based activities and events; audience development programs; and more intensive music programs in a broader range of schools. All of these opportunities are possible, but not with the orchestra's current structure and funding.

Let us look by contrast to the Tasmanian Symphony Orchestra. According to its 2011 annual report, the TSO received funding of almost \$8 million. Nearly \$5.9 million of that came from the commonwealth, with the state contributing most of the balance, nearly \$2 million. This represents some 75 per cent of the TSO's total revenue for 2011. The TSO's funding enables it to employ a full-time professional orchestra that gives over 60 concerts each year throughout Tasmania, as well as nationally and overseas. It has over 60 CD recordings in its catalogue and is heard nationally and internationally on radio and through webstreaming.

And what about the Adelaide Symphony Orchestra? Its 2011 annual report tells us that it receives \$6.2 million of commonwealth funding and \$1.6 million from the state government. This represents nearly 64 per cent of its total revenue. The Adelaide Symphony Orchestra gives more than 100 concert performances each year, and that increased number of performances helps it out-perform the Tasmanian Symphony Orchestra in ticket sales. This, of course, helps keep down the proportion of government funding in its overall funding. Nonetheless, the need for government funding is no less important, because it allows the orchestra to do much more than mere ticket sales would allow. Like the TSO, the Adelaide Symphony Orchestra has an extensive recording catalogue as well as national and international tours. It has performed at Carnegie Hall in New York, one of the most prestigious concert halls in the world. Both orchestras, of course, have busy community programs, including in schools.

Returning to the CSO, according to the CSO's website the combined commonwealth and territory funding of the Canberra Symphony Orchestra contributes just 25 per cent of its operating budget. In 2011 the Canberra Symphony Orchestra received \$457,000 in funding from the ACT government. As far as the commonwealth is concerned, it was the good work of my colleague the former Chief Minister of the ACT, now senator, Gary Humphries, that secured at least some modicum of funding from the commonwealth.

In 2007 the CSO received its first-ever round of commonwealth funding, a princely sum of \$100,000. Whilst I am thankful for small mercies, this funding has continued since then at the same rate. So in real terms the commonwealth funding for the CSO has declined over time. It should have been the start of something big for the CSO but it was not. The CSO is still receiving a meagre contribution from the commonwealth, to the tune of \$100,000. This is for an orchestra that is comparable to the Tasmania Symphony Orchestra and Adelaide Symphony Orchestra, which at the same time received nearly \$5.9 million and \$6.2 million, respectively.

Is it any wonder, when we compare these orchestras, that the Canberra Symphony Orchestra is unable to reach its full potential? The funding directed to the Canberra Symphony Orchestra, particularly by the commonwealth, significantly limits the orchestra's ability to do the kinds of things that other state orchestras do. The Tasmanian and Adelaide symphony orchestras provide the most reasonable comparisons.

Just as Canberra is the nation's capital, so should the Canberra Symphony Orchestra be a symphony orchestra for the nation. It should be Australia's premier symphony orchestra. But without commonwealth funding that is comparable to other orchestras, particularly the Tasmanian and Adelaide orchestras, the Canberra Symphony Orchestra can never even dream of being Australia's premier symphony orchestra, let alone aspire to it.

The Canberra Symphony Orchestra is much loved by the people of Canberra; it has a special place in our community. It is time for the Canberra Symphony Orchestra to be freed from the shackles of what amounts to tokenism from the commonwealth. It is time for the commonwealth to realise its full potential. It is time for the commonwealth to see Canberra Symphony Orchestra not for what it currently is, a part-time professional local orchestra, but for what it could be as a world-class full-time professional outfit that takes the nation's capital to the world and brings the world to the nation's capital.

The ACT government needs to share this vision. It needs to take the vision to the commonwealth. If the Canberra Liberals are elected to government in October we will do that. The ACT government's commitment to Canberra Symphony Orchestra is commendable, but it can do much more to turn the impossible dream into a dream that can come true.

I commend my motion to the Assembly, calling on the current government to work with the commonwealth to increase the funding to a very important institution in the ACT, the Canberra Symphony Orchestra.

MS BURCH (Brindabella—Minister for Community Services, Minister for the Arts, Minister for Multicultural Affairs, Minister for Ageing, Minister for Women and Minister for Gaming and Racing) (10.03): In Canberra we are indeed fortunate to have a great number of top-quality institutions, and the Canberra Symphony Orchestra is certainly one of them. Established in the 1950s, the CSO is indeed an organisation of which all Canberrans can be proud.

In the last five years, the orchestra has particularly enjoyed a period of extraordinary artistic and audience growth and has established itself as one of the most successful orchestras in the nation. It now attracts tens of thousands of audience members each year. In addition to a rich program of exciting performances, the orchestra also engages deeper into the broader community through its outreach and education programs—the noteworthy program, for example. Since 2007, the CSO has reached over 35,000 young people in Canberra through its noteworthy program. The noteworthy program is supported with government funding of \$210,000 over three years and a sponsorship from the Macquarie Group Foundation which will total \$63,000 in 2012.

The program delivers concerts developed by the CSO to engage with the imagination and curiosity of children in preschools, primary schools and secondary schools across the territory. These concerts involved over 10,000 students from 57 schools in the ACT last year and were held at the Llewellyn Hall at no cost, ensuring that our orchestra reaches into our schools.

In 2013, the CSO will be vitally engaged in celebrating the identity of Canberra as it reaches its 100th birthday. As the pinnacle of the centenary program, we will hear the world premiere of a new centenary symphony which is a new, commissioned work by the Australian composer Andrew Schultz, who promises a stirring choral and orchestral tribute performed by the CSO and the local centenary choir. It is fitting that the CSO be featured in this high-profile event, and its players will be the focus of national attention as we come together as a city proud of our artistic achievements.

CSO will be part of broader programs as part of the centenary celebrations, including a noteworthy centenary symphony concert. This concert will provide a unique opportunity for aspiring young instrumentalists who, following a week of rehearsals under the expert guidance of noteworthy conductor, Warwick Potter, will be joined by members of the CSO to present a full concert, including a movement from Andrew Schultz's centenary symphony.

The ACT government recognises the important contribution of the orchestra to the ACT and fully supports the orchestra in its endeavours and aspirations. This is why the ACT government provides considerable funding to the CSO.

The ACT government provides the CSO with \$297,000 per year from the ACT arts fund for its core costs, \$100,000 per year from the ACT government's ANU community outreach program for the cost of hiring Llewellyn Hall and \$66,000 per year for the noteworthy program. This is complemented by \$31,000 per year from ActewAGL. The ACT government also provides \$1.4 million per year to the ANU to

support community outreach activities through the School of Music and the School of Art. The majority of this funding is provided to the School of Music to support the Centre for Music Outreach, responsible for the delivery of a suite of community outreach programs. There is a provision of \$200,000 annually to assist ACT arts organisations with associated costs with the hire of Llewellyn Hall, including \$100,000 to the CSO.

That said, the CSO generates a large share of its annual income through ticket sales and sponsorship each year, and I commend its efforts in this regard. St George Bank, Shell, the Molonglo Group, the Macquarie Group, BAE Systems and many local businesses provide valuable private support to the CSO.

The ACT government has advocated, on a number of occasions on behalf of the CSO, for Australian government funding. In May of this year I wrote to the federal Minister for Arts to request consideration of the provision of additional support to the Canberra Symphony Orchestra and to other music organisations in the ACT. This support would ensure that these organisations are able to bring in professional musicians to perform and teach in their programs, something that I know is very important in maintaining the quality of the work performed. I will continue to advocate for this support and ensure that the CSO receives commonwealth funding that is comparable to that received by other states.

I also note that the CSO has recently been supported through the Australian Council for Arts, in partnership with the Mundango Charitable Trust, to assist in its endeavours to grow philanthropic support and sponsorship. Increases to this support in 2011 helped to support the symphony's heartstrings program, to allow those at risk and most vulnerable to access performances which otherwise might be out of reach of some members in our community.

There is no doubt that the CSO is a responsive, motivated and innovative organisation with high artistic values and outcomes. Its contemporary and unique structure model is an orchestra paid per performance rather than a highly expensive full-time salaried model used by other states. As you are aware, Mr Speaker, conservative Liberal governments across the country are eager to cut the arts programs. We saw this in Queensland, with Campbell Newman axing the state's literacy prize as one of his first acts as Premier.

Mrs Dunne: Relevance, Mr Speaker.

MR SPEAKER: Ms Burch, one moment, thank you. Stop the clocks, thank you. Mrs Dunne.

Mrs Dunne: Mr Speaker, this is a motion about support for the Canberra Symphony Orchestra, and Minister Burch cannot let an opportunity go by to have a slap. And this is an opportunity. Minister Burch has obviously made it clear that she is going to go around the world for sixpence again and have a slap at everybody else about what they might do as a way of conjecturing about what might happen in this territory, instead of actually taking the opportunity to show support for a Canberra institution. This is a motion about a Canberra institution, not about Campbell Newman and not about his book prize.

MR SPEAKER: Mrs Dunne, I think the point is made. Ms Burch, I would ask you to restrict your comments to the scope of the motion.

MS BURCH: Thank you, Mr Speaker. It is about support to the GSO—

Mrs Dunne: It is the CSO.

MS BURCH:—the CSO and to our musical institutions and to our arts fraternity here in the ACT. I was just reflecting on Campbell Newman's act in attacking the state's literary prize.

Mrs Dunne: You were asked not to.

MR SPEAKER: Thank you, we will just move on from that now.

MS BURCH: But that said, Mr Speaker, as I have said earlier today, the Canberra Liberals are not earnest in their support of arts where they consider that to be negotiable and not of any core importance to them. In fact, we have had here in this place Mr Hanson calling for a ban on all public art.

Mr Coe interjecting—

MR SPEAKER: Order! Let us continue.

MS BURCH: Thank you. And other publications have been put out under the authority of the Canberra Liberals where matters such as art are clearly negotiable.

Mrs Dunne: Relevance, Mr Speaker.

MS BURCH: So as far as support for the CSO—

Mrs Dunne: Point of order, Mr Speaker.

MR SPEAKER: Order! One moment, Ms Burch. Thank you. Stop the clocks.

Mrs Dunne: Minister Burch is flouting your ruling. You have asked her to be relevant to the motion, which is about the CSO, the Canberra Symphony Orchestra. I am not quite sure what the GSO is. It is about the CSO and Minister Burch cannot keep to your ruling and keep to the motion. She has gone on about Campbell Newman. Now she wants to talk about public art. Can she just keep with the spirit of the motion and keep to your directions.

MR SPEAKER: At this point there is no point of order on this one. Whilst I think that the Queensland situation was well outside the scope of the motion, I think the Canberra arts issue is within the scope at this point. But, Ms Burch, let us not dwell on this point for too long.

MS BURCH: Thank you, Mr Speaker. I will not dwell on it. I will finish on that point by just reflecting that in this place I brought to the attention of the Canberra Liberals—and they have had the opportunity to refute it and they have not—a publication that has been authorised by the Canberra Liberals in which matters such as homelessness and the arts are simply negotiable.

I admire Mrs Dunne's interest in the CSO. I have just spoken about what this government is doing in support of arts and the CSO here in Canberra, but I again ask the Canberra Liberal Party to either say that arts are important or arts are simply negotiable for them.

That said, the ACT government have not reduced funding to the arts community and local arts practice. In fact, we have continued to invest in arts and we saw that again in the recent budget that we will get to debate eventually. I will watch with interest as the Canberra Liberals vote for or against the budget and all the associated arts funding.

This government know that the CSO makes a fantastic contribution to the culture of our city, engaging with all members of our community, from our young to our elderly. And we are prepared to back this with funding. I look forward to another wonderful performance, should I get the opportunity, by the CSO and how they will delight the Canberra audience.

MS LE COUTEUR (Molonglo) (10.14): It is interesting from my point of view that the CSO was one of the earliest lobby groups that came to see me when I became an MLA and I had to say to them that I had not had a very great appreciation of classical music. One of the pluses for me of being an MLA has been that I have now been to a lot of CSO performances, particularly with my partner, who has historically been much more of a classical music fan than me, and I have learned a lot about classical music and certainly increased my appreciation for it considerably. So I am definitely in the CSO's debt.

