DEBATES

OF THE

LEGISLATIVE ASSEMBLY

FOR THE

AUSTRALIAN CAPITAL TERRITORY

HANSARD

25 June 2003

Wednesday, 25 June 2003

Wednesday 25 June 2003

The Assembly met at 10.30 am.

(Quorum formed.)

MR SPEAKER (Mr Berry) 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.

Smoking (Prohibition in Enclosed Public Places) Bill 2003

Mrs Cross, pursuant to notice, presented the bill.

Title read by acting clerk.

MRS CROSS (10.33): I move:

> That this bill be agreed to in principle.

Mr Speaker, I am delighted to have the opportunity to table today this bill to prohibit smoking in enclosed public places. I was also delighted to find the government showing its support for this bill in advance when it tabled the discussion paper on just this issue last week. I will be very keen to see the result of the discussion paper process.

The health issues associated with smoking are well known, and I am sure that it is not necessary for me to go through all the intricate details at the moment. There are, however, some very important passive smoking issues which I will raise, as they have been raised for years in this place in the hope that eventually the government will practise what it preaches.

Children exposed to environmental tobacco smoke are 40 per cent more likely to suffer from asthma symptoms than children who are not exposed. An estimated 8 per cent of childhood asthma in Australia is attributable to passive smoking. Passive smoking is estimated to contribute to the symptoms of asthma in 46,500 Australian children a year.

Children exposed to environmental tobacco smoke during the first 18 months of life have a 60 per cent increase in the risk of developing lower respiratory illnesses such as croup, bronchitis, bronchiolitis and pneumonia. An estimated 13 per cent of lower respiratory illness in Australian children under 18 months of age, that's 16,300 cases per year, is attributable to passive smoking.

Those people who have never smoked themselves and who live with a smoker have a 30 per cent increased risk of developing lung cancer. This does not take into account other sources of environmental tobacco smoke exposure such as work and social settings. The risk of heart attack or death from coronary heart disease is about 24 per cent higher in never-smokers who live with a smoker. This does not take into account other sources of environmental tobacco smoke exposure such as work and social

settings. Passive smoking contributes significantly to the risk of sudden infant death syndrome and may increase the risk of death from all causes.

Environmental tobacco smoke exposure is associated with a 20 per cent increase in the progression of atherosclerosis. Current smokers have a 50 per cent increase, and past smokers have a 25 per cent increase. Some of these effects may be cumulative and irreversible.

The World Health Organisation has a global health treaty which addresses just this issue and which, as of 20 June this year, has been ratified. Forty countries plus the European Union have signed this treaty, and others are intending to do so. Unfortunately, Australia has yet to sign, and I do not know whether we will. This treaty is the only global health-related treaty to be passed in decades.

Smoking is an important health issue for all parts of the world, with enormous economic implications as well. Dr Brundtland, who is the Director General of the World Health Organisation, made a statement last week in which she said:

> This treaty makes us accountable to the world. It also makes the world accountable to itself. We are racing against time that clocks 5 million tobacco deaths in the world every year.

Smoking is a contentious issue that always evokes a response from those that do it, those that do not and those that feel that their income is directly related to smoking. I'm aware that clubs and pubs in Canberra feel that there will be a drop in patronage if smoking on their premises is outlawed. I'm also aware of the numbers of patrons who will be very happy to welcome the introduction of a ban in enclosed public places. Overall, though, the long-term health outcomes, and hence the economic outcomes for the people of Canberra, will be far better served by this bill.

When it comes to contentious issues, governments often move very slowly and are often very indecisive. As we all know, delay is a great political tool which governments in particular are quick to use when dealing with an electorally damaging issue or an idea that has been developed by an opposing group. Sometimes, it is important to draw the proverbial line in the sand and act so that there is actually a baseline to work from, so that those in the community can experience improved health outcomes.

This bill employs a harm minimisation approach to a very difficult health issue. There are always problems with a solution that simply places bans. Problems are also created when demands are made on the general population in legislation. We as legislators do, on occasion, need to take a stand and be prepared to wear the flack if the result will mean a definite improvement in health and wellbeing for the population as a whole.

When seatbelt legislation was introduced, there was a huge outcry, and many claimed that their civil liberties were infringed upon. After a very short time, the education program and the very obvious resulting lower death rate from car crashes led to acceptance of the legislation by a great percentage of the population. These days many of us feel unsafe if we are not belted into our car seats.

It would be wonderful if we as legislators could look at a situation where the anti-smoking legislation was totally irrelevant. We could sit back and smile, knowing that the education programs in the community and carried on through the school system have been effective, and people would be responsible and not smoke. It is rare that we find Utopian solutions in the political sphere.

Unfortunately, humans tend to be a little contrary on occasions, or even more often than that, and look for mind-altering drugs. Whether it is manufactured cigarettes or in the Australian desert where hand-made spinifex rollies suffice, people do look for something. Hence we as legislators will always have responsibility for taking tough decisions which will have an overall positive effect on community health. Tough decisions are rarely the black-and-white, just-say-no, solutions. The tough decisions are those that find ways to discourage, to provide disincentives, to make harming health awkward and that encourage people to look for alternatives that are healthier and more rewarding than their harmful practices.

The bill that I am tabling today will form a good base from which to work towards smoke-free enclosed public places. I do hope that the government will recognise the long-term work that has gone into this piece of legislation and will be happy to work in a cooperative manner to further the overall health outcomes for the Canberra population.

I would like to thank John Clifford and Sandra Georges from Parliamentary Counsel who prepared this bill and assisted me and my staff during these past few months in its development.

Members, I commend this bill to the Assembly.

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

Corrections Reform Amendment Bill 2003

Mr Smyth, pursuant to notice, presented the bill and its explanatory statement.

Title read by acting clerk.

MR SMYTH (Leader of the Opposition) (10.41): I move:

> That this bill be agreed to in principle.

Mr Speaker, our corrections system, unfortunately, deals with many hundreds of Canberra citizens every year. They have been sentenced by our courts for a very wide range of offences under our laws.

Mr Stanhope: You'll be bringing Osborne back next.

Mr Quinlan: And Dave. Don't forget Dave.

Mr Stanhope: Yes, Dave.

M**R SMYTH**: Their personal circumstances will vary greatly, but sadly one of the most significant facts is that around 70 per cent of them will be dealt with for repeat offences.

Mr Stanhope: Just imagine that: next Assembly we'll have both Harold Hird and Dave Rugendyke back.

MR SMYTH: The fact that committing offences becomes a habit of life gives these offenders a lifetime status separated from the mainstream—

Mrs Dunne: Mr Speaker—

MR SPEAKER: Mrs Dunne, do you have a point of order?

Mrs Dunne: Mr Speaker, I really think it's intolerable that the Chief Minister should interject like this when someone's presenting a bill. This is an important matter. If he doesn't think it's important he can absent himself from the place, but he should be quiet.

MR SPEAKER: It's out of order to interject, members.

Mr Quinlan: As long as we're consistent.

Mr Stanhope: Heaven forbid!

Mr Quinlan: We've seen some double standards over there already.

MR SPEAKER: I will order Mr Smyth to sit down until we have a little bit of silence in the place, because it is unfair on members that are introducing legislation. Mr Smyth has the call.

MR SMYTH: Mr Speaker, the fact that committing offences becomes a habit of life gives these offenders a lifetime status separated from the mainstream community and its social bonds. In dealing with offenders, some of them for crimes of violence, one of our first reactions must be to protect the community from harm. We also use our corrections system to apply just punishment and to satisfy community demands. We also assume that the system acts as a deterrent to future crimes.

Clearly the rate of repeat offences indicates that this does not well and truly work in practice. That is why all enlightened jurisdictions are endeavouring to find means of changing the behaviour of offenders for the better through various forms of rehabilitation.

The concept at work here is a simple one. I'm sure that members understand it. It's now time that we as a society tackle the issue of corrections and rehabilitation. What we need to do is balance the need for punishment against the need to rehabilitate the offender. Ultimately society will be safer if criminals cease reoffending.

We must, however, realise that rehabilitation does not come by itself. To be effective, it needs to be part of a process; it needs to be part of programs. Rehabilitation needs incentive. What I am proposing here today is a way of providing incentive to offenders so that they more willingly undertake rehabilitation. But this incentive does not come at the cost of watering down a judge's right to pass heavy, if necessary, penalties.

Mr Speaker, many will complain that my reforms are predicated on an ACT prison. That is an incorrect assumption. Certainly, if we had a prison and we had full control of the rehabilitation programs within it, I would be in a position to guarantee the effectiveness of my reforms.

However, as long as we continue to shuffle our prisoners interstate, we will not have full control of the programs; we will not have full control of rehabilitation. Nonetheless, these reforms stand alone. We can accomplish its goals, with or without a jail here in the ACT.

Rehabilitation does not always work. We know that our hopes and expectations are often disappointed, but we must persist in building a system based on hope because no other approach is moral or humane. These offenders are people; they are sons and daughters, husbands and wives, and parents. All too often the most serious cases are our young men.

All but a very few can overcome their problems and can function as members of society only if we help them to do so, and we should help them. Mr Speaker, we should help them because all the other objectives we have for security, justice and reduction in future crime are best served by doing so. It is against this background that I present the Corrections Reform Amendment Bill 2003.

This is a modest bill, but it contains clever and creative new laws to help our corrections system function better and to incorporate rehabilitation into its most important elements. This is not a long bill, but it will bring important improvements to our corrections system. This bill is not a catalogue of rehabilitation measures, which are a developing science and must be delivered by government and their agencies, not by laws.

This is not a bill for harsher sentencing, nor is it for softer sentencing. It aims to be neutral on such a political question. Rather this bill simply presents better ways of doing things.

Mr Speaker, the major effect of this bill is to establish a more advanced basis for the courts to craft sentences and to direct, if they wish, possible changes to the penalties imposed during the term of an offender's sentence. The second effect of the bill is to establish a system by which changes in the penalties set by the courts are considered, granted or refused on the basis of performance against rehabilitation programs which offenders would undertake.

Basically, Mr Speaker, this is as simple as reward and responsibility. If offenders take their obligations to undertake rehabilitation seriously, then they will be rewarded. If,

however, they choose not to take their rehabilitation seriously, if they break the conditions attached to their sentence, they will face sanctions.

Mr Speaker, think of it as a ratchet system: if the offender does the right thing, they ratchet down to a less severe punishment; if they do the wrong thing, they potentially ratchet up to a more severe punishment. The bill sets out a hierarchy of penalties. A new section, 366B, sets them out quite clearly.

We all are used to the concept of parole. This bill extends the possibility of penalty changes to any combination of several penalty options that the courts may wish to use.

Mr Speaker, to support these functions, the bill also provides for a clear statement of the overall objectives of the corrections law. A new division, 15.1A, states:

> **Objects**
>
> (1) the corrections legislation includes the following objects:
>
> (a) providing for the secure and safe imprisonment, care, treatment, health management and rehabilitation of offenders; and
>
> (b) reducing the repetition of criminal and other antisocial behaviour by offenders.

Mr Speaker, to achieve the objects, the act quite clearly sets out in section 338:

> (1) The objects of the correction legislation are to be achieved by
>
> (a) enabling courts to formulate sentences for offenders using a range of stated penalty options in each sentence that—
> (i) provide incentives and opportunities for offenders to progress through a number of custodial and other arrangements stated in a sentence; and
> (ii) can be reviewed by the sentence administration board; and
> (b) enabling the use of a case management approach to rehabilitation that—
> (i) has regard to the needs of the offenders and the community; and
> (ii) involves other government agencies and the community.

Mr Speaker, paragraph (c) says:

> (c) enabling the provision of rehabilitation programs that—
> (i) combine with broader based community programs; and
> (ii) recognise the distinct needs of men and women, offenders of different ages, and cultural, ethnic and other disadvantaged groups; and
> (iii) involve, as appropriate, family and other support mechanisms.

Paragraphs (d), (e) and (f) say:

> (d) establishing the framework for the delivery of custodial and other correctional programs; and
> (e) ensuring the application of the highest standards of competency, professionalism and ethical behaviour in corrections management in the ACT; and

> (f) establishing a set of institutional, management and operational arrangements to achieve the objects in accordance with the principles of transparency and accountability.

Mr Speaker, this is an important improvement because the objectives provided in the existing law vary considerably, reflecting the different circumstances in which several pieces of the legislation were enacted.

Finally, the sentencing decisions of the courts are assisted by adopting two additional non-custodial penalty options that are currently in force in New South Wales. These are place-restriction orders and non-association orders. These two new orders, which are modelled on existing New South Wales legislation, will give courts more streamlined tools for crafting sentences, other than imprisonment. These outcomes can, to some extent, be achieved under current law, through the court releasing offenders on specified conditions.

A non-association order is when the court makes an order prohibiting the offender from associating with someone else for a stated period. In practical terms, this could be an order for the offender not to associate with undesirable influences or indeed going near their victim.

A place-restriction order, Mr Speaker, is made by a court to prohibit an offender from using or visiting a place or area for a stated time. In practical terms, if an offender has an alcohol problem the court could order that they not go near licensed premises.

Mr Speaker, there will be several beneficiaries of this bill. The courts will find that options available to them are expanded and streamlined. They will find that they can mix and match various penalties to create sentences more specifically tailored to different crimes and different offenders. The courts will have more effective relationship with the Sentence Administration Board, previously known as the Parole Board, but will in fact have stronger control and scrutiny over the work of the board.

