



## LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

2008–2009–2010–2011

### MINUTES OF PROCEEDINGS

No. 91

**WEDNESDAY, 16 FEBRUARY 2011**

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1 The Assembly met at 10 a.m., pursuant to adjournment. The Speaker (Mr Rattenbury) took the Chair and asked Members to stand in silence and pray or reflect on their responsibilities to the people of the Australian Capital Territory.

2 **MINISTER FOR HEALTH—PROPOSED CENSURE**

Mr Hanson, pursuant to notice, moved—That this Assembly censures the Minister for Health, Katy Gallagher MLA, for her ongoing mismanagement of the Health portfolio, including:

- (1) the highly critical findings of the recent Auditor-General's report into waiting lists for elective surgery and medical treatment that found:
  - (a) the strategies implemented by ACT Health have not been adequate to address increased demand, and reduce the waiting lists for elective surgery;
  - (b) notwithstanding increased funding by the Commonwealth and ACT Governments in the recent years, the elective surgery waiting lists have not shown improvements, and the ACT compared unfavourably to other jurisdictions;
  - (c) the median wait was 75 days in the ACT (the Australian median was 34 days);
  - (d) more recent statistics in 2009-10 indicated a general worsening situation compared to 2008-09;
  - (e) ACT Health conducted an internal review of the outpatient services at The Canberra Hospital (TCH) and a draft report in October 2010 found deficiencies in strategic planning, inconsistent application of policies and procedures across the OPDs, ad hoc processes for managing waiting lists, and poor and inefficient communications with clinicians, consumers and staff; and

- (f) classification of clinical urgency categories did not always reflect ACT Health's policy and procedures and therefore raised doubts on the reliability and appropriateness of the clinical classifications for patients within the waiting lists;
- (2) the recent loss of confidence in Katy Gallagher MLA as Minister for Health and calls for her to be dismissed by the ACT Visiting Medical Officers Association in a letter written by the President of the Association to the Chief Minister;
  - (3) the Minister ignoring, denying and attempting to cover up elements of very serious issues in the Obstetrics Department of TCH, resulting in a highly critical clinical review, and a review into management and behaviour aspects that has been entirely suppressed by ACT Health;
  - (4) the recent very poor performance of ACT's public hospitals, recording the worst results in the nation for elective surgery on the *My Hospitals* website;
  - (5) unacceptable waiting times at the Emergency Department at TCH for urgent and semi-urgent patients, with both categories falling well below nationally recognised waiting times;
  - (6) the Minister's failure to address the ACT's ongoing chronic shortage of general practitioners which is the lowest per capita in Australia behind the Northern Territory, and chronically low bulk-billing rates which are the lowest per capita in the nation;
  - (7) two years of disruption and delay to developing improved hospital services in Canberra's north, caused in part by the Minister's failed attempt to waste \$77 million of taxpayers' money during the Calvary Hospital purchase fiasco;
  - (8) the Minister's failure to address serious concerns raised by medical staff and patients with diabetes services in the ACT, including staff shortages, loss of morale, delays in appointing the clinical director, concerns with the diabetes service model, delays for patients to see endocrinologists and diabetes educators, and inadequate services for young adults;
  - (9) dysfunctional communication with patients and families, including families of infants exposed to tuberculosis at TCH, the family of the ACT's first Swine Flu fatality, and cancer patients seeking radiotherapy who were ignored while being forced interstate for treatment; and
  - (10) disruption, ongoing delays and cost blowouts across numerous health infrastructure projects totalling \$57 million in rollovers in the ACT Budget 2009-10 and \$50 million in the Budget 2010-11, including extensive delays and cost blowouts that plagued TCH car park, the still undelivered Secure Mental Health Facility, the delayed Women's and Children's Hospital and the delayed Bush Healing Farm.

Debate ensued.

Question—put.

The Assembly voted—

AYES, 5

Mr Coe  
Mrs Dunne  
Mr Hanson  
Mr Seselja  
Mr Smyth

NOES, 10

Mr Barr  
Ms Bresnan  
Ms Burch  
Mr Corbell  
Ms Gallagher  
Mr Hargreaves  
Ms Hunter  
Ms Le Couteur  
Mr Rattenbury  
Mr Stanhope

And so it was negatived.