I am very pleased to support Mrs Dunne's motion. My major comment would be that it is a little bit late insofar as in May Mrs Dunne moved the motion about the School of Music. At that time I moved an amendment which called upon the Chief Minister to write to the federal minister for the arts, the Hon Simon Crean, requesting that the Canberra Symphony Orchestra receive a more equitable distribution of existing federal government funding. At that time my motion was not supported. While I obviously have no objections to effectively the same thing happening now, it just seems slightly unnecessary.

I am very pleased to hear that Ms Burch has, in fact, written to the federal minister for the arts, the Hon Simon Crean, some months ago, as was requested. What I really would have liked to have heard, of course, was: what did he say back?

Ms Burch: I am quite happy to table his response.

MS LE COUTEUR: That would be very interesting. I assume he did not say anything particularly useful or we would have heard it.

Ms Burch: More useful than Campbell Newman.

MS LE COUTEUR: Well, this is not a debate in that fashion and I must speak via the Speaker. Speaking through the Speaker, I have in front of me a table of moneys given to the various state symphony orchestras. They come from a question on notice asked by the federal Greens leader, Christine Milne. The highest contribution is to the Sydney Symphony Orchestra, which gets \$10.3 million. But it is interesting that while the Melbourne Symphony Orchestra gets a measly \$9.8 million, there is also an Orchestra of Victoria, which gets \$4.8 million. So if you add it up together, Victoria is the clear winner.

Among the states, Adelaide gets \$6.3 million, Queensland gets \$7 million, Tasmania gets the lowest at \$5.9 million, and Western Australia gets \$6.5 million. Possibly the even more interesting figure is that the Darwin Symphony Orchestra gets \$203,900. Why I say that is possibly more interesting is because, to my knowledge, all the state symphony orchestras were originally ABC orchestras. When funding arrangements for the ABC changed, part of that involved the commonwealth government taking on funding of the symphony orchestras. My understanding is that Darwin and Canberra were in the same boat—that is, they did not have an ABC orchestra. So it is interesting that Darwin, despite having a considerably smaller population than Canberra, gets twice as much money for its symphony orchestra.

I think the ACT can well say that even if we are not able to aim for the dizzy heights of \$10 million or even \$6 million for our symphony orchestra, we should at least do as well as Darwin. That should not even be an aspirational goal; that should be something the federal government could well agree to. I will be very interested to hear from the minister Simon Crean's response to her letter.

I think the Canberra Symphony Orchestra plays an important part in Canberra's musical environment, musical scene, particularly given the current problems, to put it mildly, with the School of Music, as we debated in May. There is a relationship between the two. A number of the performers with the symphony orchestra are also teachers or students or are connected with the School of Music. The two, while being distinct organisations, are interrelated, and part of their interrelationship is that they both receive federal funding and both of them, of course, think they should be better funded.

I am happy to support Mrs Dunne's motion. I am intrigued to hear what the Hon Simon Crean may have said, and I am just a little frustrated that we are having to move this as a separate motion when this was, after all, what was put forward in May.

MRS DUNNE (Ginninderra) (10.20), in reply: To close the debate, I thank members for their support, although from Minister Burch it was obviously through gritted teeth. I should have touched in my opening comments on the amendment that Ms Le Couteur referred to that she moved in May in relation to my motion on the School of Music. I recall at the time saying that I was fully in support of the sentiments that Ms Le Couteur included in her amendment and that I thought the work of the CSO needed to be supported. I in fact invited Ms Le Couteur to consider moving a separate motion in support of the CSO at a different time.

I did not support her amendment at the time because we were talking about the School of Music, which was under threat and is still under threat. I think it was the majority view of the Assembly that, while we believe the CSO needs support, including the amendment in the motion would have distracted from the core message, which was a message to the university about the School of Music. Time has passed. Ms Le Couteur did not move her motion, so I am here moving the motion. I anticipated she would support it because of the sentiments she expressed in May, and I am thankful for her support.

I am thankful for the support of all of the Assembly since then, and I hope this sends a very strong message to Henry Laska, the board of the Canberra Symphony Orchestra, to their artistic director, Nicholas Milton, and everyone involved in the orchestra that there is support and appreciation for the work that they do here in the ACT.

Ms Le Couteur went through the full list of grants, and it is the case that it seems that the state capitals all once had an ABC symphony orchestra and that they now experience considerable commonwealth largesse because of that legacy while the territories struggle on with the crumbs. I do not begrudge the \$200,000 for the Darwin Symphony Orchestra. When you consider the tyranny of distance, it makes sense that we should not begrudge them the fact that they receive more money than we do. We should be, in fact, encouraging the commonwealth to look rationally at how it funds its orchestras. When Tasmania has a population of not much more than us and receives funding to the tune of \$5.9 million, perhaps we could anticipate in the fullness of time receiving some modest amount of money, perhaps \$1 million or even \$2 million.

This is something that we as a community should be working for. It would be a pleasant change for Minister Burch to come down here and just agree—just bring herself to put aside the bile just once and just agree. It would be interesting to do the intellectual test: if Ms Le Couteur had moved the motion rather than me, would she have said the things she did? I think not. She has to do the “I’m tougher than you; I’ve got more street cred than you; if I have to agree with you, I’m going to do it begrudgingly”. She completely and utterly miscalculated on the message and on the tone of the debate, and she did so to her disadvantage. She will be seen for what she is—a woman who is churlish and cannot give in good grace.

That having been said, I thank her for the support such as she gave, and I thank the Greens for their support. I hope that this will be a sign of a more concerted effort on all our parts to work with the commonwealth to get a better outcome for the Canberra Symphony Orchestra not just for the benefit of the people of the ACT but for the whole nation.

Motion agreed to.

Personal explanation

MS BURCH (Brindabella—Minister for Community Services, Minister for the Arts, Minister for Multicultural Affairs, Minister for Ageing, Minister for Women and Minister for Gaming and Racing): I wish to make a personal explanation under standing order 46.

MR SPEAKER: Ms Burch, this happens frequently between you and Mrs Dunne. Let's keep it short and not debate the topic.

MS BURCH: Pardon me?

MR SPEAKER: Let's keep it short and not debate the topic, thank you.

MS BURCH: Well, no, both Mrs Dunne and Mr Seselja have come into the place during the debate on safe shelter and made reference to my concerns about volunteers' involvement being based on their age and that I had disrespected those volunteers based on their age. That is absolutely wrong. I challenge either of those members—Mrs Dunne or Mr Seselja—to come in here with the proof to say that I have disrespected volunteers based on their age. Mrs Dunne has form; she has had to come in here and apologise before, and I ask her to either prove it or apologise.

MRS DUNNE (Ginninderra): Minister Burch has asked me to produce the evidence, so I will read from the *Canberra Times* article of Monday, 13 August, headed, "Church shelter plan left out in the cold". In the third column, about halfway down:

Ms Burch said helping the homeless required skills to address many complex issues.

"It is of concern that the service would be staffed by volunteers with minimal training, many of whom could be ageing, or with no experience in this type of work."

I rest my case, Mr Speaker.

Standing order 76—suspension

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

That standing order 76 be suspended for the remainder of this sitting week.

Executive business—precedence

Ordered that executive business be called on.

Estimates 2012-2013—Select Committee Report—government response

MR BARR (Molonglo—Deputy Chief Minister, Treasurer, Minister for Economic Development and Minister for Tourism, Sport and Recreation) (10.27): For the information of members I present the following paper:

Estimates 2012-2013—Select Committee—Report—*Appropriation Bill 2012-2013 and Appropriation (Office of the Legislative Assembly) Bill 2012-2013*—Government response.

I move:

That the Assembly takes note of the paper.

I present the government's response to the report of the Select Committee on Estimates 2012-2013. I wish to thank the committee and its support staff for its report on the appropriation bill.

The committee's main report has been prepared within a short time frame. The government appreciates the effort that has been made by the committee and its secretariat. Further, the government would like to extend its appreciation to the chair of the committee for her professional leadership. The government respects and values the critical role played by the Select Committee on Estimates in scrutinising its proposed expenditure.

I would also like to take this opportunity to acknowledge and thank the Centre for International Economics for its efforts and time put into providing an independent view of the 2012-13 ACT budget and other important aspects of the budget.

The estimates committee presents 151 recommendations. In conjunction with the independent adviser's report, it effectively canvasses a large range of issues in the budget. I will not take the Assembly's time now, at this late hour, to work through each of the select committee's recommendations; they are separately discussed in the document I have just tabled.

The government has generally accepted or noted the majority of recommendations included in the committee's report. In our response, the government has agreed to 37 recommendations; agreed in principle to 31 recommendations; noted 63 recommendations; and not agreed to 23 recommendations. I note that three of the committee recommendations contained two parts, for which separate recommendations have been provided, so the numbers do not quite add up.

In the instances where recommendations were not agreed, the government has taken the time to assess what is being asked for. The government has not agreed to several of the recommendations on the basis that the suggested change or service is already sufficiently catered for or provided; detailed analysis or reviews have already been undertaken on the issues raised; or all information requested is available in the various reports either provided to the committee or publicly available. It has been assessed that additional work or service provision in this regard will not be duplicated. Additionally, in some cases the response to the recommendation and existing policies appropriately addressed the issue being raised.

In relation to other recommendations not agreed, it has been generally considered that the recommendations have been resolved through other mechanisms; do not align with current legislative practice or existing policy intent; are covered by alternative processes that are already underway; have privacy issues that may be associated; reserve previous government decisions; or are subject to future budgetary decisions of government. The reasons for each departure from the recommendations is detailed in each individual response.

The government is also pleased with the findings of the Centre for International Economics and their report. I will take a bit of time to highlight these findings.

In relation to the territory's economic forecast, I note that the CIE concludes that the forecasts appear to be reasonable, including that gross state product growth forecasts are considered to be appropriately conservative and reasonable; that CPI growth is sufficiently cautious and plausible given that it is highly unlikely that the large capital works program for the territory will lead to higher than forecast CPI growth in the territory; that the wage price index assumptions are satisfactory; and that employment growth forecasts are within a plausible employment range and the low to flat employment growth for the 2011-12 fiscal year and the 2012-13 fiscal year appropriately takes into account job cuts in the commonwealth public service.

The CIE highlighted the significance of the taxation reform, which it considered would lead to a more sustainable revenue base in the long run. Specifically the CIE outlines that the tax reform package comes at the right time, as the ACT is anticipating getting a lower share of commonwealth GST revenue under the new funding formula. They also considered the capital works program as justified public sector investment to support the ACT's state final product. Finally, they noted that each of the savings initiatives introduced in the 2012-13 budget seem plausible and achievable.

These findings are testament to our principle of responsible financial management practices. This is in stark contrast to the recommendations included in the dissenting report—which appear to ignore, utterly, the observations and conclusions of the committee's independent expert adviser—in which people draw their own conclusions on the budget and the government as fiscal managers, based on little or no evidence.

Let me take a moment to run through a few of the dissenting report recommendations which contradict the expert advice.

The dissenting report recommends that the government be “condemned for its failure to implement sound fiscal policy”, on the basis of returning budget deficits. There is a wealth of literature on the appropriateness of accepting temporary deficits for economic and social policy reasons. Returning a budget deficit is not in itself a failure to implement sound fiscal policy. In the CIE briefing on this matter, the committee's expert adviser observes:

There are a number of complex trade-offs involved in deciding whether or when to run a budget deficit and how quickly to return a budget to surplus.

These trade-offs are outlined in the table within the paper, including government spending to boost private demand; borrowing for long-term investments that increase the productive capacity of the economy; and that deficit phases should be sustained as long as necessary to boost the economy. It is highlighted that budgets must be countercyclical and need to have sufficient flexibility to return to surplus. We have a plan to return the budget to surplus, and the objectives of this plan are clearly articulated to provide a measured approach to return the budget to surplus through balancing various trade-offs.