Prosecutors and defence lawyers will also have a more sensible system of sentences to work with, and the corrections service will benefit from a more efficient system.

But most importantly, Mr Speaker, offenders and their families will be able to deal with the consequences of a sentence in a more sensible way. Most of all, Mr Speaker, the offenders themselves will be presented with options directly linked to their achievements at rehabilitation, giving them encouragement and reward for a successful performance or penalties if they show weakness or refuse rehabilitation.

Mr Speaker, rehabilitation's outcomes and reductions in future crime will not come for free. This system requires some new resources to succeed. To get the full benefit of this law, there would need to be more support for the Sentence Administration Board and significantly more support for rehabilitation programs and case management. The bill does not require these resources; they, of course, are a matter for the government of the day to provide. But I can indicate that the opposition sees the value in reducing future crime and in reintegrating offenders back into our community. We support more resources going to these important activities.

Mr Speaker, there is much more reform needed in our corrections law. Compared to some more proactive states, our corrections law is outdated, inconsistent and uncoordinated. The previous government had an agenda for improvement, which is partially represented by the Rehabilitation of Offenders (Interim) Act passed by this Assembly in 2001.

Mr Speaker, the momentum for improvement has been lost by the new government, which has had two corrections ministers already. In fact, since late 2001, nothing has taken place to improve our corrections system. The only significant new policy, or in fact lack of policy, has seen the tragic and costly decision to continue to send our prisoners and over $10 million in taxpayers' money each year to New South Wales jails, over the border and beyond our control.

Mr Speaker, these prisoners will continue to return to the ACT with many of the worst elements of these old incarceration institutions, unaided by the family contact and programs which could help ensure their rehabilitation. It's a sad policy which directly contributes to the future rates of crime in Canberra. The government's lack of commitment to a prison and the lack of progress on this front are most disappointing.

I cannot understand why corrections ministers, past and present, refused to comprehend the importance of a jail to the ACT. It seems that all this government has done, as on so many other issues, is launch a slow review of sentencing options by a panel of officials.

I have contributed to this review, and happily it is assisted by some external experts. But a review is not action; it is only a preparation to act. All too often with this government, reviews are used as an excuse for inaction.

I certainly hope that this government eventually gets its act together and develops creative additions to our sentence options, such as restorative justice options. I can indicate that this opposition will make a constructive contribution to all such efforts and support any sensible policies which are brought to this Assembly.

Mr Speaker, the bill I present today deals with basic, uncontroversial ideas. They are good and sensible ideas, which would improve our corrections system. This bill will improve confidence in our system among two groups who have come to lack that confidence: our courts and the public themselves.

I hope that all members will agree that my bill is non-political, sensible legislation, which is worthy of support by all groups in this place.

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

Bail (Serious Offences) Amendment Bill 2003

Mr Stefaniak, pursuant to notice, presented the bill and its explanatory statement.

Title read by acting clerk.

MR STEFANIAK (10.56): I move:

> That this bill be agreed to in principle.

As with anything in the criminal justice system, bail is often quite a contentious issue. The ACT had a mishmash of laws, actually, until about 1992, when the current Bail Act was introduced. Pre-1992, it was basically, effectively, just up to the court. After 1992, there was a presumption in favour of bail, even for the most serious offences. There were a number of other provisions, which are not the subject of this particular bill.

The Law Reform Commission, back in December 1997, received terms of reference from the then Attorney-General. I'm quoting now from the Law Reform Commission report of July 2001.

> 1. The Terms of Reference … reflected concerns that bail had sometimes been obtained in circumstances in which the continued liberty of the accused was perceived to involve an unjustified risk to the safety of other people or was otherwise contrary to the public interest. They may also have reflected concern that the relevant provisions of the existing legislation were too inflexible in some respects and too uncertain in others.
>
> 2. In response to the reference the Commission formed a working group comprising representatives from the Magistrates Court, Supreme Court, Legal Aid Office (ACT), the Australian Federal Police and the Director of Public Prosecutions. The working group held several meetings which provided valuable insight into the operation of the *Bail Act 1992* and problems created by the inflexibility of its provisions. The proposals ultimately adopted by the Commission emerged largely from the discussions with that group and the suggestions of individual members.
>
> 3. A discussion paper was prepared and suggestions for reform were subsequently referred to the Criminal Law Consultative Committee which includes representatives from the Bar Association, the Law Society, and others concerned with criminal law and procedures as well as representatives from those government agencies which were also involved in the working party. A further rigorous examination of the proposals ensued. A proposal that the statutory presumption in favour of bail be reversed in the case of certain serious offences proved quite contentious. However, despite some initial expressions of concern, the Committee ultimately supported the main thrust of the proposals now reflected in the recommendations contained in this report.

The commission went on to say in its report:

> The Commission wishes to express its gratitude to those who have raised problems arising out of the existing law, suggested changes or otherwise contributed to the general debate concerning issues discussed in this paper. Ultimately, of course, the Commission is charged with the duty of forming its own conclusions and offering its own recommendations.

The commission concluded its introduction by saying

> The conclusions expressed in the report reflect the considered views of the present members of the Commission formed after carefully weighing those issues and considering the various submissions.

The commission did a quite detailed and learned report. One only needs to look at the members of the commission to see the calibre of the people actually involved. That particular commission consisted of Justice Kenneth Crispin, Mary-Ellen Barry, Professor John Braithwaite, Lisbeth Campbell, Professor Richard Campbell, Peter Hohnen, David Hughes, Jennifer Kitchin, Ian Nichol, and Philip Walker. Professor Charles Rowland was a special adviser.

It's worth while quoting from parts of the commission's report. In their introduction, they stated:

> In recent years, there have been a number of cases which have generated considerable public concern about the granting of bail. In the ACT this concern has been fuelled by a number of well publicised cases, such those in which bail was granted to David Eastman in relation to a charge of murder and to Colin Dunstan in relation to charges of sending letter bombs through the mail. Cases of this kind obviously led to fears that other people might be harmed if bail were granted or continued. However, similar concerns have been expressed, not only in relation to allegations of murder, rape and other offences of violence, but cases in which alleged offenders have been granted bail in relation to property offences, such as burglary and car theft. These concerns have been echoed in other Australian jurisdictions. Many people have plainly felt that the law has not adequately protected them from violence, the violation of their homes and/or the theft of their property.

The commission went on to state:

> The quest for certainty may sometimes lead to inflexible provisions that limit the powers of judges and magistrates in ways that are both unnecessary and undesirable. However, the balance between respect for the freedom of individuals and concern for the protection of the community is a matter of profound importance to any democratic society, and appropriate principles need to be established. Hence, whilst any decision must ultimately involve the exercise of judicial discretion, that discretion should be exercised within the context of statutory provisions reflecting an overall approach to bail which the legislature has determined best reflects community values.

As I said earlier, Mr Speaker, until 1992, there was no specific presumption in favour of bail, although there's some reference in statutes that common law applied. Of course, a lot of concerns were raised then—and I'm putting this in context—because of one classic example where bail should have been refused for a serious offence. It was a matter I prosecuted, a man named Hudd, whose former relationship had turned sour. He then kidnapped his former de facto's 17-year-old son.

The defendant had a fairly extensive record. It was pointed out to the committing magistrate, who quite sensibly remanded him in custody. The magistrate was hardly a redneck and indeed was regarded as perhaps a bit of a soft touch, but he certainly did the right thing there, as was his right.

The Legal Aid lawyer representing the defendant actually then went to the Supreme Court and, despite strenuous opposition from the police and the prosecution, the defendant was actually granted bail. There were real fears for the safety of the family—the Nomgchong family, it was.

The accused, within 36 hours, breached the conditions of his bail and grabbed his former de facto. Ultimately there was a hostage situation in Sydney. The lady concerned was very lucky she moved, otherwise she would have had all of her back blown away and been killed. As it was, she suffered severe injuries. The defendant was subsequently convicted of attempted murder and, I think, served about 10 years in prison. Quite clearly, if my legislation were enacted, as recommended by the Law Society, there would be a presumption against bail, which would assist the court.

Currently, in subsection 8 (2), there is a presumption in favour of the grant of bail, even in relation to the most serious offences. It is in these terms:

> A person—
>
> (a) accused of an offence to which this section applies; or
> (b) to whom this section applies;
>
> is entitled to be granted bail in accordance with this Act unless—
>
> (c) the court or authorised officer is satisfied that, having regard to the matters referred to in whichever of section 22—

which deals with adult offenders—

> and 23—

which deals with juvenile offenders—

> apply to the accused person, the court or authorised officer is justified in refusing bail; or
>
> (d) the requirement for bail is dispensed with under section 10.

There are some exceptions in the act. Subsection (1A), introduced by myself two years ago, is the very successful presumption against bail except in extraordinary special circumstances for offenders who are already up before the court and who commit further offences either whilst on bail or whilst they have charges pending. Subsection (1A) of section 8 indicates that the section doesn't apply to the grant of bail by an authorised officer to a person accused of a domestic violence offence or to the grant of bail in the other circumstance I have mentioned there.

Currently, the normal presumption of entitlement to bail, even in the most serious offences, is only displaced if the court or authorised officer is satisfied that a refusal is justified having regard to those matters referred to in sections 22 or 23. As the commission quite rightly points out:

> This effectively casts on to the Crown the burden of proving any facts that might justify a denial of bail.

This is an issue that many judges and magistrates have commented on in recent times. Only last Saturday week, the President of the Court of Appeal, the second most senior judge of the Supreme Court of the territory, indicated that, in the case before him—a case of murder—because of the Bail Act, in which there is a presumption in favour of bail, he felt his hands were tied; he had to grant bail.

He's not the first one to complain about that. The former Chief Justice has mentioned it on a number of occasions, as has the Chief Magistrate. They have mentioned it publicly in cases. They've certainly mentioned it privately with me, as indeed have a number of other judicial officers. Quite clearly, it is an issue that concerns our courts.

The commission in its report, when it came up with this particular suggestion I seek to enact, indicated:

> … the Commission accepts that people should not have their freedom restricted save for compelling reasons. Hence it does not suggest that the presumption should be reversed in all cases but only when the accused person is charged with an offence of sufficient gravity to fairly raise substantial concerns that his or her release might involve real danger to members of the public. The real difficulty lies in determining how to define the range of offences that fall into this category.

They deliberated on that and came up with their recommendations contained in paragraph 95 on pages 36 and 37 of the report. Those recommendations are contained in my bill, as can best be transposed by Parliamentary Counsel who did a wonderful job. I take this opportunity to thank John Clifford and the members of his team that assisted. My bill faithfully represents what the commission recommended. Paragraph 95 of the report states:

> The Commission recommends that section 8 be amended:
>
> - by adding to paragraph (2) (a)—

and this is the Law Reform Commission's recommendation—

> the words 'other than an offence referred to in subsection (3); and
>
> - by adding as subsection 3 the words:
>
> Bail shall not be granted or dispensed to a person charged with an offence of—

and they list offences—

> (a) treason or murder;
>
> (b) any offence in the course of committing which the accused person is alleged to have used or threatened to use violence with a weapon apparently capable of causing death or serious injury or a replica of such a weapon;

> (c) contravening a protection order or restraining order in the course of committing which the accused person is alleged to have used or threatened to use violence and the accused person has within the preceding 12 months been convicted or found guilty of an offence in the course of committing which he or she used or threatened to use violence against any person;
>
> (d) an offence of trafficking in relation to a commercial quantity of a drug of dependence or an offence of conspiring to commit such an offence; or
>
> (e) an offence under section 231 (1), 233A or 233B (1) of the Customs Act 1901 of the Commonwealth (as amended and in force for the time being) in relation to a commercial quantity of narcotics goods within the meaning of that Act unless the court is satisfied exceptional circumstances exist which justify the grant of bail;

And then they conclude:

> unless, having regard to the matters referred to in whichever of section 22 and 23 apply to the accused person, the court or authorised officer is satisfied that it would be appropriate to grant bail notwithstanding the gravity of the offence charged.

What they are effectively saying there is that the presumption currently in favour of granting of bail for any offence, no matter how serious, should be reversed. It is just a simple reversal for offences such as treason and murder; for any offence where an offensive weapon is used or threatened to be used, or a replica. That obviously covers offences such as armed robbery and would indeed cover a number of sexual assault offences.

It also covers offences in relation to persons contravening protection orders. Remember that the authorised officer, who is a police officer, already has an automatic presumption to not grant bail at that initial stage. But then they take it somewhat further by stating that, again, this general presumption against bail should also refer to someone contravening a protection or restraining order in the circumstances I have listed.

In relation to drugs: for offences under our Poisons and Drugs Act and the Customs Act bail will not be granted for trafficking commercial quantities—in other words, serious quantities—of actual drugs. Basically, that is what they are recommending.

I note the government has a paper, which it has put out. I suspect this particular bill and its enactment have forced them to speed up things a little bit. I note there are a number of, at a first glance, quite worthy recommendations and some other things we need to consider. In terms of this recommendation, which is the most serious of all the recommendations, I don't believe the government paper goes far enough. It only recommends reversing the presumption for murder or murder-related offences and those drug offences.

Quite clearly the Law Reform Commission, which deliberated on this from January 1998 through to July 2001, has a different view. Anyone who reads the report can see

just how extensively they considered this. The Law Reform Commission is hardly a body made up of a lot of rednecks.

In New South Wales there are now proposals—I'm not sure if they've actually put it into legislative form—which would make it virtually impossible for anyone who is alleged to have committed a crime of murder, for example, to get bail in any circumstance.