### 3 MULTICULTURALISM

Mr Hargreaves, pursuant to notice, moved—That this Assembly notes and recognises:

- (1) the success of the 2011 ACT Multicultural Festival in promoting harmony and respect within the ACT community's many different cultural, religious and ethnic communities;
- (2) the Stanhope Government's leadership in promoting harmony and respect within the ACT community's many different cultural, religious and ethnic communities; and
- (3) the welcoming nature of the ACT community with respect to refugees from war torn lands overseas, in particular the declaration by the Stanhope Government of Canberra as a "Welcoming City".

Mr Doszpot moved the following amendment: Omit all words after "That this Assembly", substitute:

"(1) notes:

- (a) the important role of the National Multicultural Festival in promoting mutual respect and understanding in our community;
- (b) the importance of fiscal management so that this Festival can continue and grow into the future;
- (c) the importance of ensuring that Canberra continues to develop as a cosmopolitan and accepting city; and
- (d) the welcoming nature of the ACT community with respect to refugees and asylum seekers; and

(2) calls on the Government to:

- (a) consult with local multicultural organisations to develop new Festival events and concepts;
- (b) foster increased exchanges and discussions among the diverse ethnic, religious and social groups within our community;
- (c) report on the above initiatives prior to the September 2011 sitting; and
- (d) include the promotion of social inclusion and interaction into the vision of the Multicultural Festival."

Debate continued.

Mr Hargreaves, by leave, moved the following amendments to Mr Doszpot's proposed amendment together:

- (1) In paragraph (1)(a), omit the words “mutual respect and understanding in our community”, substitute “harmony and respect within the ACT’s many different cultural, religious and ethnic communities”.
- (2) In paragraph (2)(a), insert the words “continue to” before “consult”.
- (3) In paragraph (2)(b), insert the words “continue to” before “foster”.
- (4) Omit paragraph (2)(c).

Debate continued.

*Paper:* Mr Hargreaves, by leave, presented the following paper:

National Multicultural Festival—*Proud to be Mon, a day of full pride*—Copy of email from Joel Lyneham to Jim Mallett, dated 16 February 2011.

Debate continued.

Amendments to amendment negatived.

Amendment agreed to.

Debate continued.

Question—That the motion, as amended, viz:

“That this Assembly:

- (1) notes:
  - (a) the important role of the National Multicultural Festival in promoting mutual respect and understanding in our community;
  - (b) the importance of fiscal management so that this Festival can continue and grow into the future;
  - (c) the importance of ensuring that Canberra continues to develop as a cosmopolitan and accepting city; and
  - (d) the welcoming nature of the ACT community with respect to refugees and asylum seekers; and
- (2) calls on the Government to:
  - (a) consult with local multicultural organisations to develop new Festival events and concepts;
  - (b) foster increased exchanges and discussions among the diverse ethnic, religious and social groups within our community;
  - (c) report on the above initiatives prior to the September 2011 sitting; and
  - (d) include the promotion of social inclusion and interaction into the vision of the Multicultural Festival.”—

be agreed to—put and passed.

#### 4 QUESTIONS

Questions without notice being asked—

*Paper:* Mr Coe, by leave, presented the following paper:

Bimberi Youth Justice Centre—Extract from *Hansard*, 8 December 2010.

Questions continued.

## 5 YOUTH JUSTICE SYSTEM

Mrs Dunne, pursuant to notice, moved—That this Assembly:

- (1) notes:
  - (a) the commencement, in accordance with a resolution of the Assembly, made on 8 December 2010, of the inquiry into the youth justice system in the ACT, including Bimberi Youth Justice Centre and Community Youth Justice and the human rights audit into conditions of detention in Bimberi Youth Justice Centre;
  - (b) the breaches of confidence committed by the Children and Young People Commissioner in relation to a matter brought to his attention prior to commencement of the inquiry by a staff member at Bimberi Youth Justice Centre;
  - (c) the breaches of confidence were contrary to the practice of the Human Rights Commission; and
  - (d) the continuing deterioration in the quality and standards of youth justice in the ACT;
- (2) expresses its:
  - (a) want of confidence in the Children and Young People Commissioner to undertake the inquiry referred to in paragraph (1)(a); and
  - (b) concern that the behaviour of the incumbent Children and Young People Commissioner may compromise the integrity and credibility of the position;
- (3) calls on the Attorney-General to:
  - (a) discontinue immediately the inquiry and human rights audit referred to in paragraph (1)(a);
  - (b) take appropriate counselling and/or disciplinary action in response to the behaviour referred to in paragraphs (1)(b) and (1)(c) of the incumbent Children and Young People Commissioner; and
  - (c) report to the Assembly in relation to paragraphs (3)(a) and (3)(b) before the close of business on the Assembly sitting day scheduled for 8 March 2011; and
- (4) calls on the Executive to appoint a board of inquiry, in accordance with the *Inquiries Act 1991*, to inquire and report, by 30 June 2011, into the matters that were the subject of the inquiry and human rights audit referred to in paragraph (1)(a).

*Papers:* Mrs Dunne, by leave, presented the following papers:

Children and Young People Commissioner—Letters (3) from Mrs Dunne, dated 4 February 2011.

Mr Corbell (Attorney-General) moved the following amendment: Omit all words after “That this Assembly”, substitute:

- “(1) noting the importance of the principles outlined in Continuing Resolution No. 7, Exercise of freedom of speech, agreed by the Assembly in 1995, namely:

- (a) the need for Members to exercise their valuable right of freedom of speech in a responsible manner;
  - (b) the desirability of ensuring that statements reflecting adversely on persons are soundly based;
  - (c) the damage that may be done by allegations made in the Assembly to those who are the subject of such allegations and to the standing of the Assembly; and
  - (d) the limited opportunities for persons other than Members of the Assembly to respond to allegations made in the Assembly;
- (2) censures the Member for Ginninderra, Mrs Vicki Dunne, for failing to have regard to these principles in her irresponsible, unsound and malicious allegations against the office, integrity and reputation of the Children and Young People Commissioner; and
- (3) reaffirms its full confidence in the Children and Young People Commissioner and the conduct of his inquiry into the youth justice system.”.

Debate continued.

Mrs Dunne, by leave, was granted an extension of time.

Debate continued.

Question—That the amendment be agreed to—put.

The Assembly voted—

| AYES, 5       |             | NOES, 8    |               |
|---------------|-------------|------------|---------------|
| Mr Barr       | Mr Stanhope | Ms Bresnan | Ms Hunter     |
| Ms Burch      |             | Mr Coe     | Ms Le Couteur |
| Mr Corbell    |             | Mr Doszpot | Mr Rattenbury |
| Mr Hargreaves |             | Mrs Dunne  | Mr Smyth      |

And so it was negatived.

Debate continued.

Question—That the motion be agreed to—put.

The Assembly voted—

| AYES, 4    |  | NOES, 9       |               |
|------------|--|---------------|---------------|
| Mr Coe     |  | Mr Barr       | Ms Hunter     |
| Mr Doszpot |  | Ms Bresnan    | Ms Le Couteur |
| Mrs Dunne  |  | Ms Burch      | Mr Rattenbury |
| Mr Smyth   |  | Mr Corbell    | Mr Stanhope   |
|            |  | Mr Hargreaves |               |

And so it was negatived.

## 6 SUSPENSION OF STANDING AND TEMPORARY ORDERS—PRIVATE MEMBERS’ BUSINESS—ORDER OF BUSINESS

Ms Bresnan moved—That so much of the standing and temporary orders be suspended as would prevent the order of Private Members’ business for the remainder of this sitting being as follows:

Order of the day No. 2.

Notice No. 4.

Order of the day No. 1.

Question—put and passed, with the concurrence of an absolute majority.

## 7 WORKPLACE PRIVACY BILL 2010

The order of the day having been read for the resumption of the debate on the question—That this Bill be agreed to in principle—

Debate resumed.

*Paper:* Ms Bresnan, by leave, presented a revised explanatory statement to the Bill.

Question—That this Bill be agreed to in principle—put and passed.