In another example, the dissenting report recommends that the government be condemned for its “failure to implement sound, equitable and efficient tax reform measures”. This again diverges from the CIE observations on this matter. Again I quote:

The tax reform package also comes at the right time as the ACT is anticipating getting a lower share of Commonwealth GST revenues under a new funding formula ...

The phasing in of important and much needed tax reform should put the ACT’s revenue base on a more sound footing.

I reiterate that the tax reform package makes the ACT’s taxation system fairer, simpler and more efficient—fairer by reducing taxes on those on lower incomes; simpler by removing some taxes and reforming others; and more efficient because we are reducing the distortions on household activity and on business activity.

The government has not responded to each individual recommendation of the dissenting report; however, we have provided a broad response to it. In reviewing the dissenting report I can only observe that it was confused, ultimately contradictory and an obvious demonstration of partisan politics in the lead-up to an election. The report reinforces the fact that Mr Smyth and Mr Coe have treated the committee process with cynicism and mockery.

Mr Smyth interjecting—

MR ASSISTANT SPEAKER (Mr Hargreaves): Order! I remind members that there is a list up on this table.

MR BARR: To conclude, let me say that the report of the estimates committee and its recommendations do not raise any issues that would prevent the passing of the Appropriation Bill 2012-13 by the Assembly. On behalf of the government, I express thanks to the committee for its consideration of these issues and remind the Assembly of the important and essential investments being made through this budget to support the continued growth and prosperity of the Australian Capital Territory. I commend the government response to the Assembly.

Debate (on motion by **Mr Smyth**) adjourned.

Discrimination Amendment Bill 2012

MR CORBELL (Molonglo—Attorney-General, Minister for Police and Emergency Services and Minister for the Environment and Sustainable Development) (10.37): I ask leave to present the Discrimination Amendment Bill 2012.

Leave not granted.

Standing and temporary orders—suspension

MR CORBELL (Molonglo—Attorney-General, Minister for Police and Emergency Services and Minister for the Environment and Sustainable Development) (10.37): I move:

That so much of the standing orders be suspended as would prevent Mr Corbell from presenting the Discrimination Amendment Bill 2012.

The government believes that the Assembly should be given the opportunity to consider amendments to the Discrimination Act that will deal with the concerns that have been raised by the Human Rights Commission in relation to provisions around religious vilification and hatred.

Regrettably, in our community we are seeing instances of material and comments being circulated and made which seek to denigrate, vilify or potentially incite hatred against certain religious groups in our community. In a community which is committed to tolerance and to the acceptance of all peaceful religious faiths I think it is incumbent on this Assembly to allow the government to introduce this bill and then for the Assembly to consider whether or not the proposals are worthy of passage into law. I ask members to agree to suspend standing orders to allow this bill to be introduced.

MRS DUNNE (Ginninderra) (10.39): The Canberra Liberals do not support the suspension of standing orders and do not support the granting of leave for the introduction and presentation of this bill at this time. There has been no evidence presented by the government as to why this needs to be rushed through.

I have had a briefing on the draft bill that was circulated last week from the government and I have received nothing in that briefing that would indicate to me that there is a matter of urgency. There was, in fact, a process that was being undertaken by the LRAC to look into this issue and that has been taken out of the hands of the Law Reform Advisory Committee and, in a hurried manner, put together. There are considerable concerns about this proposed legislation and the implications it would have. There has been no sound reason presented to me, on behalf of the opposition, as to why this should be done by leave with a view to debating it this week.

I think that this is a matter that has caused considerable concern in many jurisdictions across the country and across the world. That we are being asked to accept this and deal with it at the eleventh hour of this Assembly in a rushed way is entirely inappropriate. Such important matters should be given appropriate consideration, not because Simon Corbell got a sudden rush of blood to the head about 10 days ago. That is why the Canberra Liberals are opposing the introduction by leave of this bill at this time and why we are opposing the suspension of standing orders.

MR RATTENBURY (Molonglo) (10.41): The Greens will support the suspension of standing orders. I think that the points Mrs Dunne raises are certainly things we have been giving some thought to. We want to give this bill some thought. We are keen to

have a think about the detail and consider whether it warrants being pushed through this week. We should not prevent the minister from at least tabling the bill and giving the presentation speech. I think it is entirely appropriate that we proceed down that path tonight.

As I have said publicly before, we have an interest in this in principle. If you compare it to the commonwealth legislation, it appears there is almost a loophole in the ACT laws. The question is whether the government is going to put forward the right solution to that at this time and whether we should proceed with that in isolation from the rest of the LRAC review. They are the matters that we will be giving some thought to once we have seen this bill presented.

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

Discrimination Amendment Bill 2012

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

Title read by Clerk.

MR CORBELL (Molonglo—Attorney-General, Minister for Police and Emergency Services and Minister for the Environment and Sustainable Development) (10.42): I move:

That this bill be agreed to in principle.

I am pleased to present the Discrimination Amendment Bill 2012. The Discrimination Act 1991 has been in force in the ACT for more than 20 years. Over that time, the government of the day has amended the act to respond to issues that have arisen in a changing ACT community. These amendments have typically strengthened the act to make sure that it continues to meet its objectives, which is to ensure that adequate protections against discrimination are in place for all citizens, particularly for minorities who are more likely to be subjected to discrimination.

Section 4(d) of the act states that one of its objects is “to promote recognition and acceptance within the community of the principle of equality of opportunity for all people”. Unfortunately, some recent actions in the ACT have threatened this object. These actions have raised issues of vilification based on a person’s or a community’s religious faith, a characteristic which is not currently covered by the Discrimination Act 1991.

In December 2011, a number of brochures were distributed in Canberra and Queanbeyan containing cartoons of an apparently Muslim man physically abusing a woman and child and an Islamic elder condoning the violence as the man’s “duty to Allah”.

In June 2012, a group called Concerned Citizens of Canberra distributed a flyer to Gungahlin residents urging them to oppose the development of a mosque in

Gungahlin and inviting residents to a private, closed door meeting. The flyer cited reasons of social impact, traffic and noise, public interest and bulk scale and height.

The *Canberra Times* reported in July this year that, following that campaign, more than 30 submissions were received objecting to the mosque. Examples of reasons cited in the objections included that “women in burqas will scare children in Gungahlin” and that “the mosque is not compatible with Australian values and Australian law”. One submission asked that the government assure the citizens of Gungahlin that this centre will not be taken over by extremists, bent on bringing chaos. Another raised concerns about women and children.

My directorate has been advised that these latest pamphlets are still being distributed in the community. The government has received advice from the human rights commissioner that, as the Discrimination Act 1991 currently stands, it is unlikely that these acts would be covered by the vilification provisions in the act. This is because the act does not expressly include vilification on the grounds of religion.

The government has already asked the Law Reform Advisory Council to undertake a broad review of the Discrimination Act to ensure that it offers the best possible protection against discrimination in the ACT. I expect the council to report on its reference next year. However, in light of recent events, which have raised the issue of vilification of members of our Muslim community, the government strongly believes that resolution of this issue must be considered now.

The inquiry being conducted by the LRAC is, of course, a much broader body of work. I would like to take this opportunity to thank the LRAC for the work they are doing on this reference. I look forward to seeing their report and know that it will add further weight to the bill that is being presented today.

The Discrimination Amendment Bill 2012 amends sections 66 and 67 of the Discrimination Act by inserting the word “religion” into both sections, making religion one of the grounds for establishing vilification offences under part 6 of the Act, along with race, sexuality and HIV/AIDS status.

In relation to section 66, the amendment in clause 5 of the bill makes religion one of the grounds that can be used to establish an unlawful vilification. It is currently unlawful, under section 66, for “a person, by a public act, to incite hatred toward, serious contempt for, or severe ridicule of, a person or group of people on the ground of any of the following characteristics of the person or members of the group: race; sexuality; gender identity; HIV/AIDS status”. Religion, under this bill, will become one of those characteristics.

In the case of section 67, the amendment in clause 6 of the bill makes religion one of the grounds that can be used to establish a serious vilification offence. A person commits an offence, under section 67, “if the person intentionally carries out an act; and the person is reckless about whether the act is a public act; and the act is a threatening act; and the person is reckless about whether the act incites hatred towards, serious contempt for, or severe ridicule of, a person or group of people on the ground

of any of the following characteristics of the person or members of the group: race; sexuality; gender identity; HIV/AIDS status”. Religion is proposed to be added to that list of characteristics.

These amendments to the act will further strengthen the ACT’s already robust anti-discrimination and human rights framework by introducing protections for minorities in our community.

There are some, I know, who will argue that this bill represents a limitation on the right to freedom of expression. The government’s view is that any limitation on the freedom of expression imposed by the bill is balanced with the promotion of rights. These limitations are justified to the extent that the bill acts to reinforce our community’s commitment to the eradication of acts of discrimination and is consistent with the relevant international conventions. I commend the bill to the Assembly.

Debate (on motion by **Mrs Dunne**) adjourned.

Standing order 172—suspension

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

That standing order 172 be suspended to allow the question “That this bill be agreed to in principle” to be determined this sitting in relation to the Taxation Administration Amendment Bill 2012 and the Election Commitments Costing Bill 2012.

Taxation Administration Amendment Bill 2012

Debate resumed from 14 August 2012, on motion by **Mr Barr**:

That this bill be agreed to in principle.

MR SMYTH (Brindabella) (10.50): Agreed.

MR RATTENBURY (Molonglo) (10.50): The Greens will also be supporting the bill this evening. I think that Ms Hunter may even have an additional paragraph to add to my extensive comments. I wish to ensure that she gets to deliver her prepared comments.

MS HUNTER (Ginninderra—Parliamentary Leader, ACT Greens) (10.51): The Greens support this bill. It is a common-sense change to resolve what appears to be a relatively straightforward oversight. The scrutiny of bills committee made the important point that simply asserting that we are returning to the previous status quo is not a proper justification for a law that limits a human right.

The Greens support the bill and the limitation on the right to privacy that it creates. I am satisfied that this is only a minor limitation that is proportionate to the reasonable end it seeks to achieve and that it is the least restrictive means of doing so. Ensuring

that people fulfil their obligations as taxpayers is important and, in light of the earlier debate about payroll tax, I think we can all see why it is important for different revenue offices to communicate to ensure that the laws are being complied with.

MR BARR (Molonglo—Deputy Chief Minister, Treasurer, Minister for Economic Development and Minister for Tourism, Sport and Recreation) (10.52), in reply: I thank the shadow treasurer and the leader of the Greens for their succinct contributions. If only all of my legislation was endorsed as quickly as this piece has been. For the record, Mr Speaker, I do note that the scrutiny of bills committee did raise some concerns regarding possible issues of privacy. There are broad and sound public policy reasons why the sharing of information between state and territory revenue offices and the Australian Taxation Office occurs. Information sharing allows the territory to protect its revenue base and there are significant and broad benefits to the community that are gained from the sharing of this information.

In my view, it would be unfortunate if the community suffered and tax avoidance was facilitated through inefficient communication between jurisdictions. The community expects that tax administration is fair and equitable to all taxpayers and the sharing of this information promotes that principle. These benefits flow not just to the ACT but to other jurisdictions and the nation more broadly.

In short, we all benefit from good administration. This bill will support the government in its endeavours to make sure that tax laws are efficient and applied equally to all taxpayers. Tax avoidance will continue to be investigated and subsequent revenue collected. I commend the Taxation Administration Amendment Bill to the Assembly and thank members for their support.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

Civil Unions Bill 2011

Debate resumed from 8 December 2011, on motion by **Mr Corbell**:

That this bill be agreed to in principle.

MRS DUNNE (Ginninderra) (10.54): It will come as no surprise that the Canberra Liberals will be opposing this bill. The Canberra Liberals have held a consistent position on this matter across the many times this government has tried to flout both commonwealth law and the fundamental philosophy and purpose of marriage.

What is that fundamental purpose? Marriage is the union of a man and woman, to the exclusion of others, made voluntarily and for life. An important, practical element of that union is in the procreation and rearing of children to sustain the integrity of

human life and the next generation. Some would say that this is idealistic, and perhaps it is to some extent, because, as we all know, one size does not fit all situations. But the fundamentals support the practicalities.