This bill merely reverses the presumption for those serious offences such as murder, treason, drug offences, serious domestic violence and restraining order breaches and offences with a weapon, which obviously includes the violent assaults, armed robberies and indeed violent sexual assaults.

As I said, I am grateful for Parliamentary Counsel's assistance in relation to this matter. My bill, which is a little bit longer than what's actually in the Law Reform Commission report, faithfully puts into effect their intentions. The first three clauses are just machinery provisions; it then gives a definition of what actually are applicable bail criteria; it substitutes in the existing section a new subsection (b) in terms of offences mentioned in the new section 8AB and 8AA and lists the other remaining sections which are already in the act.

Similarly, clause 5 sets out the circumstances where section 8 and the other provisions mentioned apply. As my explanatory statement sets out, it remakes a couple of existing sections without any intended change in meaning and does the necessary legislative things there. It also sets out the current relationship between sections 8, 9 and 14.

It puts in new sections 8AA and 8AB, and that is a presumption against bail for certain serious offences and lists that the court or authorised officer must not grant bail to a person to whom this section applies unless satisfied, despite the gravity of the offence with which the person is accused, it would be appropriate to grant bail having regard to the circumstances mentioned there. Again, that is simply changing and reversing the current presumption in favour of bail for those offences. It then goes through that.

The bill then continues, Mr Speaker, and introduces some further definitions to ensure that there is absolute clarity. It then deals with some further sections which are relevant to this section which and need to be mentioned as well.

For example, clause 8 recognises the fact that we have a new section 8AA, which is the presumption against bail for certain serious offences and of course regurgitates once again the other areas which are relevant, which are section 9 and section 9A. Naturally, they don't apply because that is bail for serious offences committed whilst a charge for another is either pending or outstanding—in other words, people who commit further offences whilst currently before the court either on charges or already on bail. Obviously, that is not affected by this particular section.

Mr Speaker, this is an important change to our law. The Law Reform Commission obviously did not take it lightly. It consulted very, very widely and came up with a very learned recommendation which brings us much more into line with what is

occurring around the country. It does not go nearly as far as some other jurisdictions. I have mentioned what New South Wales is doing. This change to our law merely reverses the presumption currently in favour of bail for some serious offences to one against bail.

I mentioned the matter of Hudd earlier where an innocent woman was almost killed as a result of the laws not being robust enough in terms of protecting everyone's rights regarding bail. In talking with someone from the *Canberra Times,* they recalled a case of someone in Canberra being murdered as a result of someone being out on bail when they shouldn't have been. I can't remember the particular case. I was told it was 10 years ago.

We have seen recently in Sydney several cases of persons who were granted bail. I think the most recent one was for murder. He then went out and murdered someone else. The public has a right to be concerned about this. The public is concerned about this.

What the Law Reform Commission has recommended is eminently sensible, and I would urge members to support this bill. I think it is important that we pass this as soon as possible. I would hope to see us do that in the August sitting.

The other changes recommended by the Attorney in his paper, which no doubt will be brought in, can be looked at then. But this is the most important of all. These provisions actually do have the very real and likely potential to save lives and certainly save a lot of angst, a lot of physical and mental injury in the community that will occur and will continue to occur if this Assembly does not take steps to protect the legitimate rights of the community and bring back a certain balance in relation to our bail laws which date back to 1992 and which, quite rightly, the Law Reform Commission criticises in a number of aspects.

I commend the bill to the Assembly.

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

Leave of absence

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

> That leave of absence for today, Wednesday, 25 June 2003 be given to Mr Wood (Minister for Urban Services).

Gaming Machine (Appropriate Premises) Amendment Bill 2003

Debate resumed from 18 June 2003, on motion by **Ms Tucker**:

> That this bill be agreed to in principle.

MR QUINLAN (Treasurer, Minister for Economic Development, Business and Tourism and Minister for Sport, Racing and Gaming) (11.17): The government, unfortunately, cannot support this bill. It does have the distinct dimension of legislation on the run to address a particular circumstance, a circumstance that may have gone beyond the point where this legislation might have relevance. I am not entirely certain that it would achieve what it was apparently intended to achieve. It may be that it would just serve to complicate the processes of the Gambling and Racing Commission without delivering any discernible benefit.

The bill would place conditions upon licensing in relation to the nature and character of the premises, the general use of the premises and the enjoyment of people using the premises. I will address that first. That would require a very subjective judgment, I have to say. I have been known to visit a club or two in my time and I know that there are a number of people who do not like poker machines. They attend the club and they like the amenities of the club, but quite often they do not reconcile the connection between the availability of those amenities and the existence of the poker machines. I think the bill is rather imprecise in that regard.

The bill talks about premises primarily used by people for the consumption of alcohol. I know a couple of old bowling clubs that would dearly love to be there for the primary purpose of the consumption of alcohol or liquor because they are just not getting the trade across their counters that they actually need to provide what they would otherwise see as their primary purpose, that is, facilities for lawn bowls. So there is confusion as to the primary purpose of clubs. Often, poker machines are quite clearly the revenue raiser, but the primary purpose of the club is sporting, cultural or multicultural in nature.

There is a provision that says that, effectively, a club would have to be in existence for a year before it would qualify to get poker machines. Those of us who have been associated with the establishment of clubs, particularly in new areas, know very well that, if you did not have poker machines and that revenue from day one, it would not be a case of the club not surviving; you just would not get the financing you required to establish the club in the first place.

We all know of clubs that have really battled in their early days to establish themselves. Canberra is going to continue to grow and Canberra is going to continue to change and I do not think we can actually put ourselves into a time warp. Effectively, this bill would inhibit the establishment of any further clubs unless they were direct extensions of the existing larger clubs and could sustain a year of substantial loss before they started to become revenue positive and then be able to contribute to the particular primary purpose of that club.

I think that the legislation is far too subjective and does have elements that would inhibit the establishment of clubs in new areas. I am happy to say—I think "repeat" would be the word in this place—that I do not think that clubs are a bad thing and I do not think that poker machines are necessarily bad things. Like many dimensions of life in the community, we do actually need to ensure that there is some control over the downside of poker machines or driving, drinking or sport itself. I do not think that we should necessarily write them off totally.

A lot of the debate in this place seems to be based on the presumption that poker machines are bad. I think that that is really coming from one side of the argument, instead of taking a more objective position. I am sorry, I do not think that the government could support this legislation.

MS DUNDAS (11.23): Mr Speaker, the ACT Democrats will be supporting today the bill presented by Ms Tucker. This bill makes a minor change to the Gaming Machine Act to include some of the social issues that are pertinent to considering the location of poker machines in licensed clubs. This small change means that when the Gambling and Racing Commission considers whether to grant a poker machine licence to a registered club, it will take into account the same considerations as those for a hotel or tavern.

In particular, this bill will allow the commission to take into account the nature or character of the premises and the general use of the premises or enjoyment of people using the premises. These considerations already apply to premises with a general licence or an on-licence.

In the particular case of the Belconnen pool, I understand from Ms Tucker's office that, while part of the pool complex has been granted a poker machine licence, it has actually been allocated zero poker machines. This odd situation has been brought about by the fact that the commission is unable to refuse a licence if the minimum criteria are met, so its only means of preventing unsuitable venues attaining machines is to allocate them a zero.

An amendment like this one may assist the commission in deciding where machines should be located by widening the grounds for consideration. However, it does remain unclear whether it would be of any help in the particular case of the Belconnen pool. For the time being, no poker machines have been allocated there, though the venue's owners may seek to have that decision appealed against.

From speaking briefly on this bill to the Gambling and Racing Commission, there seemed to be some concern about the definition of "premises" that will be applied in this situation and whether that will mean only the licensed area or an entire building. It is possible that a word like "precinct" would be preferable to the term "premises". However, in discussions with Ms Tucker's office, they have argued that there are examples of the word "premises" being used to describe the whole building. I will take that at face value in the absence of further information.

I would like to point out that that is one of the many anomalies in the Gaming Machine Act, which continues to be in desperate need of reform. The bill we are debating today is but one of three bills before the Assembly that make amendments to the Gaming Machine Act. This results from the ongoing incapacity of the government to produce any decent reform package. In general, as I have said repeatedly, I would like to see the government produce a comprehensive reform package to address all of these issues simultaneously, not simply look at one bit at a time in a quite haphazard and piecemeal fashion.

The regulation of poker machines in the ACT needs to be done in a strategic way and a bill-by-bill, motion-by-motion approach is not sustainable in the long term. I do hope the government will note that the Assembly is becoming increasingly impatient with their lax approach to gaming regulation.

I have had a few brief discussions with the opposition regarding this piece of legislation and I understand that they will not be supporting it. I do find it hard to understand why, given that it is quite possible that this afternoon we will be debating a bill from Mr Stefaniak to allow hotels and taverns access to poker machines, he does not think that clubs and hotels should have the same rules apply to them in terms of the granting of licences. I find that approach inconsistent. I think that the opposition are currently more interested in defending their role in encouraging the provision of poker machines at the Belconnen pool site than in providing an improved regulatory framework.

We cannot be certain that this piece of legislation will achieve the outcome of preventing poker machines at the Belconnen pool, and I think Ms Tucker knows that. On the other hand, it is a small improvement to the Gaming Machine Act and makes the regulation of poker machines, whether they are in clubs or hotels, more consistent. Hence, I will be supporting this legislation today.

MR STEFANIAK (11.27): Ms Dundas was quite right in saying that the opposition will not be supporting Ms Tucker's legislation. Ms Tucker's legislation is specifically aimed at the Belconnen pool, so it is worthy to dwell on that for a little while. But it also has, as the Treasurer alluded to, some further unforeseen potential as well in terms of affecting some clubs, and some potential to affect future clubs, that provide significant benefits to the territory.

We have had in recent weeks a number of discussions in relation to that. For Ms Dundas's benefit, the opposition is seeking justice in terms of hotels and taverns but certainly appreciates and acknowledges the very significant contribution that the club industry has made to Canberra. This proposal has its genesis in competition policy.

Members who have been here for a while—you, Mr Speaker, and several of your colleagues along with me and some of my colleagues—have been great supporters of having a Belconnen pool. I was absolutely delighted to see $15.3 million provided in the 1997 capital works program for the construction of a pool that would be at least the equal of the one at Tuggeranong, all government money and something that I am sure that Ms Dundas, Ms Tucker and anyone else could probably understand.

A couple of owners of similar establishments in the Belconnen area did not like that, invoked competition policy and we went through a torturous and laborious study of exactly what should occur so that we complied with competition policy. As a result, it was deemed that the government should supply money to provide for a 50-metre indoor pool, open all year round, of at least eight lanes, a warm-up pool of at least three lanes and 25 metres, seating for, I think, 800 people and sound equipment.

The government's ultimate contribution towards that was $10 million. Everything else—the ancillary gymnasiums, shops, whatever—that goes to make up such a large complex was to be provided by the private sector. Tenders were released. I forget the name of the winning tenderer, but one of the proponents, Mr Konstantinou, is in the Assembly. He has written to members in relation to this matter. The organisation that won has already contributed quite large amounts to the pool, which I hope to see built by the end of the year.

I can recall this matter finally being sorted out, but the contracts were not signed until the conclusion of the caretaker period. I remember writing to Mr Quinlan during the caretaker period. Certainly, the initial proponent was acknowledged well prior to that. I can recall this issue being raised at a Belconnen Community Council meeting, and I said then that I could well see why part of the proposal would be to have what is proposed to be, I understand, a small club with machines.

I do not mind saying on the record that I have absolutely no problem with that. I said that publicly at the time and I simply say it again. The Gambling and Racing Commission, which has been alluded to, does have some very strict criteria. I think that it does its job very well on behalf of the community. Ms Dundas has alluded to how strict, in fact, they are.

Let us look at what is being proposed here in relation to this matter. Mr Konstantinou has written to a number of members, myself included, in reference to what he calls these proposed amendments. He has done so to express his frustration, as the developer, with this legislation. He states:

> Ms Tucker's view is that having poker machines within the new Belconnen Indoor Pool and Entertainment facility is "not in the public's interest". I find that suggestion totally without merit, and shows a lack of understanding of what the community wants.
>
> The Territory plan allows for a Club to be included as part of the facilities. Our tender submission to Government was based on the successful model of the Kaleen Indoor Recreation Centre, which contains a Club, Indoor Courts, Gymnasium, Swimming Pool and Childcare as part of its facilities. The Club located within the Kaleen facility should act as a precedent, as evidence that this type of configuration within a sporting facility works extremely well. That centre has had five extensions since it was built over 15 years ago, and has had zero vacancy. This is a major achievement when you consider the difficulties faced by other indoor sporting facilities in the region which tend to struggle financially.

He stated that, although Ms Tucker had proposed the legislation, she had not taken the liberty to come on site or be briefed about the project. He went on to say:

> Ms Tucker has further suggested that the Club will cause a disruption and distraction as well as interfere with the general purpose of the facility. She makes these comments totally without basis or justification. We believe that Ms Tucker clearly does not understand the consequences of her proposal. We base our comments on the following:

> The Kaleen Indoor Recreation Centre is approximately 3900m2 in size. The facility contains a licensed club (with poker machines) that is approximately 1500m2. This represents nearly 39% of the Gross Floor Area (GFA) of the facility.