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### *Detail Stage*

Bill, by leave, taken as a whole—

On the motion of Ms Bresnan, her amendment No. 1 (*see* [Schedule 1](#)) was made.

On the motion of Mr Corbell (Attorney-General), by leave, his amendments Nos. 1 to 14 (*see* [Schedule 2](#)) were made together, after debate.

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

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Question—That this Bill, as amended, be agreed to—put and passed.

## 8 ISABELLA DRIVE, MACARTHUR—NOISE ATTENUATION

Mr Smyth, pursuant to notice, moved—That this Assembly:

- (1) notes:
  - (a) that residents in the suburb of Macarthur had the benefit of a noise attenuation barrier, along the north of Isabella Drive, that ameliorated the effect of noise generated by traffic travelling along Isabella Drive;
  - (b) that this barrier has been reduced at various times, thereby reducing its effectiveness;
  - (c) that the reduction in the size of this barrier has been exacerbated as a consequence of Telstra undertaking works in the area; and
  - (d) the ACT Government's lack of intention to restore the barrier to its original size; and
- (2) calls on the ACT Government to restore the barrier along the north of Isabella Drive to its original size.

Mr Stanhope (Minister for Transport) moved the following amendment: Omit paragraphs (1)(d) and (2), substitute:

- “(2) notes that the ACT Government has undertaken a noise survey at the site and found that the noise recorded over an 18 hour period from 6 a.m. until midnight each day was between 54-59db(A), below the noise level of 65db(A), which would trigger consideration for noise attenuation as used by Roads ACT;

- (3) notes that the Government is currently reviewing the criteria for traffic noise guidelines, which includes a review of interstate practice, and that the Government will table the outcomes of this review when completed; and
- (4) calls on the ACT Government to continue to monitor the location for any increase in noise levels and implement any noise attenuation measures where noise levels are above the trigger point.”.

Debate continued.

Mr Smyth moved the following amendment to Mr Stanhope’s proposed amendment: In paragraph (4), omit “implement”, substitute “restore”.

Debate continued.

Amendment to amendment agreed to.

Question—That the amendment, as amended, be agreed to—put.

The Assembly voted—

| AYES, 9       |               | NOES, 4    |
|---------------|---------------|------------|
| Mr Barr       | Ms Hunter     | Mr Doszpot |
| Ms Bresnan    | Ms Le Couteur | Mrs Dunne  |
| Ms Burch      | Mr Rattenbury | Mr Seselja |
| Mr Corbell    | Mr Stanhope   | Mr Smyth   |
| Mr Hargreaves |               |            |

And so it was resolved in the affirmative.

Question—That the motion, as amended, viz:

“That this Assembly:

- (1) notes:
  - (a) that residents in the suburb of Macarthur had the benefit of a noise attenuation barrier, along the north of Isabella Drive, that ameliorated the effect of noise generated by traffic travelling along Isabella Drive;
  - (b) that this barrier has been reduced at various times, thereby reducing its effectiveness; and
  - (c) that the reduction in the size of this barrier has been exacerbated as a consequence of Telstra undertaking works in the area;
- (2) notes that the ACT Government has undertaken a noise survey at the site and found that the noise recorded over an 18 hour period from 6 a.m. until midnight each day was between 54-59db(A), below the noise level of 65db(A), which would trigger consideration for noise attenuation as used by Roads ACT;
- (3) notes that the Government is currently reviewing the criteria for traffic noise guidelines, which includes a review of interstate practice, and that the Government will table the outcomes of this review when completed; and
- (4) calls on the ACT Government to continue to monitor the location for any increase in noise levels and restore any noise attenuation measures where noise levels are above the trigger point.”—

be agreed to—put and passed.

**9 CHILDREN AND YOUNG PEOPLE (DEATH REVIEW) AMENDMENT BILL 2010**

The order of the day having been read for the resumption of the debate on the question—That this Bill be agreed to in principle—

Debate resumed.

Mrs Dunne addressing the Assembly—

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*Adjournment negatived:* It being 6 p.m.—The question was proposed—That the Assembly do now adjourn.

Ms Burch (Minister for Children and Young People) requiring the question to be put forthwith without debate—

Question—put and negatived.

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Debate continued.