The essence of this bill is to allow the ceremonies to solemnise civil unions in the same way as they solemnise marriages—put quite simply, a ceremony that solemnises a civil union emulates a marriage. This bill offends if not the literal words of the commonwealth Marriage Act, its spirit and certainly its intent, it also offends the fundamental philosophy of marriage as well as its practicalities.

The Civil Unions Bill attempts to dissuade the reader from thinking that its purpose amounts to a marriage that fails the commonwealth definition or test. At clause 6, the bill provides:

A civil union is different to a marriage ...

This is a bald statement that fails to explain how or why it is different and it is a vain attempt to excuse its real purpose. Having made this vain attempt to distinguish a civil union from a marriage, the very same clause then goes to some pains to say why it is the same as marriage. It says that whilst a civil union is not the same as marriage it should be treated, and again I quote:

... for all purposes under territory law in the same way as a marriage.

So right up front this bill sets up civil unions as marriages. It is an attempt by this government to undermine the authority of the commonwealth by using a thinly veiled, foot-in-the-door approach. It is an attempt to usurp the fundamental philosophy and the practicality of marriage. The Canberra Liberals support the fundamental philosophy and practicality of marriage and the Canberra Liberals support marriage as articulated in the commonwealth Marriage Act.

According to commonwealth law, marriage is, and I quote again:

... the union of a man and woman to the exclusion of all others, voluntarily entered into for life.

The Australian constitution gives the commonwealth the foundation for making that law. It provides, at section 51, that the commonwealth has the power to legislate for the peace, order, good government of the commonwealth in respect of marriage. That is at subsection xxi. This is a point that other members in this place have failed to understand. Twice since 2006, the commonwealth Attorney-General of both stripes dealt robustly with the ACT on these matters. The fundamentals of this bill are no different from past efforts.

This bill says that to all intents and purposes civil unions are marriages. The Canberra Liberals do not support it, and there is little need to say more on this subject.

MR RATTENBURY (Molonglo) (10.57): In stark contrast, the Greens will be wholeheartedly supporting this bill today. It represents another step towards full equality for same-sex couples in the ACT. The bill places increased emphasis on the

public ceremony component of entering into a relationship. This represents an improvement on the existing civil partnership legislation. It is a relatively technical improvement but an undeniable improvement nonetheless. The bill continues a legislative trend of moving away from simple, paper-based registration schemes for same-sex relationships towards legally binding public ceremonies.

This is an important change. Same-sex relationships deserve more than quick and quiet, paper-based registration schemes. If couples want to, they should be able to hold a public ceremony, amongst friends and family, and have the law recognise that ceremony. The message that a paper-based process sends is that same-sex relationships are not something to be celebrated and marked publicly. The Greens strongly disagree with that message.

At the end of the day, this bill is actually a very simple one. It is about three things. It is about equality, it is about decency and it is about respect, and the Greens are proud to be supporting the bill today.

In supporting this bill, the Greens would like to make one clear point. The campaign for equality will not end when this bill passes, and there is more to be done. The movement towards equal marriage legislation at a federal level will continue. It is a longstanding part of our platform that we believe in amendment to the commonwealth Marriage Act. We will not lose sight of that goal.

In discussion and consultation with local groups who represent the GLBTIQ community, the Greens have received the message very clearly that while they support this bill, we should not be diverted from the national campaign. I would like to thank a number of the groups for sharing their views during the Greens' consultation on this bill, and that includes the Parents, Family and Friends of Gay and Lesbian People, Equal Love Canberra and Australian Marriage Equality. In the event that the vote in federal parliament on equal marriage fails, the ACT Greens would expect the ACT to join the likes of Tasmania and South Australia and pass local marriage acts that are open to all loving adult couples.

While amendment of the commonwealth act is the ideal approach, we believe that if the vote were to fail, we should do what we can for residents of the ACT. We should also be open to passing a law that allow couples from other jurisdictions to come to the ACT to get married. Quite separate from the primary objective of equality, there are economic flow-on benefits that would accrue to the ACT from such a law.

I would like to conclude my brief remarks tonight by talking about the people that will benefit from this new act rather than the politics at a national level, because ultimately we here in this place should be basing our decisions on the benefits to people that will flow from today. My mind is taken back to a beautiful spring day in 2009 when two men, Warren McGaw and Chris Rumble, were among the first to make use of new and improved civil partnership legislation. We were at the rose gardens at Old Parliament House.

At that point in time, they were making use of legislative improvements made by the Greens, with the support of the ACT government, and I was very struck by that

occasion—how happy the couple were and how proud their family and friends were to be there for the special day. It really was very touching and a special day that everyone present will remember for a long time. And I think the important part of that was the actual public celebration of their love for each other and their commitment to each other.

We live in a society in which rituals and ceremonies are incredibly important to all of us. There are a whole range of those things, whether they are 21st birthdays, wedding ceremonies, hens nights. We have this whole series of ceremonies and rituals in our world that we all find incredibly important and we all love to share with those that are important to us, across all faiths, across cultures, across demographic groups. There are a whole series of them, and all of us know how important those occasions are to us because they are the occasions that we take photos at, they are the occasions that we put those photos on our wall to remember. Denying some couples in our society access to those ceremonies is simply not on and I think that we should be ensuring as many people who want to are able to enjoy those public celebrations and actually celebrate them with their family and loved ones.

The legislation we are passing tonight, and the example I have just described of Warren and Chris, simply highlight the good outcomes that can flow from legislation passed by this place. Reforms like this enrich people's lives and send a powerful message of respect and of acceptance. It was quite humbling to attend the ceremony of Warren and Chris, and I am filled with pride to know that by voting for this bill today there will be more happy couples sharing their special day with friends and families. I simply affirm that the Greens will be supporting this bill.

MR BARR (Molonglo—Deputy Chief Minister, Treasurer, Minister for Economic Development and Minister for Tourism, Sport and Recreation) (11.03): I thank Mr Rattenbury for another eloquent contribution to this debate and thank the Greens Party for their ongoing support of the government in seeking, step by step, to remove discrimination in ACT law. It has been quite a journey over a 10-year period. I think we are up to over 80 pieces of territory law that have had discriminatory provisions removed.

It is not the first time that we have debated this issue. The very first bill that I voted on as a member of the Assembly was, in fact, the original Civil Unions Bill 2006 that this legislation seeks to finally entrench in territory law.

We have been through the cycle of a Howard government veto, of threat of a Rudd government veto, to, ultimately, a change to Labor's national platform under the Gillard government and importantly a change to the self-government act that has removed the Howard executive veto, again supported by the Gillard government.

So there has been movement at a national level. Nearly 60 pieces of legislation nationally have sought to remove discrimination for gay, lesbian, bisexual, transgender and intersex Australians, and tonight marks another step of progress. It is not, as Mr Rattenbury said, the end of the road, though, and we certainly will continue this push for legal equality until we achieve that outcome.

One of the things that are disappointing is that although the world has moved, Australia has moved and this jurisdiction has moved a lot in the last 10 years, Mrs Dunne has demonstrated in her cold, dismissive presentation tonight that the Canberra Liberals have not moved at all. That is disappointing. Some of us held out some hope that there might be a spark of liberalism within the Canberra Liberals when Mr Hanson's inaugural speech to this place indicated that he supported advancing the rights of gay and lesbian Canberrans. Sadly it would appear that on every substantive issue where we have had a chance to vote and actually do something to advance the cause of gay, lesbian, bisexual, transgender and intersex Canberrans, Mr Hanson has been missing in action. That is disappointing.

It is not as disappointing as the complete and abject failure of any leadership from Mr Seselja, the alternative chief minister, who could not even bring himself to be in the chamber for any of these debates over the last five years. He is always missing. He leaves it to someone else to do his dirty work but he is always missing from these debates, and that is disappointing.

Mrs Dunne: It is my job.

MR BARR: This is a matter of leadership. It is a matter of values. It is a matter that if you wish to lead this community, then you should have something to say on this issue and be prepared to front up to a debate on it. And I think that is an important thing for people to reflect upon in the coming 60 days.

But enough of the politics tonight. This is an important piece of legislation that makes a difference in people's lives. I know that. My colleagues know that. Hundreds of thousands of Canberrans know that, and that is why they support this legislative reform. That is why they support and have shown overwhelmingly that they support equality for gay, lesbian, bisexual, transgender and intersex Canberrans.

We know that is the case and we look forward to the passage of this bill tonight, to further reforms and to further social change that will make life better for our fellow Canberrans. We want to be the most inclusive society in this country. We want this city to lead the nation and be the most GLBTI friendly city. That should be the goal, because cities will need to compete for people and if we do not demonstrate to all in our community that we value them, we respect them and we want to include them in our social institutions, then we are saying to some of our fellow citizens that they are second class and they do not deserve the same rights as everyone else.

I do not believe any fair-minded Canberran would accept that, and that is why legislating tonight is important and that is why continuing to stand up to discrimination, to stand up to homophobia and to make a difference in people's lives is so important. That is what motivates so many to volunteer in GLBTI organisations and to keep on fighting the good fight. I hope tonight we achieve another small but important victory on this path to true equality.

MR CORBELL (Molonglo—Attorney-General, Minister for Police and Emergency Services and Minister for the Environment and Sustainable Development) (11.09), in reply: I thank those members who have indicated their support for this important bill.

This bill rights a wrong. It rights a wrong that was done to a reform that was proposed by this Labor administration in 2006 and adopted by a previous Assembly in the terms that were proposed. It rights the wrong of an act of this Assembly being overturned by a federal government because of a philosophical disagreement about how gay and lesbian couples in our community should be respected and recognised and their relationships legally honoured.

I had just become Attorney-General in 2006 when I got a phone call from the then federal Attorney-General, Phillip Ruddock. Early one evening he rang me and told me that federal cabinet had agreed to recommend to the Governor-General that the Civil Unions Act be overturned. I said to him: "Thank you for letting me know. Why?" He said to me: "I knew you would ask me that question. I cannot tell you." There was no rationale for this decision. It was just decided and overturned, and people who had entered into civil unions had that right ripped away from them in a completely arbitrary manner.

But this Labor government did not give up. We pursued the issue again, with a new federal government. Once again we were stymied. We were stymied by ignorance. We were stymied by an old-fashioned view about how the relationships of same-sex couples should not be recognised. We progressed reform to the extent that we could. At every step we pursued reform to the extent that we could. Changes to laws were made, words were changed, names were changed, titles were changed. It almost became absurd, but we achieved recognition, legal recognition, of same-sex relationships through territory law. And tonight we come full circle. Tonight we pass legislation which fully reinstates the reforms made by Labor in 2006 and so arbitrarily overturned by the then Howard Liberal government.

There are clearly some in this chamber tonight who would like to see that course of action repeated. The arguments we have heard from those opposite, from Mrs Dunne and presumably from her colleagues who are incredibly mute, is that there is no place for civil unions in ACT law. There is no place for the recognition of same-sex relationships through a civil union scheme in ACT law. And presumably their position, after the ACT election, if we are unfortunate enough to see them on this side of the chamber, will be to repeal a Civil Unions Act. If it is not their position, I would invite them to declare that now, because everything they have said would suggest otherwise.

This is an important reform. This is a reform that provides for civil unions, with a formal and legally recognised civil union celebrant to conduct a ceremony that has legally binding effect from the time that it occurs. From the time that declarations are made between a same-sex couple before their family and friends, it will have legal effect. There will no longer just be a paper-based scheme. There will no longer be some somewhat embarrassing administrative formality that has to be completed. It will be a meaningful, legally binding ceremony, and that is what it should always have been.

The government is proud to debate this bill in the Assembly this evening. In the detail stage I will move a series of amendments which propose to ensure the recognition of relationships from other jurisdictions as civil unions and to make a range of other changes, all intended to ensure that people who have entered into the equivalent of a

civil union in other jurisdictions, overseas or interstate can be recognised as having a civil union under ACT law.