He attached some correspondence from users and operators, which I will table in a minute, and continued:

> The attached correspondence…indicate that even at 39% of the total GFA, no tenant has experienced any problems with the Club…In fact, I understand they feel the Club is not a hindrance or a distraction to their businesses, but an asset.
>
> In comparison, the Club at the Belconnen Pool is limited by the purpose clause to a GFA of 1390m2. This represents 12.6 per cent of GFA and 3.6% of the total developed area of the site.
>
> It is also important to highlight that should any incoming Club tenancy be awarded a Poker Machine licence, the anticipated floor space allocated for Poker Machines by that Club would probably be in the vicinity of 200-300m2. This represents 1.8 to 2.7% of GFA. How can 1.8% of GFA adversely affect a world class facility such as this?
>
> A Club tenancy would also generate additional employment for the region of up to 100 people. This additional employment will clearly be jeopardised by this legislation.

I am not going to go on to anything else there, but he makes some very valid points. He makes reference to the Kaleen Indoor Recreation Centre. No doubt, you have been there, Mr Speaker. I know that the Chief Minister goes there; indeed, he is a member of the Bodyworks there. I have been there. I do not go to the Bodyworks there—I go to the one in Belconnen—but I have been to the swimming pool there with my two young children. I have been there to a number of functions and I have been there to a number of meetings. It is a bit of a rabbit warren, but quite an extensive complex.

I think that the comments that Mr Konstantinou makes and the comments that the people who have submitted letters make are quite valid. People do not have to go into the club. The club does not seem to interfere with the other activities; actually, it does seem to complement them.

Mr Quinlan mentioned bowling clubs. I think that they are another case of sporting facilities that probably would have trouble existing were it not—I can see him nodding his head—for access to some poker machines. They have a clubhouse, poker machines, kitchen facilities and two or three bowling greens. Some sporting clubs have ovals next to the them. West Belconnen is a classic case in point. The Tuggeranong rugby club at Erindale is another case in point, as is the Ainslie Football Club.

It may well be that legislation like this would have an adverse effect on any other club wanting to go down that particular path. I think that those factors are quite relevant.

We are talking about the potential for lots of clubs to be affected by this legislation, clubs which have done a very good job for many members of our community and provided especially some wonderful supporting facilities and services to thousands of people in our community.

Getting back to the Kaleen example, which is a really classic case in point because we are dealing with a club on premises where there are sporting facilities and, indeed, water, it was said at the Belconnen meeting by one of the proponents that there is no money in water. There certainly is not. When we put money in to build the whole thing ourselves, even with a sophisticated complex like it was proposed to be, we anticipated that basically we would break even or maybe make about 50 grand a year at best.

Tuggeranong initially had to be subsidised $400,000. I think the aim was to get that down to break even, which it probably does, but for a complex like this you need to attach other things to it which make money. My understanding of this proposal is that the proponent proposes to lease all the ancillary facilities around the core of the swimming pool itself, which would be eminently sensible. I understand that that is very similar to the situation that applies at Kaleen.

The proprietor of Bodyworks, Mr Pashalidis, in a letter to members of the Assembly about the Kaleen Indoor Recreation Centre, stated:

> I am the proprietor of Bodyworks Gymnasiums. One of our Gyms is located within the Kaleen Indoor Recreation Facility. The Gym has existed at Kaleen since the facility opened in 1988.
>
> Our gymnasium at Kaleen is one of our busiest, and has the entrance located directly opposite the entry to the Sports Club Kaleen (which contains poker machines).
>
> I am not aware of any problems caused to our business or our members by the inclusion of a Club (and poker machines) within the facility of this Centre. In fact, I believe the Club plays an important role in the success of all the businesses operating from within this Centre.
>
> I do not believe a Club with poker machines would cause any disruption or deter any visitors to the facilities at Belconnen. To further back this up, I am currently negotiating the relocation of my Belconnen based gymnasium to the new Belconnen Pool facility because of the additional tenancies in place, including the Club.
>
> I urge you to reconsider the proposed legislation amendments currently before you, and reject them.

Jeremy Brettell of the Kaleen Swim Centre wrote:

> Dear Members of the ACT Legislative Assembly
>
> The Kaleen Swim Centre is located inside the Kaleen Indoor Recreation Centre. I have managed or assisted in the management of this business since 1995.

> During all my time at Kaleen, I have never found the Club, which is located within our facility (and contains poker machines) to be a distraction from users of our pool. In fact, our patrons often visit the Club to catch up with friends before or after swimming in our pool. The Club is a great meeting place, and a great asset to our facility.
>
> I do not believe (based on my own experience) that poker machines at the Belconnen facility would cause a problem for its patrons. We have never experienced any problems at our facility that are attributable to the presence of the Club or because of the location of poker machines at that Club. We have hundreds of kids using our facilities on a weekly basis.

I have to agree with him. I went there a lot with my kids for about a two-year period. I do not think they even knew a club existed. Ben Santosuosso wrote to members as follows:

> I write to you as the Manager of Kaleen Indoor Sports, which operates from within the Kaleen Indoor Recreation Centre…Mr Konstantinou has asked me to comment on the inclusion of a Club within our facility at the Kaleen Indoor Recreation Centre.
>
> As the manager of this business for the last seven years, I have worked closely with the Club and have seen it grow significantly. Without the Club, our facility would not be strong as it is today. We have over 200 teams playing at our Centre every week, and a large percentage of them often visit the Club before or after competing socially at Kaleen Indoor Sports.
>
> I believe that the Club is an important asset to the entire facility and represents a key advantage for our Centre over other centres in Canberra.

Finally, Debbi Lette, owner/director of the Jack and Jill Early Childhood Centre, wrote:

> Dear members of the Legislative Assembly
>
> Jack and Jill Childcare are located within the Kaleen Indoor Recreation Centre. We have also recently signed a lease to open a new childcare facility at the Belconnen Indoor Pool.
>
> We understand that Ms Tucker is proposing legislation, which will have the effect of preventing the inclusion of Poker Machines within any Club located at the Belconnen indoor pool facility.
>
> As a tenant of the Kaleen Indoor Recreation and as tenant who will be operating the new childcare at the Belconnen Pool facility once it opens, I wish to confirm that we do not believe the inclusion of a Club with poker machines will cause any problems about which Ms Tucker has apparently expressed concern.
>
> I do no recall any incidents at the Kaleen Indoor Recreation Centre that can be attributed to the inclusion of a Club, or to the inclusion of poker machines at the club.

> In our view, the club will be considered as one of the attractions of the entire project and the main reason why people will visit the facility.

I will table a letter, again supportive, by Michael Doyle, president of the Ginninderra Swim Club. He states that the club has over 800 swimmers and goes through what they have won, how happy they are and how successfully they operate at the Kaleen sports centre. He feels that, if a licensed club were situated at the Belconnen pool and recreation centre and it was conducted along the same lines as the sports club at Kaleen, he would not expect any problems with utilising the swimming facilities. I am happy to table all those letters.

MR SPEAKER: You will need leave, but you have already read them into *Hansard*.

MR STEFANIAK: Fine. Mr Quinlan made a few good points. I might add that I can recall a very small club operating at EPIC when basketball ran in what is now, I think, building B. It had, as I recall, seven poker machines and was a very popular little venue after matches. That is yet another example of a little club which probably complemented very nicely the sporting facility it helped service.

There are precedents here. There are potentially some really dangerous problems with this legislation. I reiterate what I said about the competence of the Gambling and Racing Commission. Ms Dundas did make a good point about the need for a really thorough look to be had at all of our gaming legislation. I think that point was well made. But in terms of this bill, the opposition, as I said, are opposing it. I think that we are opposing it for very good reasons and I think that a vast majority of people in the community would support that view, especially given the letters of satisfaction which I have read out from users of a very similar type of facility.

MS TUCKER (11.40), in reply: I thank members for their contribution. I will respond first to Mr Stefaniak. It was interesting that he read out letters as the method of supporting the Liberal Party's position. We could all read out letters at any point of any debate to support our position. I do not have a problem with that if there is actually evidence or substance in the letters. People are entitled to have their own views, of course. I noticed that most of the letters came from people with a vested interest. I am very interested to know what evidence those people have for the reassurances that they are giving Mr Stefaniak there.

People who are now operating swimming pools or other sports facilities with poker machines co-located are telling the Legislative Assembly not to worry as everything is fine and Mr Stefaniak accepts that absolutely. It seems that the Labor Party does, too. I do not know why we have a Gambling and Racing Commission. We probably do not need one. We could just ask people who have poker machines close by or on premises and they will tell us whether everything is okay or not and that would be fine.

I do not think that that really would be the way to be dealing with this issue. I did think this Assembly agreed that we need a Gambling and Racing Commission to do some analysis of the potential impacts of poker machines. In fact, government has put rather a lot of money into a gambling research centre as well. From memory,

Mr Stefaniak's government put $1 million into that. That was because at the time they said that there were complex social issues and there was a negative impact.

I was speaking to Mr Humphries on the weekend and he was saying how interesting it is for him at the moment in the Senate because he is on a committee that is looking at poverty and disadvantage. He said to me, "It is really interesting, Ms Tucker, how serious an issue gambling is in the whole question of poverty and disadvantage and it is really important that we keep doing research to understand the negative impacts of it."

We all agreed on that in this place. I remember Mr Stefaniak supporting it and saying how important it was to have the Gambling and Racing Commission undertake this social research. The act that we all supported does charge the commission with that responsibility. I will read it out to remind members. It says that he commission must perform its functions in the way that best promotes public interest and in particular, as far as practicable, promotes consumer protection and reduces the risks and costs to the community and to the individuals concerned of problem gambling.

Mr Quinlan does not seem to understand where my amendment comes from. He is concerned about the clause relating to premises which speaks about a continuous period of at least a year immediately before an application. That is already in the act; I did not make it up. That applies now to the other licensed premises. The point that we are making with this amendment to the legislation is that the legislation is inconsistent in that it gives this power to the commission on hotels and taverns but not on clubs. I did not ever hear anyone complain about that or try to omit it.

Mr Stefaniak is wanting to increase access to gambling and poker machines by giving them to more venues in the private for profit sector. Apparently, if that were to get up, he would be comfortable with the gambling commission applying this social test, which I am really glad to see. At least the Liberal Party is prepared to give the commission the power to apply this adverse social impact test to taverns and hotels but, strangely, not to clubs. Ms Dundas pointed out their inconsistency there, but he neglected to respond to that.

Claims were made that it is a very subjective discussion that we are having. As I have already said, I thought it was well recognised in this Assembly, federally and in every other parliament of Australia and in many parliaments round the world that social research needs to occur. That is not a subjective judgment, unlike the evidence that has been put here today by the Liberal and Labor parties of a person who already runs a pool and has poker machines on the premises saying that it is fine. That is the social research we have been provided with so far.

What we are asking for and what the gambling commission is charged with doing is for the commission to come up with, not just subjective judgments like that, but social research forming an estimation of the potential harm from gambling, which, I repeat, is recognised by both Labor and Liberal across Australia. It is indeed a very disappointing response that I have had to that. I am not arguing that we are saying, through the Assembly, that there should be absolutely no poker machines at the pool.

This bill enables the gambling commission, which the Assembly has charged with the job of doing so, to enforce the regulations in this regard. We know that the gambling commission has already decided, while it is forced to issue a licence, not to issue poker machines. Its decision may be appealed against; I am not sure about that. This bill puts the Gambling and Racing Commission in a situation which is clearer and less inconsistent.

I guess we could now see the Labor and Liberal parties saying to the Gambling and Racing Commission, "We do not like the fact that you have the power to say that you are not going to issue licences, so we will take it away from you as well." That would be an interesting debate. That is really what everyone in this place except Ms Dundas needs to do next if they want to be consistent with what they are saying today, because the Gambling and Racing Commission has taken that action and made that decision at this point.

I do not think there is anything else I need to say in response, except that I do believe that we need to reaffirm the role of the Gambling and Racing Commission and to restate, once again, that gambling—poker machines in particular—is a very serious issue. You have no idea at all of what the impact would be of having poker machines at these facilities. You have not provided any evidence, which is extremely disappointing.

I also believe that debates like this one do nothing for this Assembly. I have heard members say here that most people in the community do not think that this is a problem. I do not think that can be said. This is about public policy; it is about members being consistent with statements they have made here in the past. I am very disappointed with this response.

Question put:

> That this bill be agreed to in principle.

The Assembly voted—

Ayes 2	Noes 13	
Ms Dundas	Mr Berry	Ms MacDonald
Ms Tucker	Mrs Burke	Mr Pratt
	Mr Corbell	Mr Quinlan
	Mr Cornwell	Mr Smyth
	Mrs Cross	Mr Stanhope
	Ms Gallagher	Mr Stefaniak
	Mr Hargreaves	

Question so resolved in the negative.

Vietnamese community in the Philippines

MS MacDONALD (11.54): I move:

That the Assembly:

(1) expresses its support for the stateless Vietnamese community in the Philippines;

(2) acknowledges the Federal Government has already issued visas in 160 cases;

(3) urges the Federal Government to grant visas to the remaining stateless Vietnamese with Australian relatives.

Mr Speaker, this motion is about a major issue that I hope my Assembly colleagues will support by supporting the motion as it stands. Let me start with some background information. When Saigon fell, more than half a million Vietnamese refugees fled the country. I quote from a briefing written by the Vietnamese community in Australia:

> From 1975 until March 1989, all Vietnamese boat people arriving in the Philippines were automatically given refugee status and resettled in various countries around the world.
>
> In 1989, 74 countries signed the UNHCR-sponsored Comprehensive Plan of Action designed to halt the movement of boat people from Vietnam. Under the CPA, asylum seekers were no longer given automatic refugee status.
>
> However, the implementation of the CPA was flawed. The strict cut-off date meant people who arrived the day before the CPA took effect were granted refugee status while those who arrived the day after were subject to the screening process. There was no notice for those leaving Vietnam that this was the case.
>
> The screening process itself was poorly implemented and often involved bribery. It resulted in inconsistent decisions and families being split.