Question—That this Bill be agreed to in principle—put and passed.

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*Detail Stage*

Bill, by leave, taken as a whole—

Debate adjourned (Ms Bresnan) and the resumption of the debate made an order of the day for the next sitting.

**10 ADJOURNMENT**

Ms Burch (Minister for Disability, Housing and Community Services) moved—That the Assembly do now adjourn.

Debate ensued.

Question—put and passed.

And then the Assembly, at 6.33 p.m., adjourned until tomorrow at 10 a.m.

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**MEMBERS' ATTENDANCE:** All Members were present at some time during the sitting, except Ms Porter\*.

\*on leave

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**Tom Duncan**  
Clerk of the Legislative Assembly

## SCHEDULES OF AMENDMENTS

### Schedule 1

#### **WORKPLACE PRIVACY BILL 2010**

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Amendment circulated by Ms Bresnan

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1

**Clause 11 (1), definition of *conduct***

**Page 6, line 3—**

*omit the definition, substitute*

***conduct*** surveillance—a person ***conducts*** surveillance if the person—

- (a) conducts the surveillance personally; or
  - (b) causes someone else to conduct the surveillance.
-

## **Schedule 2**

### **WORKPLACE PRIVACY BILL 2010**

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Amendments circulated by the Attorney-General

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**1**

**Proposed new clause 16 (2) and (3)**  
**Page 11, line 3—**

*insert*

- (2) For subsection (1) (a), the policy must state—
- (a) how the employer's computer resources may, and must not, be used; and
  - (b) what information about the use of the employer's computer resources is logged and who may access the logged information; and
  - (c) how the employer may monitor and audit a worker's compliance with the policy.

- (3) In this section:

*computer resources* includes internet access and electronic communication applications.

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**2**

**Clause 18 (1), penalty**  
**Page 11, line 16—**

*omit the penalty, substitute*

Maximum penalty: 20 penalty units.

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**3**

**Clause 18 (2), penalty**  
**Page 11, line 22—**

*omit the penalty, substitute*

Maximum penalty: 20 penalty units.

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**4**

**Clause 18 (3), penalty**  
**Page 12, line 3—**

*omit the penalty, substitute*

Maximum penalty: 20 penalty units.

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**5****Clause 18 (4), penalty**  
**Page 12, line 8—**

*omit the penalty, substitute*

Maximum penalty: 20 penalty units.

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**6****Clause 22 (1), penalty**  
**Page 15, line 12—**

*omit the penalty, substitute*

Maximum penalty: 50 penalty units.

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**7****Clause 22 (3), penalty**  
**Page 16, line 6—**

*omit the penalty, substitute*

Maximum penalty: 50 penalty units.

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**8****Clause 23 (2)**  
**Page 16, line 11—**

*omit clause 23 (2), substitute*

- (2) If an employer fails to allow the worker to have access to surveillance records under subsection (1), the records must not be used by the employer—
- (a) in a legal proceeding between the employer and the worker; or
  - (b) to take adverse action against the worker.

*Note* **Adverse action**—see the *Fair Work Act 2009* (Cwlth), s 342.

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**9****Clause 23 (3)**  
**Page 16, line 14—**

*omit everything before clause 23 (3) (a), substitute*

- (3) Subsections (1) and (2) do not apply if—
- (aa) disclosing the surveillance records would be an offence under section 22 or otherwise unlawful; or
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**10**

**Proposed new clause 29 (2) (aa)**

**Page 22, line 15—**

*insert*

(aa) is independent of the employer; and

**Example**

the person is not an employee of the employer

*Note* An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

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**11**

**Clause 35 (1), penalty**

**Page 24, line 25—**

*omit the penalty, substitute*

Maximum penalty: 50 penalty units.

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**12**

**Clause 39 (1), penalty**

**Page 28, line 26—**

*omit the penalty, substitute*

Maximum penalty: 50 penalty units.

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**13**

**Proposed new clause 41 (2) (fa)**

**Page 32, line 14—**

*insert*

(fa) a first-aid room;

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**14**

**Clause 42 (1), penalty**

**Page 32, line 19—**

*omit the penalty, substitute*

Maximum penalty: 50 penalty units.

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