There is, of course, more reform to be pursued. There is more work to be done, particularly in terms of reforms to the commonwealth Marriage Act. I know that all of my colleagues support those reforms, both in this Assembly and our federal colleagues here in the ACT. I am proud to be a member of a branch of the Australian Labor Party that has continuously endorsed the principle that all people, regardless of their sexuality, are entitled to equal recognition under the law and to have their relationships duly solemnised and recognised equally under law.

This bill is important. I thank those members who have indicated their support for this bill and I commend it to the Assembly.

Question put:

That the bill be agreed to in principle

The Assembly voted—

Ayes 11

Noes 6

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

Question so resolved in the affirmative.

Bill 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) I seek leave, pursuant to standing order 182A(b), to move amendments Nos 1 to 3 circulated in my name together.

Leave not granted.

Suspension of standing and temporary orders

MR CORBELL: I move:

That so much of the standing orders be suspended as would prevent Mr Corbell from moving amendments.

The motion to suspend standing orders is to permit me to move together amendments to this bill that are minor and technical in nature.

MRS DUNNE (Ginninderra) (11.19): The Canberra Liberals do not propose to give leave on this matter because they are not minor and technical and these matters have not gone to the scrutiny of bills committee. The amendments that were circulated by the attorney to me in draft form yesterday, and have been circulated in the chamber today, insert a whole new clause which introduces new material. These are not minor amendments; they have not had any discussion in the community; and they have not been scrutinised by the scrutiny of bills committee. These are not minor and technical, and this is an abuse of the standing orders. This is why the Canberra Liberals do not propose to give leave and will not support the motion for the suspension of standing orders.

MR RATTENBURY (Molonglo) (11.20): The Greens will support the motion for the suspension of standing orders. We believe that the amendments, whilst perhaps they should have been included in the original bill, fall within the scope of the bill and help clarify some of the intent of elements of the bill. On that basis, we think it is appropriate to bring them into the discussion this evening.

Question put:

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

The Assembly voted—

Ayes 11

Noes 6

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

Question so resolved in the affirmative.

Motion agreed to with the concurrence of an absolute majority.

MR CORBELL (Molonglo—Attorney-General, Minister for Police and Emergency Services and Minister for the Environment and Sustainable Development) (11.22): I move amendments Nos 1 to 3 circulated in my name together and table a supplementary explanatory statement to the government amendments [*see schedule 2 at page 3325*].

I will briefly speak to these minor and technical amendments.

Amendment No 1 inserts a new clause that contains a framework for recognising relationships from other jurisdictions as civil unions for territory law. What a terribly

horrible thing to be doing, Mr Assistant Speaker. It inserts a new section 26A which provides a power to make a regulation to provide that a relationship under a law in another jurisdiction is a civil union in territory law.

To ensure that relationships that are recognised under this provision are reasonably similar to civil unions, a limit on the regulation-making power is applied. A regulation cannot be made to recognise a relationship as a civil union unless it is between two people; entered into consensually; not entered into by people who are in what is considered under the civil unions act to be a prohibited relationship; or not entered into by people who can either marry each other under the commonwealth Marriage Act or be recognised as being married under the commonwealth Marriage Act. Sounds like pretty radical stuff to me.

Essentially, this is a mechanism that allows for the extension of the civil unions regime to people who have entered into relationships similar to civil unions in other jurisdictions. The government frequently receives requests from same-sex couples in our community who have entered into a civil union or similar scheme in another jurisdiction, whether that is overseas or in another state of Australia. They ask that their civil union or equivalent be recognised as a civil union or equivalent here in the ACT. These provisions provide for that legal recognition to occur, and for those couples to be granted the same rights as the rights that would accrue to a couple who had entered into a civil union under ACT law. What is it about that that the Liberals find so offensive? I would be interested to hear their arguments.

Amendment 2 provides a simplified list of relationships under corresponding laws that will be recognised as civil partnerships for territory law. Under the existing provisions, the legislation uses two different provisions to set out first what corresponding law a relationship from another jurisdiction is made under, and second what the relationship being recognised is called. A number of these provisions are now redundant, as the law is already described in other ways. On this basis, the amendments remove the provisions setting out all the statutes that would be considered corresponding laws.

The amendment introduces two new relationships that will be recognised through the regulation for civil partnerships for territory law. Civil unions under the New Zealand Civil Union Act and registered relationships under the Queensland Relationships Act are relationships that are comparable to the territory's civil partnerships. This amendment includes these relationships in the regulation of relationships that will be recognised under territory law. The government will continue to consider recognition of other relationships in the regulation as they are requested by the ACT community.

Finally, amendment 3 introduces a limit on the power to make regulations to recognise relationships under corresponding laws from other jurisdictions as civil partnerships. I have outlined the constraints on that regulation-making power already.

I commend these amendments to the Assembly.

MR RATTENBURY (Molonglo) (11.26): The Greens will be supporting these amendments. They make certain the minister has the power to issue regulations to list those jurisdictions' partnerships that will be recognised in the ACT. In his remarks,

the minister has outlined the logic for that and the reasons for doing it. They are reasons that we entirely agree with. It is unfortunate that these clauses were not included in the original bill. That said, they have been picked up now. I think that these are commonsense inclusions. We certainly want to ensure that we have the capability of recognising that if somebody moves to the ACT and they have an existing relationship status in another jurisdiction, that carries forward into the ACT and they do not suddenly arrive here and find themselves somehow in some parallel universe. It is entirely appropriate that we insert these amendments.

MRS DUNNE (Ginninderra) (11.27): The attorney's continuing to repeat that these are merely technical in nature does not make them so. This is a new aspect of the legislation that was not envisaged in the original legislation. It goes to extend the scheme by recognition of other relationships from other jurisdictions. This was not part of the original scheme. If the minister was so intent on getting this done, why could he not have gone through the process of referring this to the scrutiny of bills committee and having it dealt with in an appropriate way according to the standing orders. It is an important matter. This is an important piece of legislation. For the minister to pass it off as purely technical is—

Mr Corbell: Minor and technical.

MRS DUNNE: It is not minor and it is not technical. This is, as I have said before, if anyone cares to—

MR ASSISTANT SPEAKER (Mr Hargreaves): Mrs Dunne, you do not need to raise your voice. I am in the middle of asking the government to come to order. I ask both of you to keep the volume down, please. Mrs Dunne, you have the floor.

MRS DUNNE: If members would care to actually read the amendments, and read them into the context of the bill that was introduced, they will see for themselves that these are new matters which are not envisaged in the original legislation. This is not a fix-up. This is not to substitute a word that was misspelt, insert commas or clarify anything. It is new material. On the basis that this has not been scrutinised, the Canberra Liberals cannot support this eleventh-hour introduction of new material into this legislation.

Amendments agreed to.

Bill as a whole, as amended, agreed to.

Bill, as amended, agreed to.

Human Rights Amendment Bill 2012

Debate resumed from 29 March 2012, on motion by **Mr Corbell**:

That this bill be agreed to in principle.

MR SESELJA (Molonglo—Leader of the Opposition) (11.29): When the government first announced that it would be making this change to the Human Rights

Act, it was my view that this was a tokenistic change, a change that would have no impact, given that already people in the ACT enjoy access to free education—in fact, there is a requirement to go to school to the age of 17. My first instinct was that this was a tokenistic change that, whilst it may have no negative impact, was unlikely to have any positive impact. I came to it with an open mind, but, on looking more closely at the provisions that have been put forward in this bill, it appears to me that, if left unamended, this legislation could actually have a negative impact on education in the ACT.

The government has chosen in this amendment bill to enshrine a right to free education, but not for all—that is, only a free primary education. Proposed section 27A to be inserted into part 3A of the Human Rights Act says that:

Every child has the right to have access to free, primary education appropriate to his or her needs.

It is the contention of the opposition that, if left unamended, this causes some problems and some degree of difficulty. At the moment it is well understood that children in the ACT up until the age of 17 enjoy not just a right but, in fact, the requirement to be educated. We require that under legislation. It is accepted that there is that right to have a free education, and people have a choice to go to a public school which is free of charge or to go to a non-government school, a school of one's choice, with the associated charges that go with that.

By enshrining in legislation the right to an education but making it clear that that free education only applies to primary school, the advice we have is that it could certainly be implied that there is not a right to a free high school or college education. That is basic statutory interpretation 101. If you are going to enshrine something in legislation but exclude certain things, statutory interpretation suggests that it would be read as excluding those things you have left out. In this case, the government goes out of its way in this bill to make it clear that there is only a right to a free primary school education.

We in the Canberra Liberals have a different view of the world. We actually believe there should be a right to an education right up until the age when people leave school, at the age of around 17 and move off to either the workplace or further education in the tertiary sector or further training or whatever the case may be. We would not want to see an enshrining of a restriction on free education just to primary school age.

I understand the government has actually taken this from part of the international covenant. The international covenant, it seems to me, in dealing with international conventions and many developing nations, is seeking to lift people out of poverty based on the idea that if we can get people at least a primary school education for free, that will be a major step forward. Unfortunately, in Australia that would be a major step backwards. For many decades and beyond, people in Australia have been educated for free up until the age of 15 in recent years and beyond that now.

This is a misguided piece of legislation in its current form. I have circulated an amendment which I believe will fix this particular bill, but, as it stands, the Labor Party's position in this bill is that there should only be a right to a free education at primary school level. We disagree with that wholeheartedly. That is an interesting new policy that has been put forward in this proposed amendment.

We will be supporting the bill in principle, but we will be seeking to make sure that the policy outcome the Labor Party is seeking to achieve—that is, to simply enshrine and entrench the right to a free primary school education—is not entrenched. The consequence of that would be an implication that there is not a right to a free education beyond that point, and that is not something we accept. We will be seeking to fix that in the detail stage.

I also make points about the government's record when it comes to these types of issues. I will just highlight their position when it came to the so-called right to wag. When action was taken to try and encourage school-age kids not to be wagging school by ensuring that that was not treated as a breach of the Discrimination Act, the Labor government and the Greens had the opportunity to ensure that that was put beyond doubt. Of course, we moved in this place to fix the problem, but that was rejected by the government. It is a demonstration of their warped priorities.

There is a shoddiness to this piece of legislation that we are going to have to fix in the detail stage. It is extraordinary that we have a government and a minister that have brought forward a bill that leave opens the possibility that it can be interpreted that there is no longer a right in the ACT to a free high school education and a free college education. We believe in that right. We believe that should be there. We believe that, if you did not enshrine it, it would still be understood as it is at the moment. But in seeking to enshrine it, if you do not get it right, there are some serious unintended consequences, which we will seek, as I said, to address in the detail stage.

MR RATTENBURY (Molonglo) (11.37): The Greens believe in protecting human rights, and our policy platform contains our commitment to legislative and procedural human rights protection in the ACT. Another aspect of our platform states that economic, social, cultural, civil and political rights are interdependent and must be respected and protected. An argument is often put that legislative protection of human rights could create a flood of litigation and a lawyers' picnic. Put simply, however, this has not been the experience in the ACT since this jurisdiction first legislated to protect civil and political rights.

The five-year review of the act very clearly set out the evidence that there has been no flood of litigation and that there have been real improvements because of the existence of the act. To quote from the review:

Although critics predicted a surge in litigation and an undermining of the elected government by an unaccountable judiciary, the experience of the Human Rights Act is that its impact on policy making and legislative process has been more extensive and arguably more important than its impact in the courts

I think that is a very important point. Those of us who have worked in this place—certainly it is my experience through this term and that of others who perhaps have been here longer—have seen the way that the dialogue model used in the ACT raises the bar. It is a constant consideration right from the level of the directorates when the legislation is being formulated through to the legislation being presented to the Assembly and then in the scrutiny process. That constant questioning forces all of us to reflect on whether legislation is the best it could be when it comes to respecting human rights.

With that as a strong basis for looking at expanding the Human Rights Act, the government instigated a report into the potential for the act to be extended to include economic, social and cultural rights. As members will be aware, in 2010 the University of New South Wales and the Australian National University presented the Attorney-General with a report on the findings of the ACT economic, social and cultural rights research project. The overall conclusion of the report was that the inclusion of ESCR, as it is commonly known, guarantees in the Human Rights Act is desirable and feasible and that the act should be amended to include most of the ESCR contained in the international covenant on economic and social rights to which Australia is party.