In 1996, the refugee camps were closed and a group of people were sent back to Vietnam. The Catholic Church in the Philippines intervened to stop this happening again, and the rest were allowed to remain in the Philippines, but were not granted permanent residency.

Mr Speaker, about 2,000 stateless Vietnamese remain in the Philippines without the rights of permanent residents and 648 of these people, or 201 families, have Australian relatives who are willing and able to sponsor them. I call on the federal government to grant visas to these 648 people who are in legal limbo. They do not want to return to Vietnam, where they fear prosecution, and rightly so.

I remind members that Amnesty International held a mass email action in May to pressure the Vietnamese government to free Le Chi Quang, who was jailed for using the internet. I do not think any of us would like to return to a country where someone was jailed for using the internet.

I would like to acknowledge that the federal government has already allowed 130 stateless Vietnamese in the Philippines with close Australian relatives to come to Australia. It has also approved in principle 145 visas under the special humanitarian program.

There are now only 201 cases left to act upon. By approving the other visas, the federal government has acknowledged the tragic situation of the stateless Vietnamese in the Philippines. I am asking that the federal government now approve these extra visas.

Mr Speaker, I would now like to tell the story of Ly Hong Hai. Ly Hong Hai is now 37 years old. Hai's father was a corporal in the French army in Vietnam who later served in the South Vietnamese army in an engineering and construction unit. After 1975, Hai's father was captured, tortured and paralysed. His family's property and possessions were confiscated and the family, including Hai, was sent to a new economic zone to cultivate virgin land.

One of Hai's brothers died here from untreated malaria, a particularly gruesome way to die. His brother died because he was sent to work in an area where he could not access medical treatment. To put it simply, his brother died because of his father's military history.

Hai was denied entrance to university and employment for the same reason. He fled Vietnam by boat in 1989 and spent nine days at sea with very little food and water before arriving in the Philippines. During the refugee screening process, Hai was asked for a bribe, but he did not have the money. His application was refused.

Hai has a spouse, a seven-year-old girl and a four-year-old boy. His family cannot return to Vietnam because they fear persecution. Like other stateless Vietnamese, they are allowed to remain in the Philippines, but they have not been granted permanent residency status. This means that they cannot obtain work permits. They cannot access education without paying full fees, which they cannot afford.

Last week I was fortunate enough to meet two people who had been in the situation of being stateless Vietnamese in the Philippines and who, two years ago, were lucky enough to be sponsored by their family and come to Australia. One of them, a young man whose name escapes me at the moment, is now 19 and he is studying at the ANU. He was going to school in Vietnam. I was asking him about going to university previously and he said, "Yes, I could have gone to university, but what would have been the point if at the end of the day I could not get access to a job through my university education?" They cannot own property, either, and they cannot travel. Although Hai's aunt, who lives in Victoria, is willing to sponsor the family, he cannot come to Australia because Philip Ruddock has not approved his visa.

Mr Speaker, there is nothing particularly unusual about Ly Hong Hai. There are 648 stateless Vietnamese people in the Philippines with similar stories. Thanks to the Vietnamese community, I have a book which profiles all the people in the Philippines, with photos—just ordinary, everyday people who just want to start a proper life for themselves but currently cannot do so.

All of these 648 stateless Vietnamese people have relatives in Australia who can sponsor them. The question must be asked: why are they still in the Philippines? This is an issue that the Vietnamese community in Australia feels very strongly about. At

this time, I would like to acknowledge the presence in the gallery of a few people from the Vietnamese community who have come along today because they feel fairly strongly about this issue.

While they may be reasonably small in number, I think that it is good that Thuy, Belinda, Dzung and somebody else whom I have not yet had the privilege of meeting have come along in the middle of the day, taking time out of their normal daily routine to do so, because this is an issue about which the Vietnamese community in Australia feels incredibly strongly.

The recent *Social and Demographic Profile of Multicultural Canberra* tells us that there are 156,581 people of Vietnamese ancestry in Australia, with 2,656 of them residing in Canberra. It should be remembered that these figures do not include their Australian-born children.

Trung Doan, who is the president of the Vietnamese community in Australia, has visited me to discuss the stateless Vietnamese living in the Philippines. The situation is often written about in our Vietnamese-language press and Trung tells me that it is something the entire Vietnamese community in Australia is familiar with.

There are thousands of Australians who feel strongly about such immigration issues. Mr Speaker, as you know and as will probably be discussed again in the next motion, World Refugee Day was celebrated on 20 June, just last week, with marches and rallies in cities across Australia and the world. I know that you were speaking at one such event on Friday, Mr Speaker.

This year's World Refugee Day was dedicated to young people. In his official message, United Nations Secretary-General Kofi Annan said, "Millions of young people have been affected by war, hatred and exile. Let us reaffirm our commitment to saving future generations from growing up without hope."

Today, members of the Legislative Assembly can commit to the United Nations message by supporting my motion. As a local government, it is our job to express our support for the stateless Vietnamese living in the Philippines. We should acknowledge that the federal government has recognised the problem by providing visas to those stateless Vietnamese with close relatives in Australia and we should urge the federal government to move quickly to provide visas to the remaining people with relatives in Australia.

MR SMYTH (Leader of the Opposition) (12.04): Mr Speaker, the opposition will support the motion with one small amendment. I will get to that in a moment

It is pleasing to see members of the Vietnamese community here today, and I certainly welcome them, because this is an important issue. I do not think that any of us can imagine what it would be like to be stateless. It sounds almost odd and it is hard to conceive, but it does happen in the world today. The plight of the 2,000 Vietnamese people who are now stateless in the Philippines is something that we really should consider.

It is very pleasing that the Australian government has already allowed 160 such visas. My small amendment seeks to take the word "grant" out of the third part of Ms MacDonald's motion and turn it into the word "process". It is probably more appropriate that the correct process is followed.

There are huge numbers of refugees and stateless people round the world and I think that we could put many cases for many different people to be allowed into the country, but I still think that there is an appropriateness in having a process in place that winnows out those who are attempting to rort the system. I am not saying that anyone here is attempting to do that. You have only to read the document that the Liberal Party also has been supplied with to understand the plight of these people.

I cite the example on page 136 of Nguyen Thi Bich Thuy, whose father was sent to a re-education camp because he had served in the army of South Vietnam. He was imprisoned two more times for allegedly participating in anticommunist activities. He was eventually released because there was no evidence against him. The family was sent to a new economic zone, but escaped from that. Until 1985, they lived without household registration. In 1987, the applicant's brother died at sea during his escape attempt.

The applicant attempted to escape Vietnam and was successful the third time, but spent many days at sea. She understood from the screening interview that, given that she had no money, refugee status would not be given. I think that is a very sad tale as to, firstly, what happened in her former country and the fact that when she did reach the Philippines some officials clearly were not acting in the way they should.

I think that it is important that we hear these stories. Indeed, I have been visited by representatives of the Vietnamese community and they have given me a copy of a submission. I understand that three families or just three applicants, I am not sure which, intend to come to the ACT. I think that they would be welcome. I am sure that they would be more than welcome in the local Vietnamese community and that they would be worthy additions to our society here.

The opposition will be supporting the motion. I do think it is appropriate that we get the process right, so I hope members will allow the change from "grant" to "process". I think that it is appropriate that all people are treated fairly inside the system. But with that in mind, it is important to make sure that Mr Ruddock knows the opinion of the Assembly. I note that recently Timorese people were allowed to stay. I know that Ms Tucker is writing letters on behalf of the Kosovar refugees who came here three or four years ago. I have also spoken to Mr Ruddock about those people to say that we think that they should be allowed to remain in Canberra as well as they are now part of the community and it would be a great gesture to allow them to stay here.

With one small amendment, which I will now move, the opposition will be supporting this motion. I move:

> Paragraph (3), omit "grant", substitute "process".

MS DUNDAS (12.09): The ACT Democrats will be supporting the motion moved today by Ms MacDonald. Back in the late 1970s and early 1980s, most of the boat people arriving on our shores came from South Vietnam, where an American war in which Australia participated led to an exodus of almost two million people.

Early on, the Australian government recognised its responsibilities to the people coming here from a country razed by agent orange and carpet bombing, where political chaos reigned following the US and Australian withdrawal from the drawn-out Vietnam War. The US provided funding to the UNHCR to run refugee camps in South East Asia and encouraged Australia to welcome asylum seekers who had fled persecution by the North Vietnamese army. But from 1978 South East Asian countries began to panic about the increasing flow of refugees. Malaysia, in particular, became hostile to these refugees and threatened to send them back if the Australian and US governments did not resettle them.

Unfortunately, Australia, too, started to put up the shutters. From 1981 onwards, successive Australian governments created artificial cut-off points that dramatically altered the fates of these refugees. From 1981 onwards, all the people fleeing Vietnam were reclassified as potential economic migrants, rather than as asylum seekers. The Philippines treated Vietnamese asylum seekers more generously until 1989, when they too decided not to grant refugee status to any more of the displaced Vietnamese people living in their country.

Australia subsequently reached an agreement with the main South East Asian nations harbouring Vietnamese asylum seekers, including the Philippines, to close down the refugee camps and forcibly repatriate the displaced people to Vietnam. Until this time, refugee camps in Asia had open gates and refugees could move freely, but from the late 1980s countries such as Hong Kong established detention centres from which many asylum seekers were deported to suffer possible re-education or execution back in Vietnam.

This model of mandatory detention behind barbed wire was adopted in Australia by the Keating government in 1992, with coalition support. Many people in these detention centres committed suicide, mutilated themselves or went on hunger strikes. The parallel with the crisis recently at Woomera and Curtin is clear.

Approximately 2,000 stateless Vietnamese boat people have been living in the Philippines since 1989. The Philippines government planned to forcibly repatriate them to Vietnam, but human rights activists in the Catholic Church successfully campaigned for them to be allowed to stay. However, they were not granted citizenship, so they cannot make a proper life in the Philippines for themselves or for their children.

In recent years, Australia has taken some of the Vietnamese asylum seekers who were stranded in the Philippines, but there are still, I understand, 641 people with relatives in Australia who should be allowed to settle here permanently. The Vietnamese people who settled here in the 1970s and 1980s have enormously enriched our culture and our economy. These extra few people would be readily integrated into our

community, they would be welcome as part of our community and they already have the support of the Vietnamese community in Australia.

With regard to the amendment moved today by Mr Smyth, my understanding is that we are talking about people who are already in the system, for whom the process is under way, and we want to see visas granted to the stateless Vietnamese so that they can actually come here and not just continue with the process that they have been living under since the war and specifically since 1989.

I gladly extend the support of the ACT Democrats to this motion, in line with the support of my Democrat colleagues in the Senate. I hope that the passage of this motion today will help convince the federal minister for immigration that these stateless people would be welcome in the ACT and that he will also get a clear message from other state and territory parliaments that these currently stateless people would be welcomed in our country wherever they choose to settle. We do have an ongoing humanitarian obligation to support people from around the world who are trying to make their lives good ones and make their lives comfortable for their children and we should always be supportive of that.

MS TUCKER (12.13): I will speak to the substantive motion as well as to the amendment. As members have already explained, in the 1970s over half a million refugees fled Vietnam, and from 1975 to 1989 the people arriving in the Philippines were automatically given refugee status and resettled in various countries.

In 1989, 74 countries signed the UNHCR-sponsored comprehensive plan of action, or the CPA, which was designed to halt the movement of boat people from Vietnam. They were no longer given automatic refugee status and had to go through qualifying procedures under the refugee convention. If they did not qualify, they were supposed to go back. If they did not, the UNHCR provided support for them.

It is well understood that the qualification criteria and processes were flawed and there was corruption. The result of that was that many families were split up. Most of the people in the Philippines now, as I understand it, were deemed not to be refugees in this process. However, I also understand from the briefing I received that when, I think, the United States actually looked at the screening processes for some Vietnamese people that were applying to go there they overturned about 80 per cent of the decisions. When they did their own screening they determined that those people should qualify as refugees. Clearly, there were some issues with the original screening.

In 1996, the refugee camps were closed in the Philippines and most of the Vietnamese people left there are informal traders. They have no legal status. They are ineligible for work permits. They cannot travel or own property. Most do not want to return to Vietnam for fear of persecution.

Ms MacDonald's motion is directed particularly at reuniting those people who have family connections in Australia, who have families or relatives who are prepared to sponsor them, but who were separated by the change in policy and the flawed system of assessment. Some people have been granted visas under the special humanitarian program. I understand that there are about 201 stateless families with sponsoring

relatives in Australia which are now seeking support here from the federal government. This motion is designed to send a clear message to the federal government that we think that these people should be accommodated in Australia.

I find the Liberals' amendment to be quite duplicitous in a way. Maybe it isn't; maybe that is unfair. Maybe they do not understand where we are up to with this matter. To change "grant" to "process" is not to acknowledge that the processes have happened. Ruddock has said no, basically. In February 2003, as I understand it, he said, "No, we have done enough for these people." That is my understanding of what has happened so far. It is a fact that that process led to that conclusion by the federal government. That is the reason we are having this debate today. While Mr Smyth can speak compassionately about the plight of these families, he cannot at the same time weaken this motion to that degree without looking quite inconsistent.