The government's response has been to pursue the right just to education rather than the suite as proposed in the 2010 report. That approach has no doubt frustrated the authors of that report, and it has certainly left us somewhat surprised and perhaps, to an extent, frustrated. In arguing their case, the government have suggested an incremental approach is wise. They argue for a slow and steady approach. However, we also have at our disposal the five-year review which, as I have spoken about, shows that the Human Rights Act is working well, making a difference and certainly not creating bottlenecks in our courts.

The Greens would have preferred the government to implement the full suite of economic and social rights. We have been briefed by the government and took a read of the temperature and saw the appetite was not there for that bold step. As disappointing as this timidity is, we will, nonetheless, be supporting the initiative put forward today.

Education is of crucial importance to Australia's future, not only to individual children being educated and their chances in life but also to the sort of economy Australia wants to develop in the future. It was immensely disappointing this week to see the national debate about the future of education in this country descend, once again, in to an exercise in political positioning, yet somehow it was not surprising. If we are to prepare Australia for the challenges of the 21st century, if we are to be a clever nation, an innovative nation, and a fair nation, we need to make sure every child in the country has the same opportunities for high quality school education, regardless of how much money their parents have or where they live. We need a significant investment in education to ensure that our schools, especially those which educate our most disadvantaged kids, are adequately resourced to be able to do the job properly. As my colleague Senator Penny Wright noted this week:

Over the last few decades, we have seen inequity injected into our funding system. There is now a staggering five and a half year gap in performance between the most advantaged and disadvantaged children in year nine.

This is something we are also aware of here in the ACT. The ACT Greens called for the inquiry into the educational achievement gap in the ACT in 2009, which highlighted the growing disadvantage some students face in the territory and made 24 recommendations to improve equity of outcomes. This work is still as pertinent today as it was then, and we cannot afford to forget that there are still gaps and issues here in Canberra.

Senator Wright in that same speech went on to note that Australia now ranks 24th out of 30 OECD countries in school spending, that we are sliding down the school ranking and that we are seeing greater inequality in educational levels between students. At one of the richest times in this country's history, in the middle of a mining boom, our governments spent three per cent of our GDP on schools—that is below the OECD average—whilst we should be looking at the gold standards of Iceland, Norway, Denmark and Finland as our models.

We also recognise that it is not just school funding that needs reform. The intent of the Gonski review recommendations is not just about throwing more money around. We have an opportunity to move beyond historical, near hysterical political biases and fund not just schools but students' educational outcomes. We have a once-in-a-generation chance to finally base student resourcing on need, and I and my colleagues applaud any move that will see our children and young people be seen as the key stakeholders in schools, not the just various lobby groups and their vested interests.

That is why the Greens were the first party to back Gonski's recommendation that at least \$5 billion a year is needed to reduce disadvantage on education outcomes in both government and non-government schools, and that is why we are arguing to use the mining tax to help pay for this. Investment in education is an investment in our children and in the future of the nation.

Returning to the bill before us, the Greens will be proposing amendments to the government bill to make improvements that we think will strengthen this reform being made today, and I will touch briefly on those now. Mr Seselja has already spoken to the first one, and I will make some more extensive comments on that, but we are concerned about the limitation to just primary schooling. Secondly, the right should include the right to choose for the child schooling other than schooling provided by the government that conforms to the minimum educational standards required under law and to ensure the religious and moral education of the child in conformity with the convictions of the parent or guardian. This is in line with the government's bill.

We would omit the proposed new section that limits the bill to its immediately realisable aspects. The background to this amendment is that this bill primarily operates to include the right to education into the act through an incremental approach. This means the first two of the ACT human rights framework elements will apply but not the third. This means it will require government bills to pass pre-legislative

scrutiny and for laws to be interpreted consistently but not require public authorities to act in consideration of the relevant human rights when making decisions. Our amendment would require public authorities to take account of the right to education.

We would omit clause 9, which states that the 2015 review include consideration of whether part 5A should apply to the economic, social and cultural rights in part 3A. If we are successful in our previous amendments to the bill, this amendment becomes consequential.

Those are our amendments, and I commend them to the Assembly. They seek to work within the government's incremental approach while at the same time make this step in the right direction a slightly bolder one. The Greens will be supporting this bill tonight and hope that the Assembly will support the amendments we are proposing as we believe they will enable the legislation to come to its full fruition.

MR CORBELL (Molonglo—Attorney-General, Minister for Police and Emergency Services and Minister for the Environment and Sustainable Development) (11.46), in reply: I thank members for their support of the bill. It is pleasing, and I think this is the first time, that amendments to the Human Rights Act have achieved the support, at least in principle, of all three parties in this place. That is a significant development.

What it shows, of course, is that the government's strong commitment to promoting and strengthening human rights in the ACT has been proven by the creation of a piece of legislation that has been a galvanising force in enhancing individuals' rights in the territory and fostering a genuine culture of respect for human rights.

That this is the case is affirmed by the five-year review of the Human Rights Act, which found that the main effect of the act has been to foster a lively human rights culture within government. By fostering political debate and ensuring consideration of human rights policies in the development of government policy, the act is steadily having a tangible impact on the rights of people living in the ACT. This Labor government is committed to continuing to build and promote a comprehensive body of rights that support a fairer and safer ACT community.

At the time that the act was first passed, and again in 2008, the government committed to considering the inclusion of economic, social and cultural rights in it. The government has now honoured that commitment by partnering with the Australian National University and the University of New South Wales to produce the Australian Capital Territory economic, social and cultural rights research project report. The report is the first in Australia to examine how best to introduce economic, social and cultural rights in statute law and the likely impacts of governance in the ACT. I tabled that report in December last year and undertook further community consultation on the inclusion of economic, social and cultural rights.

Of course, our act already includes 20 fundamental rights based on the International Covenant on Civil and Political Rights, such as the right to privacy, a fair trial, protection of the family and children, freedom of expression, the right to take part in public life, and recognition and equality before the law. This bill, therefore, is the next step and is the first step in incorporating economic, social and cultural rights into the act.

As set out in the government's response, we have decided to include the right to education as one of the protected rights in the act. The right is based on article 13 of the International Covenant on Economic, Social and Cultural Rights.

The UN Committee on Economic, Social and Cultural Rights has stated that the right to education requires that functioning educational institutions and programs have to be available in sufficient quantity within a country. The committee has identified that education is both a human right in itself and an indispensable means of realising other human rights.

The government is taking clear action to strengthen existing protections for the right to education. Education is a fundamental building block for a civil and prosperous society. The significance of our efforts in the human rights arena will be acknowledged when the ACT becomes the first Australian jurisdiction to formally recognise the importance of education as a human right.

The inclusion of the right to education reflects the understanding that education is essential to the full development of a person's personality, their full potential and their sense of dignity. UN general comment 13 states:

As an empowerment right, education is the primary vehicle by which economically and socially marginalised adults and children can lift themselves out of poverty and obtain the means to participate fully in their communities. Education has a vital role in empowering women, safeguarding children from exploitative and hazardous labour and sexual exploitation, promoting human rights and democracy, protecting the environment, and controlling population growth. Increasingly, education is recognised as one of the best financial investments States can make. But the importance of education is not just practical: a well-educated, enlightened and active mind, able to wander freely and widely, is one of the joys and rewards of human existence.

This bill reinforces the right to free primary school education and access to further education, vocational and continuing training.

I would like to briefly turn to Mr Seselja's foreshadowed amendment. The government is happy to support this amendment. The amendment does not derogate from or impact on the intent of the government's bill. The Education Act already provides for education to be free and to be compulsory in government schooling until the age of 17 or until completion of year 12. And that education, of course, in government schools is free.

The ANU-University of New South Wales report did not recommend the presentation of the right in this manner. It recommended the presentation of the right consistent with the international covenant. But it is nevertheless reasonable to suggest that the right should reflect not just the intent of the UN covenant, which is the government's proposal, but also how it interacts fully with the provisions for compulsory, free and universal government schooling until the age of 17 in the ACT Education Act. For those reasons the government has no objection to the intent or the actuality of Mr Seselja's amendment.

The government took the view, in implementing a progressive and staged approach to economic, cultural and social rights in the Human Rights Act, that we should be cautious in implementation. It is the same approach that has proven successful in the introduction of civil and political rights. We did not, at first instance, impose duties on public authorities or impose rights of action and remedy when we introduced civil and political rights. We built a consensus and comfort amongst both public authorities and the broader community that the operations of a human rights act were not detrimental to the ongoing activities of those organisations but, in fact, were of positive benefit to them.

We are taking the same approach when it comes to the implementation of economic, cultural and social rights. For that reason the government cannot support the amendments proposed by Mr Rattenbury. They seek to immediately implement rights—the right of action, remedy before the courts and duties on public authorities. It is in our view a step which is taken too early in the implementation of economic, cultural and social rights within the Human Rights Act.

In due course there will be opportunity to pursue those issues and to implement those provisions that Mr Rattenbury proposes. But in the government's view now is not the right time to do that. Whilst some may characterise it as modest, what we are doing tonight is a significant reform in the Australian human rights landscape. We will become the first jurisdiction to formally provide for the protection and recognition under law of a right to education in a human rights piece of legislation. It is a significant step, an important step in advancing potentially a range of other economic, cultural and social rights in time into a statutory form.

So we progress in the same way we started with civil and political rights: with caution but with a commitment to ensuring that these rights should be appropriately protected under law. That is why the government will pursue the proposals as outlined in this bill.

In conclusion, this bill is a continuation of a commitment by this Labor administration to looking forward and enhancing the protection and recognition of important rights of citizens in our community. We have a proud history of supporting human rights. We look forward to building on that history and strengthening the frameworks with actions such as the bill which is before us tonight. Labor will always continue to promote and strengthen our human rights culture in the ACT.

I commend this bill to the Assembly as a significant step in improving the rights of all territory citizens now and into the future.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail stage

Clauses 1 to 5, by leave, taken together and agreed to.

Clause 6.

MR SESELJA (Molonglo—Leader of the Opposition) (11.57): I move amendment No 1 circulated in my name [*see schedule 4 at page 3327*].

This amendment was foreshadowed in my earlier speech. It makes it very clear that we do not think there should be any doubt that there is a right to an education beyond primary school, and that should be a right to a free education. That is something that the Liberals hold very dear. We believe that would have been one of the potential serious unintended or intended consequences of this bill in the form in which it was presented to the Assembly. I think that it would have been a very poor piece of legislation if it had passed unamended, and that is why I am moving this amendment, which we believe will fix it.

MR RATTENBURY (Molonglo) (11.58): As I very briefly touched on before, the Greens are supportive of this amendment that Mr Seselja has moved. It seeks to achieve something very similar to what I was intending to move in my amendment No 1, but with a different formulation of words, and we are certainly happy to be making this improvement in cooperation with the opposition.

The problem that we did see that was there and that needed to be fixed was the stark inconsistency between the proposed right to education and the existing requirements as set out under the Education Act. This point has been made tonight. It is clear that the status quo as set out in the Education Act is that there is a legislated requirement for all students to be engaged in educational training until the age of 17 or completion of year 12. In contrast, the proposed right to education would only have gone as far as providing the right to a primary education and would be silent on secondary education. This was clearly a nonsensical situation where different messages would be sent by different parts of the ACT statute book. Luckily, both the Greens and the opposition were awake to this, and both had solutions to fix it.

We will be happy to adopt the Liberals' set of words, which would mean that the amended right to education in the ACT will read: "Every child has the right to have access to free school education appropriate to his or her needs." So we will be supporting this amendment tonight.

MR CORBELL (Molonglo—Attorney-General, Minister for Police and Emergency Services and Minister for the Environment and Sustainable Development) (11.59): The government chose to adopt the obligation under the International Covenant on Economic, Social and Cultural Rights. That covenant states at article 13.2 that "primary education shall be compulsory and available free to all".

The ANU-UNSW report considered and recommended the notion of "full-time" be introduced into the provisions of the act. This is not, however, an element under the ICESCR and the government chose instead to simply adopt the international covenant provision.

That said, the Education Act already provides that schooling is compulsory until age 17, or until completion of year 12, and that education in government schools is free. The provisions by both Mr Seselja and Mr Rattenbury propose to ensure that there is no potential inconsistency between the Human Rights Act provision and the operation of the Education Act. As this is the ongoing intent of the government's proposal in any event, we have no objections to this amendment.

Amendment agreed to.

MR RATTENBURY (Molonglo) (12.01 am): I move amendment No 2 circulated in my name [*see schedule 3 at page 3326*].

I did speak to this earlier. Very simply, this amendment seeks to replicate the government's intent to make clear that a child's parent or guardian has the right to choose the education for their child. We think it is worth spelling this point out here, simply to ensure absolute clarity.

MR CORBELL (Molonglo—Attorney-General, Minister for Police and Emergency Services and Minister for the Environment and Sustainable Development) (12.01 am): The government will not be supporting this amendment. This amendment will have financial implications. Progressive realisation has not been thoroughly tested in a First World or developed country, so it could be taken to extend in the ACT to areas such as transport, books and other learning resources.

The government has proposed a measured and staged approach to this issue. The Greens are proposing to leap in and immediately adopt progressive realisation. This is a reckless approach and puts at risk the adoption and acceptance of the provisions of these rights in the Human Rights Act. For that reason the government cannot support this amendment.

Amendment negatived.

MR CORBELL (Molonglo—Attorney-General, Minister for Police and Emergency Services and Minister for the Environment and Sustainable Development) (12.02 am): I move amendment No 1 circulated in my name and table a supplementary explanatory statement to the government amendment [*see schedule 5 at page 3328*].

This amendment will make it clear that parents and guardians are able to choose an education for their child, other than that provided for by the government, which meets their religious and moral beliefs, as long as it meets the minimum educational standards.

This amendment inserts the words "other than schooling provided by the government" to clarify the scope of that immediately realisable aspect of the right as set out in section 27A(3)(b). The amendment is consistent with article 13 of the International Covenant on Economic, Social and Cultural Rights. The intention of the section is to reflect the right of a parent or guardian to choose schooling other than public schooling for their child, in line with their religious and moral convictions, provided

that education meets the same standards as the rest of the educational system. The right extends to the right of parents and guardians to set up their own educational institutions which comply with minimum standards or to choose private schooling that provides education in line with their moral or religious convictions.

This aspect of the right to education as set out in this section does not mean that government schools must provide education for a child that meets the religious and moral beliefs of their parents. The amendment is being made in response to the suggestion by the Standing Committee on Justice and Community Safety, in its capacity as a scrutiny of bills committee, in order to avoid any ambiguity of interpretation of this immediately realisable aspect of the right.

Amendment agreed to.

MR RATTENBURY (Molonglo) (12.05 am): I move amendment No 3 circulated in my name [*see schedule 3 at page 3327*].

This is the one Mr Corbell has just spoken to. This is about the realisable elements of the legislation. This amendment strikes out the limited scope of the right as proposed by the government. The government's proposal limits the right in a way that the Greens think is overly restrictive and unnecessarily cautious. We believe the Assembly would do well to omit subclause (3) as this amendment proposes.

MR CORBELL (Molonglo—Attorney-General, Minister for Police and Emergency Services and Minister for the Environment and Sustainable Development) (12.06 am): As I have already indicated, the government does not support this suite of amendments from Mr Rattenbury. It is not the time now to introduce progressive realisation. Progressive realisation is a step too far in the context of an incremental adoption of economic, cultural and social rights, including the right to education, and the government cannot support the amendment at this time.

Amendment negatived.

Clause 6, as amended, agreed to.

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

MR RATTENBURY (Molonglo) (12.06 am), by leave: I move amendments Nos 4 and 5 circulated in my name together [*see schedule 3 at page 3327*].

These amendments are aimed at strengthening the step the ACT is about to make into a bolder and more confident step. The government's proposed new definition on human rights effectively excludes the right to education so that public authorities are not required to act in consideration of the relevant human rights when making decisions. As I have touched on in some of my earlier remarks, the Greens believe this is an overly cautious approach and through these amendments would require officials to take account of the right to education when making decisions.

MR CORBELL (Molonglo—Attorney-General, Minister for Police and Emergency Services and Minister for the Environment and Sustainable Development) (12.07 am): The government will not be supporting these amendments. Mr Rattenbury's amendment No 4 proposes to introduce a right of action against public authorities if a person believes their right to education has been breached. The provisions for right of action are, in our view, premature. This was not the approach adopted when it came to the implementation of civil and political rights. In the first instance focus was on education and the implementation of the deliberative model within the policy making of government and the Assembly, and the right of action followed at a later date. The government believes this has been a successful approach and that we should adopt the same approach when it comes to the incremental introduction of and provision for economic, cultural and social rights.

Mr Rattenbury's amendment No 5 proposes a new review provision for the operation of the human rights in part 3A. Mr Rattenbury has overlooked the fact that a review of other ESC rights should also be included in the Human Rights Act. The government has already indicated its intention to conduct a review and there is no requirement to adopt the approach suggested by Mr Rattenbury.

Amendments negatived.

Remainder of bill, as a whole, as amended, agreed to.

Bill, as amended, agreed to.

Adjournment

Motion by **Mr Corbell** proposed:

That the Assembly do now adjourn.

Dr Damian McMahon—death

MS GALLAGHER (Molonglo—Chief Minister, Minister for Health and Minister for Territory and Municipal Services) (12.10): Today I rise briefly to speak of a wonderful doctor at the Canberra Hospital, Dr Damian McMahon, who, unfortunately, recently passed away. I would like to pay tribute to him for his contribution to the community.

I offer my own sympathies, and those of the ACT government, to Dr McMahon's wife, Helen; sons, Xavier, Riley, Grange and Dinan; sisters, Fiona and Michelle; brother, Lincoln; and extended family, friends and colleagues.

Whilst most of us, including myself in my capacity as health minister, knew and admired Dr McMahon as the passionate surgeon who was instrumental in establishing the Snowy Hydro SouthCare helicopter service, as a trauma doctor, and as a great advocate for the Canberra Hospital Shock Trauma Service, his family and friends knew the man beyond the surgeon—the football fanatic, the AFL coach, the traveller, the gregarious friend, filled with enthusiasm for life.

A man of high standards and a caring professional manner, Dr McMahon was highly regarded by colleagues, students and patients. He did not promise miracles, but did offer hope for those who came into contact with him at a time in their lives when they were vulnerable, afraid and in need of critical care.

Mr McMahon's association with Canberra Hospital began in 1997, after he had completed his fellowship in trauma and surgical critical care at the Hospital of the University of Pennsylvania. Considering his next steps, he made what turned out to be a decisive phone call to his mentor, Professor Donald McLellan. That conversation led to Dr McMahon and his family moving here, to a city they would soon regard as home.

Dr McMahon's most recognised contribution to the community was his role in the establishment of the Shock Trauma Service and the Snowy Hydro SouthCare helicopter service. As health minister, I have had the privilege of watching the Shock Trauma Service and the Snowy Hydro SouthCare helicopter grow into world-class services.

Over time, Dr McMahon became a senior staff specialist in surgery, director of the Shock Trauma Service and codirector of the Trauma and Orthopaedic Research Unit at the Canberra Hospital. He was also, and always, a great advocate for public health.

Dr McMahon played an instrumental role in developing the Royal Australasian College of Surgeons' trauma verification program. When he established the Shock Trauma Service, he worked hard to ensure that every hole in the roster was filled so that this region would have uninterrupted access to time-critical surgical and intensive care services.

In addition to his work in the hospital, he served as director of the Clinical Skills Centre and senior lecturer in surgery at the Canberra clinical school, University of Sydney and ANU Medical School.

Dr McMahon received his own medical and surgical training in Melbourne, where he specialised in trauma surgery. After becoming trauma service coordinator at Preston and Northcote Community Hospital in 1993, Dr McMahon went on to work as trauma and surgical critical care fellow and attending trauma surgeon at the Hospital of the University of Pennsylvania in Philadelphia, from 1994 to 1997. That year he took up his position as a cojoint academic senior staff specialist at Canberra Hospital.

From 1997, when Canberra Hospital became an accredited training facility for registrars, Dr McMahon invested his time and expertise in training new doctors. Most recently, Dr McMahon was involved in the development of the ACT-southern New South Wales critical care telehealth project, which is due to commence in September. This project will further enhance our capacity to treat and manage critically ill patients, and is another one of Dr McMahon's lasting legacies.

Dr McMahon was an unconventional and gregarious man whose larger-than-life presence, complete with his bow tie, was tempered and softened by his kindness and

his integrity. His passion was infectious and he was a great inspiration to those lucky enough to work alongside him in a professional capacity—students as well as colleagues.

While the evolution of trauma systems around the country is his legacy, his influence will continue to be felt by those he taught and worked with, those he infected with his passion for his profession.

My condolences go to the staff at Canberra Hospital, who are deeply grieving the loss of a loved colleague and friend. Many of Dr McMahon's patients will also be grieving, and there are many who owe their quality of life, and in some cases their lives, to Dr McMahon's care.

I was fortunate enough to attend the funeral service for Dr McMahon, on 30 July, at St Christopher's in Manuka. It was an incredibly moving service, ending when a Snowy Hydro SouthCare helicopter flew over the church to honour a great man, a teacher, a surgeon, a coach, a husband and a dad, who will be missed by many.

Dr Damian McMahon—death

MR SESELJA (Molonglo—Leader of the Opposition) (12.15): Firstly, I would like to thank the Chief Minister for putting those words on the record. I would like to briefly pay tribute to the life of Damian McMahon and join with the Chief Minister in offering my condolences to his wife, Helen, and his four sons.

I did not know Damian personally, but I do know Helen, through an association at Marist, both of us serving on the board. Helen works also for the Catholic archdiocese here and is a great servant of the community.

What struck me in attending the funeral was the great, wonderful sense of family that was portrayed there. Damian McMahon, aside from all of those other wonderful contributions he made to the community, was a great family man and will be most importantly missed as a husband and a father. I think that will be his greatest lasting legacy—not to diminish those other wonderful contributions that he made to our community.

It was an untimely death. He was far too young to leave this world—still in his early 50s. It was a shock, whilst overseas. These things do put into context just how fragile life can be. I join with the Chief Minister in offering my condolences to his family, particularly to Helen and his boys, and all of his loved ones.

Tuggeranong Netball Association

MR SMYTH (Brindabella) (12.17 am): I rise tonight to honour a commitment I made to the Tuggeranong Netball Association when I said that given the good work they had done in raising money for Bosom Buddies, I would make sure that their efforts were acknowledged and put on the record in this place. I think the easiest way to do that is simply to read out their press release:

Media Release

Tuggeranong Netball Association

Eight-hour netball game raises \$8344.55 for Bosom Buddies

After eight hours of continuous netball on Saturday 28 July, Tuggeranong Netball Association (TNA) has raised \$8344.55 for breast cancer support group Bosom Buddies.

The TNA Turns Pink community and fundraising event brought all Tuggeranong clubs, teams, players, families and others from the wider netball and Canberra community together to raise much needed funds for Bosom Buddies who support Canberrans being treated for breast cancer and their families.

The event had a target of \$5000 but, after full-time was called at 5pm, TNA announced that \$7,500 had been raised.

With final pledges being honoured over the past few weeks, TNA is thrilled to announce that the final amount raised is \$8,344.55.

“The day, the event, the stalls, the raffles and the marathon netball game were a huge success in so many ways,” TNA president, Lou Bilston, says.

“In an eight-hour non-stop game, with more than 120 teams, more than 800 players taking to the court, Team Pink (229) won the game over Team White (228) by just one goal.

TNA wishes to thank the following special guests for participating and supporting this event: Annette Ellis (TNA Patron); ACT MLAs Andrew Barr, Brendan Smyth, Steve Doszpot, Shane Rattenbury and Amanda Bresnan; and Bryant Howie (Tuggeranong Vikings).