MR PRATT (12.17): Mr Speaker, I rise to support this motion in principle, as did Mr Smyth earlier. I wish to point to some of the issues that govern the management of refugees and stateless people. Of course we support and sympathise with the stateless Vietnamese community in the Philippines. They have been caught between a rock and a hard place. This is a classic example of a case load of people falling between the cracks. It is just a terrible accident of history that they have found themselves, under the CPA definition, stateless people and not UNHCR refugees.

These people have had a genuine history of struggle against a tyrannical communist state, so they certainly qualify as what I would call refugees. From reading some of the background material and putting together a number of factors, it would seem to me that many of the people in this case load are descendants of the political and war refugees who were driven south by the then communist regime in the north in the mid to late 1950s, so they are indeed descendants of quite horrific acts of barbarity and political persecution that occurred a long time before the Vietnam War became a media icon, before it became a cause celebre.

These people are descendants of case loads of people who have had a pretty rough trot over the last 50-odd years and I think that they deserve special consideration. They are also unlikely to be able to be reintegrated into or returned to their country of origin and they are unlikely to be integrated into the Philippines, so they are caught classically in the middle, like so many refugee case loads that we can observe round the world.

We should also be fair and say that we sympathise also with the Philippines. The authorities there are doing their best to look after these people. They simply cannot afford necessarily to integrate and settle stateless people. They have their own problems. Their own economy is not necessarily capable of being able to take in additional case loads of people.

That is a tragic reality round the world wherever there are refugee case loads or internally displaced peoples. It is often the case that the communities that they are temporarily with are simply in no position to go that extra compassionate mile and offer up local residency. They simply cannot do so because of the lack of infrastructures and political uncertainties in their own countries. Between 10 and 15 million refugees in this world have been stuck in that sort of twilight zone, in many

cases for a very long time.

I would like to take this opportunity to mention other case loads which are in the same condition as these people and in some cases worse. I am talking about refugee case loads in the Balkans. There are still Croatian Serbs in limbo in Serbia itself with no chance of returning to Krajina. Also, there are Bosnian Serbs in Serbia itself who cannot go home because their properties have been taken over by other people. The Serbian regime is reluctant to integrate them and give them residential status for the same sorts of reasons.

In the tri-border area of Somalia, Kenya and southern Sudan there is a massive number of refugee camps containing Christian Sudanese, Muslim Sudanese, Eritreans, Ethiopians, Christian and Muslim, and Somalis. There are massive camps in that area. My understanding is that a lot of those people have been there since 1995 when I was there. These people also look to Australia, the United States and other developed countries to take them in. I have talked about Eritreans. There are Somalis in Yemen who cannot cross over the Suez Gulf to go back home. There are Palestinians in Lebanon who have been there since 1967. We have all of those case loads to deal with. There are Kurds in northern Iraq who will not be able to go back into Turkey, and so on and so on.

Mr Speaker, we are as sympathetic with this case load as we are with all of the ones I have listed. We are certainly more sympathetic about this case load of people than we would be about people we would designate as economic emigres, people who understandably are moving round the world trying to get a better life and who become mixed up with and confused with refugee case loads. That is why we need to be very careful about determining who genuinely are either stateless people or are refugees who do need the assistance of a compassionate and well-organised country like Australia. There is a limit to what we can provide, so we have to make sure that the people we determine are the ones most deserving of our assistance.

I go on to say that many of the people I have referred to in those other camps need to be looked at. They are people who are well outside mainstream people movements. They are people who cannot purchase a passage for an economic movement north or south. I have called upon the Australian government a number of times and I continue to do so to be more vigorous in seeking out and identifying these sorts of refugee case loads—people stuck away in camps, particularly widows with children. In many cases, because of cultural requirements, a lot of the refugee widows with children are stuck in a position where they cannot marry and they cannot go home and link up with a family because that family cannot carry them. These are classic case loads of people that our government, the Canadians, the Americans and the North European governments have to be a little bit more vigorous about in going to, reaching out to and identifying special humanitarian cases to be brought into our countries.

They are not going to be able to contribute much economically to our countries in the first years, but that is something we have to accept. I think that we have this duty. I am quite satisfied that our government is proactive in this regard. I would just like to see it go perhaps the extra mile. I would like to see our refugee case load intake per year perhaps doubled so that we can embrace those people who have no hope of finding a life wherever they are now.

Mr Speaker, I think that Minister Ruddock is doing as well as he possibly can with what is a complicated and an emotionally charged issue. I think that this country can be rather proud of its generous assistance. If you just look at the raw statistics and take away the politics and the emotions of the debates that we tend to have, you will see that we are quite generous. We must continue to be that way. As I say, I would like to see us double our refugee case load. I am sure that we could do a lot more with the Vietnamese case load that is currently stuck in limbo in the Philippines.

Mr Speaker, I would like to ask why there wasn't a statement written into this motion condemning the Vietnamese government for the way that it has treated these people. In fact, such condemnation underwriting this motion would give it more power and perhaps provide a stronger case to the federal government in highlighting the plight of this case load. Mr Speaker, I do wish those who are working to get movement on this case load all the best. *(Extension of time granted.)* As an old soldier who has commanded Vietnam veterans, I know how many veterans who are working in this country now are seeking to settle Vietnamese immigrants into this country and seeking to have family reunifications undertaken. There is a strong bonding, in fact, between those fellows who did fight in that land and the people who have migrated from that land to this country. I congratulate those people as well on their very worthwhile efforts in a very important area.

Mr Speaker, I thank you for this opportunity, I congratulate Ms MacDonald on putting this motion on the table and I do wish those who are working with the Vietnamese case load in the Philippines all the best and good luck in trying to sort out this mess.

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

Sitting suspended from 12.28 to 2.30 pm.

Ministerial arrangements

MR STANHOPE (Chief Minister, Attorney-General, Minister for Community Affairs and Minster for the Environment): For the information of members, my colleague Mr Wood is absent for the day. I am happy to take questions that might be directed to Mr Wood.

Questions without notice

Land sales

MR SMYTH: Mr Speaker, my question, through you, is to the Minister for Planning, Mr Corbell. I refer to the government land auction conducted by the Gungahlin Development Authority on 11 June, when 500 blocks known as Harrison 1 estate were sold. The conditions of sale drawn up by the authority and circulated to all bidders refer to the payment of a deposit:

> The Successful Bidder must pay a deposit equal to 10% of the full amount bid at the time of the auction …

Minister, yesterday your disclosure that the cheque offered for payment of the deposit was in fact dishonoured by the bank surely represents a failure as defined. There is simply no provision for any variation of the conditions.

Minister, did you mislead the Assembly yesterday when you maintained that the Gungahlin Development Authority, for which you have ministerial responsibility, was acting lawfully?

MR CORBELL: No, I didn't. The reason I didn't is that the Gungahlin Development Authority has received advice from the Government Solicitor's Office that the authority can vary the terms of the contract. It has chosen to do so in this case to permit the successful bidder to pay the deposit by the close of business this week.

MR SPEAKER: A supplementary question, Mr Smyth?

MR SMYTH: Certainly, Mr Speaker. Minister, under what provisions, then, of the terms and conditions drawn up and circulated by the GDA have the deposit and payment terms been varied?

MR CORBELL: Mr Speaker, I'm not privy to the detail of the contractual issues, but it is quite clear from the advice provided by the Government Solicitor that the authority is within its rights to choose to vary the contract.

The reason the contract has been varied is that the successful bidder was pre-qualified and met the same criteria as all the other bidders at the auction. Subsequent to the auction, he presented a cheque, which was dishonoured. The reason that occurred, I am advised, is that one of his business partners pulled out. Given those circumstances, the authority has given the successful bidder until close of business on Friday to pay the balance of the deposit. If that is not done, the deposit will obviously be forfeited and will come to the territory, and the land will be re-auctioned.

Knowledge fund

MR HARGREAVES: My question is to the Treasurer. Minister, one of the key planks of the government's economic policy in the lead-up to the last election was the establishment of the knowledge fund to support knowledge-based industry. Can the minister inform the Assembly of the progress of the knowledge fund to date?

MR QUINLAN: I thank Mr Hargreaves for the question. We did bring forward a policy in the early days that supported the development of a knowledge-based economy, and set up a knowledge fund that was indeed a key plank of that election policy and was designed to deliver assistance to our knowledge-based industries. Members will recall that, in the prevailing budget, $6 million was set aside for that purpose.

The knowledge fund is designed to deliver assistance via commercialisation grants, proof of concept grants and equity investment. The fund also provides assistance for high-tech businesses looking to develop and improve their management skills. Naturally, applicants for funding are assessed on a number of strict criteria which

include that organisations must be ACT based or focused, they must demonstrate financial viability for at least 12 months, they must have the capacity to increase employment and they must typically turn over less than $5 million per annum. They must provide annual reports of outcomes achieved for up to three years after the completion of the assistance provided. They must be able to identify the potential for commercial outcomes and they must be able to demonstrate sound management capabilities.

To date, 71 separate grants have been given, totalling over $4 million. Members may be aware that I recently announced the last round of grants to 15 organisations that came to $817,000 worth of assistance. Among the recipients were the Micro and Home Business Association, which provides assistance to the small and micro business community; Earthinsite.com Pty Ltd, which works with satellite survey technology; Irrational Games Australia, which is seeking assistance in commercialising new games via the internet; and Video Alert, which is working on the use of broadband technology for surveillance and security systems.

It is clear that the knowledge-based industry in the ACT has reacted enthusiastically to the knowledge fund, which has given a much needed boost to the industry in the ACT.

MR HARGREAVES: Is the minister aware of any companies that have received knowledge fund support that have gone on to success with their products nationally or internationally?

MR QUINLAN: Yes, thank you again, Mr Hargreaves, because it is very gratifying to see that, within a short space of time, a number of industries have gone on to bigger and better things as a consequence of the assistance provided by the government through the knowledge fund.

A company called Intology, a locally grown company that operates in the knowledge management area, has developed innovative technology that targets knowledge management by emphasising content and meaning rather than simply data aggregation.

Mr Smyth: We helped them out as well.

MR QUINLAN: I am right into this. It has recently received a Microsoft ACT customer application of the year award for 2003. Intology, as a recipient of the knowledge fund, has been able to gain the following advantages from the recent grant funds:

- it has completed integrating its IP, which is called Klarity, into Microsoft Office,
- it has become a Microsoft certified development partner,
- it has extended its value propositions to a much larger Microsoft market,
- it has been able to engage several other local companies to assist in the commercialisation process,
- it has produced a business sales and marketing plan that is bringing in revenue now, and

- it has established an order/project and cashflow backlog that will require additional staff, which is very important.

Another company, WetPC, is developing technology covering mobile user interfaces with potential uses in marine sciences, defence and communications. It has recently signed licensing agreements in Japan and is holding discussions in the USA.

Kinetic Performance Technology successfully completed its proof of concept grant and has its product operating at the Australian Institute of Sport with very strong endorsement from the AIS. It is holding discussions with state and territory-based sporting institutes and has been to England to hold discussions on exporting its product to that country.

Currently, Kinetic is just finishing development of its product GymAware. GymAware is an athlete management and training analysis system that helps athletes and coaches communicate more effectively and which makes it easier for coaches to understand the development of their athletes. GymAware has been installed for seven months at the AIS in Canberra, a development client, and is already now being used as the subject of research studies.

Purchase Plus was developed by a local pharmacist with the aim of assisting pharmacy businesses to control the quality of their products, including their distribution, shelf life, maintenance and purchasing. Purchase Plus won the emerging business category at the Australian microbusiness awards in 2002. The company was also named ACT microbusiness of the year in 2002.

Mr Pratt: Okay, we have got the message.

MR QUINLAN: Have you got the message? Oh well, it is only another page.

Stepsoft is a young, growing company with a very highly skilled team which has developed a professional development portal that is unique in the marketplace and has enormous potential in a wide range of industry sectors, including government. It is based totally in the ACT and has a range of national clients, including Engineers Australia and the Australian grain industry, and it is providing client management services to the organisations managing the stolen generation databases. Employment numbers have grown from two to 10 since 2,000, and the company outsources consultancy work and accountancy services.

The government is in the process of reviewing the knowledge fund and has employed an independent auditor to conduct the review. The review will talk to the recipients and evaluate outcomes, as well as reviewing the internal processes of the fund. This is part of this government's commitment to making its business programs work in the best interests of the ACT economy and community.

I am very gratified at the way this initiative has helped the list of organisations in the ACT that are going on to bigger and better things and will become, in the main, exporters from the ACT.

Land sales

MRS DUNNE: My question to the Minister for Planning relates to the auction of land at Gungahlin on 11 June. Minister, in response to the question I asked you in this place yesterday about the successful bidder, you said:

> … the company that was successful in that auction has paid its $1 million deposit in accordance with the requirements of the contract.

Minister, you are contradicted by the terms and conditions of that contract, which says "The successful bidder must pay a deposit of 10 per cent of the full amount at the time of the auction". Minister, the wording is "must pay a deposit of 10 per cent", and 10 per cent of $38 million is not $1 million.

Minister, there is an apparent contradiction in light of your statement yesterday that the $1 million paid was in accordance with the contract. Does this constitute a misleading of the Assembly on your part?

MR CORBELL: Mr Speaker, I think I made clear in question time yesterday that it was in fact a part payment and that the full payment was the $3.8 million. If my answer is unclear, I apologise to the Assembly, but I think I did clarify it in a latter answer to Mr Stefaniak.