TNA would like to thank its sponsors ACT Capital Pathology and Tuggeranong Vikings for their support for the event.

“Thanks also to Netball ACT and other netball associations, Belconnen, Queanbeyan, Canberra and South Canberra who sent teams or players to participate,” Louise says.

“Huge thanks and congratulations to our many volunteers, participants and visitors on the day.

“Special mention of those involved organising and delivering this wonderful event, who all went above and beyond.

“The organising committee, the stall managers and marshals (and their families)—Jonathan Toze, David Sibley, David Tronerud, Von Bennett, Karen Brown, Marg Argue, Clare Kelly, Jamie Johnson, Carolyn Symons, Karen Cameron, Sarah Mayo, Ashlee Tronerud, Emily Toze, Grace Ephraums, Laura Sibley, Cathy Toze, Hayley Ngametua, Julie Freebody.”

“We’re looking forward to next year—what colours will we turn?”

The breakdown of the fundraising was as follows:

Facepainting (TNA Academy) \$146.60

Fairy Floss (Valley Thunder) \$785

Cakestall (Maddies & others) \$1,010.80

Raffle/money tree (Maddies & others) \$1,200

Team Registrations (varied) \$1,600

Donations on the gate on the day \$1,891.60

Donations from hospital (Annette Schmahl) \$196.05

Donations Fahcsia (Kerryn Hardie) \$336.30

Donations Coffee shop (Julie Freebody) \$100

Donations Jewellery (Rose Harker) \$78

Canteen (TNA) \$500

Barbecue (TNA) \$500

TOTAL RAISED: \$8,344.55.

I know they are very grateful to all the MLAs who participated, and well done to TNA and the community on the day.

Community health organisations

MR HANSON (Molonglo) (12.20 am): I rise tonight to pay tribute to the many community health organisations that we have here in Canberra that many of us have interacted with over the years, and I have particularly as the shadow health minister.

The first I would like to pay tribute to is the ACT branch of the Australian Nursing Federation, Athalene Rosborough, the president, and particularly Jenny Miragaya, who has been very active and has attended many events and forums that I have held providing me with significant advice.

I thank the ACT Hepatitis Resource Centre and Mr John Didlick for the work he does. The resource centre is a community-based organisation that is committed to the prevention of hepatitis and the support of people affected by hepatitis.

I think we all understand the important role ACT Medicare Local play in our community, and I would like to thank Rashmi Sharma, the president, and Steve Sant, the CEO, for the work they do.

I thank the AIDS Action Council of the ACT and Andrew Burry, the general manager, Marcus Bogie and Nada Ratcliffe. The AIDS Action Council is a community organisation that aims to minimise the social and personal impacts of and the transmission of HIV and AIDS.

I thank Alzheimer's Australia ACT and Jane Allen, the CEO, and Barbara Fenemore for the great work they do. I have had recent opportunities to visit both the ACT organisation and the national organisation. Alzheimer's Australia ACT is the peak body representing the interests of people affected by dementia in the ACT, and they do tremendous work.

I thank the AMA ACT, their president, and their CEO, Christine Brill, who has been with the organisation for so many years and who has made such a contribution to the AMA. They really are a fantastic organisation in providing advice. They have been of great value to me as opposition spokesman for health in providing me with assistance in development of ideas.

I thank Arthritis ACT and Helen Krig, the CEO. Arthritis ACT is a non-profit organisation which aims to increase the quality of life for people in the ACT who suffer from arthritis, osteoporosis and other musculoskeletal conditions.

I thank the Asthma Foundation ACT, their president, Kevin Gill, and Nathalie Maconachie, their CEO. They provide asthma information, education, training and advocacy in the community and promote research.

I thank the Australian College of Midwives ACT and Melissa Pearce. It is a national not-for-profit organisation that serves as the peak professional body for midwives in Australia. I recently attended the international midwives day oration on 5 May.

I thank Autism Asperger ACT and their president, Gay von Ess, and Bob Buckley their vice-president. Well done on the work they do improving the understanding of autism and spectrum disorders within our local community.

Bosom Buddies is a very well-known organisation here in the ACT. Eleanor Bates is their president and Maureen Ashford is their office administrator. They have been doing fantastic work to support people who have commenced their breast cancer journey and to support those who are newly diagnosed by using a buddy system. They do wonderful work engaging with the community and have roped a number of politicians into various events, including the hat hat hooray competition which I participated in recently.

The Cancer Council of the ACT, Joan Bartlett, their CEO, and Christine Brill do good work as a non-profit organisation that aims to promote a healthier community by reducing the incidence and impact of cancer in the ACT region. I was very proud to have participated with a team in the relay for life earlier this year.

I thank Diabetes ACT, the president, Anna Pino, and Laurel Davies, the head of fund raising. They do great work to help people with diabetes. I think a number of us have participated in the singing bee, which is a great event they hold annually.

To those groups, for the great work they do supporting our health in the community, well done and keep up the good work.

Construction industry—training awards

MR COE (Ginninderra) (12.25 am): This evening I would like to acknowledge the outstanding apprentices and finalists of the 2012 CITC-Capital Training Institute graduating apprentice and industry encouragement awards. Since the first awards ceremony 10 years ago, the Construction Industry Training Council has recognised 299 outstanding graduating apprentices and trainees and has provided 36 encouragement awards. These awards provide an opportunity for the construction industry to specifically reward outstanding work done by local graduating apprentices.

Congratulations to the CITC's executive director, Vince Ball, and his team for their work in making the awards possible. I would also like to acknowledge the major sponsor of the awards, the Capital Training Institute; gold sponsors, Holcim; the ACT Building and Construction Training Fund Authority; and the numerous other businesses and organisations who support the awards.

The 2012 outstanding apprentice was Clancy Brentnall, an HIA carpentry apprentice. Other award winners were Jamie Gianchou, for bricklaying; cabinet making, Matt Tindale; commercial-residential cadet, Trystan Warn; heavy vehicle diesel mechanic, John Reid; formwork carpentry, Adriano Siveiro; and glass and glazing, Matthew Jones. The Indigenous award went to bricklaying, James Hill; landscaping, David Moon.

Meritorious awards were awarded to Brant Cameron, Jack Douch, Mai Pon Htaw, Paul Harmsworth, Habibullah Hussaini; engineering and mechanical light fabrication, Marcus Doughty; engineering, mechanical fitting and machining, Maurice Schenkelberg; painting and decorating, Andrew Kefford; plumbing, Garth Thomas; refrigeration and air conditioning, Michael Nixon; roof tiling, Aidan Murdoch, systems electrician, David Burgemeister; wall and ceiling lining, Shane Steven; and wall and floor tiling, Reece Wohl. The award for a woman in a non-traditional trade went to Emma-Lyn Barrett.

I commend the apprentices to the Assembly and wish them all the best for the completion of their training and the careers that await them.

Cyprus community of Canberra

MR DOSZPOT (Brindabella) (12.27 am): On Sunday, 29 July 2012 I was, as shadow minister for multicultural affairs, guest of the president of the Cyprus Community of Canberra and Districts, Ms Georgia Alexandrou, at the commemorative service for the 38th anniversary of the Turkish invasion of Cyprus. The Cypriot Community of Canberra and Districts and Justice for Cyprus ACT organised a church service at the St Nicholas Greek Orthodox Church in Kingston.

Along with the High Commissioner of Cyprus and several hundred members of the congregation, I attended the service and a reception afterwards. The invitation to the commemoration of the 38th anniversary contained the following information, which I would like to share with members of our Legislative Assembly.

The consequences of Turkey's invasion were devastating and are still felt today, as over 36 per cent of the Republic of Cyprus territory, representing 70 per cent of the economic potential, came under the occupation of the Turkish military. Some 200,000 Greek Cypriots, about one-third of the total population, were forcibly expelled from the occupied northern part of the island and are to this day prevented from returning to their homes. Twenty thousand Greek Cypriots, who had remained in the occupied area after the invasion, have gradually been driven out, with less than 500 remaining there today.

Thousands of Greek Cypriots were killed as a result of the actions of the invading Turkish Army. Until today the fate of approximately 1,400 persons, is not known. About 43,000 troops from Turkey, heavily armed with the latest weapons, supported by air, land and sea power, are stationed in the occupied area, making it one of the most militarised regions in the world.

The desire of the people of Cyprus remains the unification of the island and the chance of the Turkish Cypriots to benefit from the opportunities offered by the accession of Cyprus to the European Union, and for all citizens of Cyprus to live together peacefully, with security.

Question resolved in the affirmative.

The Assembly adjourned at 12.30 am (Thursday).

Schedules of amendments

Schedule 1

Retirement Villages Bill 2011

Amendment moved by Mr Seselja

1

Clause 2

Page 2, line 4—

omit clause 2, substitute

2

Commencement

This Act commences on 1 March 2013.

Note The naming and commencement provisions automatically commence on the notification day (see Legislation Act, s 75 (1)).

Schedule 2

Civil Unions Bill 2011

Amendments moved by the Attorney-General

1

Proposed new clause 26A

Page 19, line 16—

insert

26A Civil unions under corresponding laws

- (1) A regulation may provide that a relationship under a law of a State, external territory or foreign country (a ***corresponding law***) is a civil union for territory law.
- (2) However, a regulation must not provide that a relationship under a corresponding law is a civil union for territory law unless, under the corresponding law, the relationship—
 - (a) must be between 2 people; and
 - (b) must be entered into consensually; and
 - (c) must not be entered into by people who are in a prohibited relationship with each other; and
 - (d) must not be entered into by people who may marry each other under the *Marriage Act 1961* (Cwlth) or a law of an external territory or foreign country if the marriage can be recognised under that Act.

2**Schedule 2****Proposed new sections 2 and 3****Page 28, line 3—**

omit proposed new sections 2 and 3, substitute

2**Civil partnerships under corresponding laws—Act, s 37P**

A relationship is a civil partnership for territory law if it is—

- (a) a registered relationship under the *Relationships Register Act 2010* (NSW); or
- (b) a registered domestic relationship under the *Relationships Act 2008* (Vic); or
- (c) a registered relationship under the *Relationships Act 2011* (Qld); or
- (d) a significant relationship registered by a deed of relationship under the *Relationships Act 2003* (Tas), section 13 (3) (a); or
- (e) a civil union under the *Civil Union Act 2004* (NZ).

3**Schedule 3, part 3.10****Amendment 3.35****Proposed new section 37P****Page 53, line 1—**

omit proposed new section 37P, substitute

37P**Civil partnerships under corresponding laws**

- (1) A regulation may provide that a relationship under a law of a State, external territory or foreign country (a ***corresponding law***) is a civil partnership for territory law.
- (2) However, a regulation must not provide that a relationship under a corresponding law is a civil partnership for territory law unless, under the corresponding law, the relationship—
 - (a) must be between 2 people; and
 - (b) must be entered into consensually; and
 - (c) must not be entered into by people who are in a prohibited relationship with each other.

Schedule 3**Human Rights Amendment Bill 2011**Amendments moved by Mr Rattenbury**1****Clause 6****Proposed new section 27A (1)**

Page 3, line 8—

omit
primary
substitute
full-time

2

Clause 6

Proposed new section 27A (1A)

Page 3, line 9—

insert

(1A) A child's parent or guardian has the right to choose for the child schooling (other than schooling provided by the government) that conforms to the minimum educational standards required under law and to ensure the religious and moral education of the child in conformity with the convictions of the parent or guardian.

3

Clause 6

Proposed new section 27A (3)

Page 3, line 12—

omit

4

Clause 8

Page 4, line 5—

[oppose the clause]

5

Clause 9

Proposed new section 43 (2) (b)

Page 4, line 20—

omit

Schedule 4

Human Rights Amendment Bill 2011

Amendment moved by Mr Seselja

1

Clause 6

Proposed new section 27A (1)

Page 3, line 18—

omit
primary
insert
school

Schedule 5

Human Rights Amendment Bill 2011

Amendment moved by the Attorney-General

1

Clause 6

Proposed new section 27A (3) (b)

Page 3, line 18—

after

schooling for the child

insert

(other than schooling provided by the government)