Mr Speaker, the full deposit is $3.8 million. The successful tenderer has paid $1 million and has to pay the remainder by close of business tomorrow. If they do not then the $1 million they have paid is forfeited to the territory and the land will be re-auctioned.

MRS DUNNE: Mr Speaker, I ask a supplementary question. On whose authority was the $1 million accepted instead of the $3.8 million; how long after the cheque for $3.8 million was dishonoured was the $1 million received; and can you table the advice which supports this action?

Mr Corbell: Could you repeat the second part of your question?

MRS DUNNE: How long after the dishonouring of the cheque was the $1 million received, and can you table the advice that supports this action?

MR CORBELL: In relation to the first part of your question, the moneys were received by the Gungahlin Development Authority. I will have to take the second part of your question on notice and get that timing.

In relation to the third part of your question, you asked me that question yesterday. I am not going to be providing legal advice to the Gungahlin Development Authority when there is the potential for a commercial dispute between different bidders at this time. I am advised that it is possible that some of the unsuccessful tenderers may seek to take legal action. Clearly, it is not in the interests of the government, and therefore not in the public interest, to release at this time the legal advice provided to the GDA by the Government Solicitor.

Rudolph Giuliani visit

MRS CROSS: My question is to Mr Corbell in his capacity as Minister for Health. Minister, in the *Canberra Times* today it is reported that the former mayor of New York, Rudolph Giuliani, will visit Canberra in August on a fundraiser for the paediatric unit at the Canberra Hospital. It is understood that he will include a tour of Canberra suburbs devastated by the January firestorm. Mr Giuliani is being brought to Australia for a number of fundraisers by celebrity agent Max Markson.

Minister, can you confirm that the former mayor of New York will be visiting Canberra? Is the Canberra Hospital paying a fee to Mr Markson to bring Giuliani to raise funds for the paediatric unit? What is that fee?

MR CORBELL: I cannot speak for Mr Markson; nor can I speak for Mr Giuliani. I cannot confirm whether he is coming to Canberra. I do not know; it is the first I have heard of it. I am happy to clarify the situation in relation to fundraising that may or may not be undertaken by the hospital. I will take that question on notice and endeavour to provide an answer to Mrs Cross before close of business today.

MRS CROSS: I have a supplementary question. Minister, are you saying that the ACT government has not been approached by Max Markson or his company, Markson Sparks, to sponsor the visit of the former New York mayor, Rudolph Giuliani, to Canberra?

MR CORBELL: I am not aware of any approach made to the ACT government. Whether my colleagues are is a matter for them. As the Minister for Health, I am not aware of any approach made to the ACT government for a fundraising event at Canberra Hospital.

Legal age for entering retirement units

MR CORNWELL: Mr Speaker, my question is to the Minister for Planning. Minister, I refer to a recent announcement that Planning and Land Management had entered the age discrimination business by restricting the sale of new accommodation at the St Anne's convent site in Campbell to people aged 60 and over, rather than 55 years.

You are quoted in the *Canberra Times* on Thursday, 5 June as saying that PALM was in the process of developing guidelines for supportive housing but they were yet to be finalised.

Minister, why is PALM ignoring the community needs assessment about aged care needs in relation to this site? Why have you applied undeveloped guidelines to the developer of the St Anne's site?

MR CORBELL: Mr Speaker, I don't believe we have. The situation in relation to the proponent of St Anne's is that they have sought advice from PALM as to the proposal in relation to supported housing. They were told that guidelines are being developed and what PALM's view was, at that time. So they are aware of progress on that.

Planning and Land Management have recently approached me and provided me with a brief to me on this issue. They have sought my advice on the most appropriate approach to take in addressing this issue.

If Mr Cornwell were to go to the Council on the Ageing website, he could look up the existing aged care facilities in Canberra, which have a mixture of entry ages. Some have an entry age of 60 and others have an entry age of 55. There is no universal rule as to what constitutes an older person, for the purpose of access to certain types of supported accommodation. A quick visit to the internet site of the Council on the Ageing, Mr Cornwell, would demonstrate that to you.

In relation to my response to Planning and Land Management, I cannot recall the details of the brief at this stage. I will take that on notice and provide the advice to you as soon as possible.

Land sales

MR PRATT: My question is to the Minister for Planning, Mr Corbell, and refers to the 11 June government land auction. Minister, when did you first become aware that the successful bidder was unable to meet the requirement of a 10 per cent deposit payable on the fall of the hammer?

MR CORBELL: I will have to check on my records in that regard. I will take the question on notice and get back to the member.

MR PRATT: Mr Corbell, when you do find out, can you tell me what you did about that, please?

MR CORBELL: When I was advised of that situation, I wanted to know what action the GDA were taking in regard to that circumstance. When I was advised of what action they were taking, I asked whether that action was consistent with the authority's legal obligations. I have been satisfied, on the advice of the GDA, that that action is consistent with the authority's legal obligations.

Firewood

MS TUCKER: My question, which is directed to the Chief Minister, relates to his responsibility for intergovernmental relations. Chief Minister, I refer to your recent letter to me concerning the possible health risks to Canberrans if poisoned firewood from the New South Wales South Coast finds its way into Canberra's firewood supply under a proposal by State Forests of New South Wales to supply firewood to the Canberra market. In that letter you said that the ACT government is fully supportive of the proposal.

Given that State Forests has a record of pollution control licence and harvesting plan breaches, for which it was fined in 1997 and 1998, given that it was caught out on its public assurances that it would supply only heads and butts, branches and stumps to the then proposed charcoal factory when the timber supply agreement was found to exclude branches and stumps and encourage the supply of long, straight logs, and

given that it no longer needs to have its proposed harvesting procedures subject to environmental impact studies—such a requirement having been abolished under the regional forests agreement, thus allowing the poisoning to take place—can you explain why you accept the assurances of State Forests of New South Wales that it manages forests sustainably and that the project will not source timber from poisoned trees?

MR STANHOPE: Ms Tucker, I noted the comments you made in a debate last night in relation to your concern about management practices of State Forests of New South Wales. In relation to the trees that were injected with a substance and on-sold for firewood, there certainly are some legitimate interests. The advice made available to me was, as relayed in the letter to you, that Environment ACT were satisfied that the wood that was the subject of your previous question on this matter had not found or would not find its way into the fireplaces of ACT consumers.

In relation to the broader issue of whether one should have any confidence in State Forests of New South Wales and why I express any confidence in them at all, I do that on the basis of advice, but I will revisit the question you have asked and look at the letter. I do not have it with me. You have me at some advantage in that respect. I will review the letter and review my answer and go to the nub of the question you asked.

It was and would be broadly an issue around the acknowledgment of the level of wood consumed in fires and wood heaters in the ACT and steps that the government has taken to educate consumers on the availability of different sources of supply of wood and, therefore, different wood. To that extent, much of the concern that the ACT government seeks to meet in relation to the consumption of wood goes to the issue of the protection of lowland woodland and the protection of yellow box and red box, species that are highly desired by those within particularly the ACT who have wood heating.

If it comes to a choice between continuing to consume yellow box or red box, much of which is sourced from up to 600 kilometres to the west and north of the ACT, and utilising state forest wood sources, I instinctively favour the use of wood from New South Wales State Forests over and above the continued harvesting of yellow box and red box, which is currently the favoured wood type of ACT consumers.

Canberra, for a city of its size, has been quite rapacious in its appetite for yellow box. ACT wood vendors now source their yellow box, the No 1 sought after wood in the ACT, from as far afield as 600 kilometres away. That is how far the ACT wood consumers now spread their net. I said "instinctively" but, as I say, Ms Tucker, I will look at the detail of my letter and of your concern. But if it is a choice between continuing to harvest yellow box and sourcing wood from New South Wales State Forests, I will source it from New South Wales State Forests any time. That goes to the heart of the response I have provided.

MS TUCKER: My question actually goes to how State Forests harvests the wood and the sustainability of that. My supplementary question is: will the minister table the report of the Health Protection Service investigation that concluded that burning picloram-treated firewood represented a very low risk to public health and did not produce any more emissions or dioxins that burning non-treated timber?

MR STANHOPE: That was the advice to me, Ms Tucker. I am more than happy to seek to identify the source of that and make it available.

Hepatitis C Council—funding

MRS BURKE: Mr Speaker, my question, through you, is to the Minister for Health, Mr Corbell. I refer to funding for the Hepatitis C Council which was due to expire on 30 June 2003. According to the terms of the contract, all funding had to be spent by that date. The ACT health department recently advised the council, just before 7 pm on Wednesday, 18 June, that the funding arrangements had changed and there would be no new contracts but merely extensions, resulting in the council facing a financial crunch very soon.

Minister, how come, when you recently stated in a speech to launch HepLine on 25 March 2003 that you have a strong commitment to hepatitis C issues, you did not have the common courtesy to advise the Hepatitis C Council of changes to funding arrangements more than 12 days before they were due to start? Why aren't you contributing to such an important program?

MR CORBELL: Mr Speaker, as Mrs Burke would know, because I pointed it out to her in the debate last night, funding to the Hepatitis C Council is funding made by the Commonwealth under a national initiative. The ACT acts as a receiver of that money and passes it on directly to the Hepatitis C Council.

In relation to the funding for the council, the Commonwealth government, through the Department of Health and Ageing, has advised ACT Health that half of the amount of funding which the council received this year is confirmed for the subsequent year. We have, as a government, through the department of health, advised the Hepatitis C Council of that.

In relation to the other 50 per cent of their funding, the Commonwealth has not confirmed that that funding is yet available. We are not in a position, as you would rightly understand, I hope, to advise the Hepatitis C Council that that funding is available because the Commonwealth hasn't told us that funding is available. Once the Commonwealth does confirm that funding is available, we will obviously inform the Hepatitis C Council.

Those are the facts of the matter. Any attempt to say otherwise is simply wrong and misleading.

MRS BURKE: A supplementary question, Mr Speaker. I thank the minister for the answer. The blame game aside, Minister, how do you expect the Hepatitis C Council to continue providing important services to the community when their funding arrangements are so uncertain? I repeat: why aren't you contributing to such an important program yourself?

MR CORBELL: In relation to the second part of the question about what assistance the ACT government provided, the ACT government has actually provided extensive

assistance, Mrs Burke, to the Hepatitis C Council. The Hepatitis C Council has received extensive assistance from the government.

In fact, the Hepatitis C Council was virtually defunct about 18 months ago. ACT Health stepped in. Working closely with interested members of the public, it rejuvenated the council, got it back on its feet, got it operating properly. So ACT Health has shown its commitment to this very important function.

In relation to the first part of your question, you should ring Senator Kay Patterson.

Gungahlin—residents' telecommunications access

MS MacDONALD: My question is to the Minister for Planning. Minister, the residents of Gungahlin have not enjoyed the same access to telecommunications as other residents of Canberra. Can you explain to the Assembly what steps the ACT government has taken to resolve this longstanding problem?

MR CORBELL: As members will be aware, residents of Gungahlin have endured significant problems with telecommunications access since the establishment of the new town. In particular, there have been repeated problems with black spots for mobile phone communication. These are not just little black spots, either; they are significant holes in the network. In addition, broadband access for internet activity is also severely constricted.

I was very pleased to announce today, along with my colleague the Chief Minister, that the government has agreed to the direct sale of a site in the Gungahlin Town Centre for Telstra to build a new multimillion dollar telephone exchange that will provide high-speed ADSL broadband internet access for all Gungahlin residents. This process has been expedited by the ACT government.

We have worked closely with Telstra over the past two to three months, and we are now delivering for Gungahlin residents the high-speed internet access they need and deserve. It is a big boost for the Gungahlin Town Centre because it means that for the first time businesses locating to the town centre and Gungahlin residents choosing to work from home will have the high-speed internet access they need to make that happen.

The government is also facilitating access to land for new mobile phone towers. There are proposals for mobile phone base stations to be located at the Actew Gungahlin Hill water reservoir, which is off the Barton Highway in Crace. I also announced that that has been approved today. It will greatly improve mobile phone coverage in that part of Gungahlin.

This Telstra facility will provide both GSM and CDMA mobile phone technology, with the Optus facility providing GSM technology. So that tower will be used by two of the main mobile phone carriers. The government has also worked closely with Optus and has recently given approval. Construction has now been completed on a mobile facility on top of a light pole on the corner of Gundaroo and Mirrabei drives in Gungahlin Town Centre.

The government is working closely with mobile phone providers and telecommunications carriers and, for the first time since Gungahlin was established, a proposal for a multimillion dollar telephone exchange has now been approved by Telstra. They are ready to begin. The government has given its approval for the direct sale of the land adjacent to the joint emergency services complex in Gungahlin. That will get under way and be completed, I am advised by Telstra, by the middle of next year. That means that Gungahlin residents will get the high-speed broadband internet access they need, and they deserve it.

Volunteers—screening

MS DUNDAS: My question is to the Minister for Education, Youth and Family Services. Minister, a new policy has been released regarding volunteering procedures for working with children and young people. You wrote to all members in this place, providing us with a copy of this new policy. In New South Wales and Queensland, it is mandatory for all volunteers who have access to children and young people to be screened for any history of criminal acts, such as violence, sexual offences and the possession of child pornography. Why is it that, in the ACT, we do not have screening of all volunteers?

MS GALLAGHER: I thank Ms Dundas for the question. The volunteering policy I recently sent to all members was developed through intensive consultations with various education stakeholders and stakeholders who work with children in the ACT. The volunteering policy was a long time in the making and, once it was finalised, there was broad agreement about what it contained.

The approach the department has taken with that policy has been that—I forget the actual wording of the policy but it was clear in the letter—where there are situations where volunteers will be in the presence of teachers or other personnel within a school, the need to screen via a police check is not necessary. However, the situations where we would require mandatory screening through police checks are where volunteers are not supervised by personnel employed through the school and would be in direct contact with children.

I believe those discussions were quite considered, with both the department and other stakeholders. The agreement we have come to is to take a less scary approach in order to avoid discouraging volunteers. Schools rely heavily on volunteers to augment services in schools. We don't want to dissuade people and say that, to get involved with a school, they must undergo a police check—although the majority of people would have no issue with that.

There would be situations where teachers and other school personnel were present, and the volunteer would be under direct supervision, so that, when in contact with school personnel, the situation would not arise. It acknowledges, however, that, where volunteers may be alone with young people, it is very necessary. That is the basis of the policy.

MS DUNDAS: I thank the minister for her answer. I understand it is the principal, not a trained child protection worker, who makes the decisions as to suitable tasks for

volunteers who have not been screened. What training is being provided to principals to help them cope with this important task and to enable them to make these decisions?

MS GALLAGHER: Principals undergo a lot of professional development for the purpose of making decisions about the running of their schools. Principals were also consulted in the development of this policy. Principals are often confronted with decisions such as these. They are given the skills—which they often possess through many years of teaching—to make those sorts of decisions.

It is primarily about supervision within the school, rather than making judgments about people's characters. These are decisions principals would make on a regular basis. Certainly the view of the department, and those involved in putting the policy together, was that the principal is the best person to make those decisions.

Land sales

MR STEFANIAK: Mr Speaker, my question to the Minister for Planning relates to the land auction on 11 June. Minister, as you are aware, this was a restricted land auction for which prospective bidders were required to be pre-qualified. Did the successful bidder complete the mandatory application forms? Did the Gungahlin Development Authority, for which you have ministerial responsibility, carry out due diligence procedures as regards the information that was submitted?

MR CORBELL: Mr Speaker, I am advised that the successful bidder at the auction that Mr Stefaniak refers to met the same pre-qualification criteria as all the other bidders for that auction.

MR STEFANIAK: Mr Speaker, I ask a supplementary question. I thank the minister for the answer, although he did not quite answer the question I asked. Minister, how then did a bidder who was unable to raise even the 10 per cent deposit, as required under the terms and conditions, enter the market?

MR CORBELL: Mr Speaker, one of the requirements of the pre-qualification process is a letter from the bidder's financial institution confirming their capacity to pay. This bidder provided that. So on that basis they were pre-qualified—as is the process undertaken for all other bidders.

In relation to why they did not pay, I think I have given some outline to the Assembly in regard to that. As I understand it, the partnership arrangements that successful bidder had entered into collapsed following the bid. As a result of that, the authority has indicated to the bidder they must pay their full deposit by close of business on 27 June. If they do not, the $1 million that has been already paid will be forfeited to the territory and the land will be re-auctioned.

Mr Stanhope: Mr Speaker, I ask that further questions be placed on the notice paper.

Supplementary answers to questions without notice

Water conservation

MR STANHOPE: Yesterday, I took a question from Ms Dundas about recycled water. I undertook to confirm some detail in relation to extended grey water re-use from the lower Molonglo water quality control centre.

In answer to that question, I said that 4.6 per cent of the water treated at lower Molonglo was recycled. In fact, that figure reflected the projected re-use rate for 2001-02. I regret that my department has not used up-to-date figures in its briefings to me. The figure for 2001-02 was, in fact, 5.1 per cent, or 1,644 megalitres. Of that, 76 megalitres was used at Hardy's vineyard, 107 megalitres at the Belconnen golf course and 1,461 at the lower Molonglo centre itself.

As to the question asked in relation to the amount of water used for public purposes, the major part was used for public purposes. It was used in the lower Molonglo centre to irrigate its lawns, et cetera.

In 2002-03, that figure has been exceeded. Of the 27,877 megalitres treated at lower Molonglo, 1,781 megalitres—6.4 per cent—has been recycled, at the rate of 127 megalitres to Hardy's, 144 to the Belconnen golf course and 1,510 to the treatment centre. In addition to those figures, there is a small on-site treatment plant at Southwell Park in Lyneham, which provided 30 megalitres of water in 2001-02 for re-use. To date, this year, that plant has provided 19 megalitres of water.

Rudolph Giuliani visit

MR QUINLAN: Mr Corbell took a question from Mrs Cross in relation to a possible function involving Rudolph Giuliani, being promoted by Max Markson of Markson Sparks. I wanted to let the Assembly know that I have dealt with Mr Markson.

Members will know that it was my role within cabinet to kick off and monitor the bushfire appeal. In that process, I worked with Mr Markson in putting on an enormous fundraiser at the AIS some months ago. I was able to help in that function inasmuch as I am involved in the Variety Club. The Variety Club has a mailing list and we had previously run large functions. As we had run a large function last year, we were able to provide core information to allow the function for the bushfire appeal to get off the ground.

Mr Markson has since approached me, saying he is sponsoring and promoting a tour by Mr Giuliani. As part of the promotion, he seeks out a charity which might benefit. It is a two-way street, of course. The charity benefits and the promotional tour gets the halo effect of association with that charity. I mentioned the Variety Club and he said something about hospitals. However, I did not take it any further. I put him in contact with the principal officer of the New South Wales Variety Club, of which the ACT group is a member. I presume he has taken it from there.

I am still hoping that the Variety Club will get some kudos out of this and that my little group will get credit for some of the money raised. However, the object is to have whatever funds are raised out of this—I am referring to the charitable slice, because I am sure Mr Markson is getting a slice as well—flow back immediately into the territory. There has been no negotiation, in any way, about a fee flowing from government—or from the Variety Club, for that matter—to Mr Markson.

O'Connell Centre

MR CORBELL: In question time yesterday, Ms Tucker asked me a question about the tenants of the O'Connell Education Centre—who they are and why they are being asked to leave. The answer is that the building is occupied solely by Ms Gallagher's department—the Department of Education, Youth and Family Services. No tenants exist—other than the department. The department has indicated that, within the next 12 months, it will be relocating to the new centre for teaching and learning at the Stirling campus of the Canberra College.

Auditor-General's report No 8

Mr Speaker presented the following paper:

> Auditor-General Act—Auditor-General's Report—No 8 of 2003—*Financial Incentive Package for Fujitsu Australia Ltd (FAL)*, dated 24 June 2003.

MR CORBELL (Minister for Health and Minister for Planning) (3.16): I ask leave to move a motion to authorise publication of Auditor-General's report No 8.

Leave granted.

MR CORBELL: I move:

> That the Assembly authorises the publication of the Auditor-General's Report No 8 of 2003.

Question resolved in the affirmative.

Narrabundah planning study
Paper and statement by minister

MR CORBELL (Minister for Health and Minister for Planning): For the information of members, I present the following paper:

> Part section 34 Narrabundah Planning Study—Site analysis Report prepared for Planning and Land Management by SMEC Australia Pty Ltd, dated December 2002.

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

Leave granted.

MR CORBELL: On 10 April last year, the Assembly passed a motion requesting that I immediately commence a draft variation over block 3 section 129 Narrabundah, in accordance with section 37 of the Land Planning and Environment Act 1991. In response, on 7 May last year, I directed Planning and Land Management to undertake a planning review for the entire section 129 Narrabundah, and the surrounding land, subject to an "x" overlay on the Territory Plan.

I am pleased to announce that the planning review has been completed, and that the findings of the review and the recommendations of PALM and Land Group have now been fully considered. The review undertook an assessment of the opportunities and constraints associated with the site—for example a one in 100-year flood level, sewer location, light spill from the adjacent golf course and Actew substation requirements. The review has established that the most suitable land use for the major part of the site would be some form of agricultural or horticultural use, with a broadacre land use policy under the Territory Plan.

Having established a land-use policy, the government is now progressing a preliminary assessment and draft variation to the Territory Plan to remove the 'x' overlay and vary the land-use policy to broadacre for the area outside the one in 100-year flood level. This process typically takes approximately nine months. Following the outcomes of the variation process, it is the government's intention to release the parcel of land through an open and competitive process. This is consistent with government policy and the approach taken in similar situations.

Subordinate legislation

Mr Corbell presented the following papers:

Legislation Act, pursuant to section 64—

Dental Technicians and Dental Prosthetists Act—Dental Technicians and Dental Prosthetists—Determination of Fees 2003 (No 1)—Disallowable instrument DI2003-115(LR, 16 June 2003).

Duties Act—Duties Determination 2003 (No 1)—Disallowable instrument DI2003-119 (LR, 16 June 2003).

Environment Protection Act—Environment Protection (Fees) Revocation and Determination 2003—Disallowable instrument DI2003-105 (LR, 18 June 2003).

Financial Management Act—Financial Management Amendment Guidelines 2003 (No 1)—Disallowable instrument DI2003-71 (LR, 22 May 2003).

Nature Conservation Act—Nature Conservation (Fees) Revocation and Determination 2003– Disallowable instrument DI2003-102 (LR, 13 June 2003).

Optometrists Act—Optometrists—Determination of Fees 2003 (No 1)—Disallowable instrument DI2003-117 (LR, 16 June 2003).

Pharmacy Act—Pharmacy (Fees) Determination 2003 (No 1)—Disallowable instrument DI2003-114 (LR, 16 June 2003).

Physiotherapists Act—Physiotherapists—Determination of Fees 2003 (No 1)—Disallowable instrument DI2003-116 (LR, 16 June 2003).

Planning and Land Act—

Land Agency Board Appointments 2003 (No 1)—Disallowable instrument DI2003-129 (LR, 17 June 2003).

Land Agency Board Appointments 2003 (No 2)—Disallowable instrument DI2003-130 (LR, 17 June 2003).

Land Agency Board Appointments 2003 (No 3)—Disallowable instrument DI2003-131 (LR, 17 June 2003).

Land Agency Board Appointments 2003 (No 4)—Disallowable instrument DI2003-132 (LR, 17 June 2003).

Land Agency Board Appointments 2003 (No 5)—Disallowable instrument DI2003-133 (LR, 17 June 2003).

Land Agency Board Appointments 2003 (No 6)—Disallowable instrument DI2003-142 (LR, 18 June 2003).

Land Agency Board Appointments 2003 (No 7)—Disallowable instrument DI2003-143 (LR, 18 June 2003).

Land Agency Board Appointments 2003 (No 8)—Disallowable instrument DI2003-144 (LR, 18 June 2003).

Land Agency Board Appointments 2003 (No 9)—Disallowable instrument DI2003-145 (LR, 18 June 2003).

Land Agency Board Appointments 2003 (No 10)—Disallowable instrument DI2003-146 (LR, 18 June 2003).

Planning and Land Council Appointments 2003 (No 1)—Disallowable instrument DI2003-122 (LR, 17 June 2003).

Planning and Land Council Appointments 2003 (No 2)—Disallowable instrument DI2003-123 (LR, 17 June 2003).

Planning and Land Council Appointments 2003 (No 3)—Disallowable instrument DI2003-124 (LR, 17 June 2003).

Planning and Land Council Appointments 2003 (No 4)—Disallowable instrument DI2003-125 (LR, 17 June 2003).

Planning and Land Council Appointments 2003 (No 5)—Disallowable instrument DI2003-126 (LR, 17 June 2003).

Planning and Land Council Appointments 2003 (No 6)—Disallowable instrument DI2003-127 (LR, 17 June 2003).

Planning and Land Council Appointments 2003 (No 7)—Disallowable instrument DI2003-128 (LR, 17 June 2003).

Planning and Land Council Appointments 2003 (No 8)—Disallowable instrument DI2003-135 (LR, 18 June 2003).

Planning and Land Council Appointments 2003 (No 9)—Disallowable instrument DI2003-136 (LR, 18 June 2003).

Planning and Land Council Appointments 2003 (No 10)—Disallowable instrument DI2003-137 (LR, 18 June 2003).

Planning and Land Council Appointments 2003 (No 11)—Disallowable instrument DI2003-138 (LR, 18 June 2003).

Planning and Land Council Appointments 2003 (No 12)—Disallowable instrument DI2003-139 (LR, 18 June 2003).

Planning and Land Council Appointments 2003 (No 13)—Disallowable instrument DI2003-140 (LR, 18 June 2003).

Planning and Land Council Appointments 2003 (No 14)—Disallowable instrument DI2003-141 (LR, 18 June 2003).

Pounds Act—Pounds (Fees) Revocation and Determination 2003–Disallowable instrument DI2003-101 (LR, 13 June 2003).

Road Transport (Safety and Traffic Management) Act—Road Transport (Safety and Traffic Management) Amendment Regulations 2003 (No 2)—Subordinate Law SL2003-14 (LR, 10 June 2003).

Stock Act—Stock (Fees) Revocation and Determination 2003 (No 1)—Disallowable instrument DI2003-99 (LR, 13 June 2003).

Surveyors Act—Surveyors Practice Directions Determination 2003 (No 1)—Disallowable instrument DI2003-118 (LR, 16 June 2003).

Veterinary Surgeons Act—Veterinary Surgeons—Determination of Fees 2003 (No 1)—Disallowable instrument DI2003-113 (LR, 16 June 2003).

Land sales

MRS DUNNE (3.19): I seek leave to move a motion regarding the Gungahlin Development Authority and Harrison 1 Estate.

Leave not granted.

Suspension of standing and temporary orders

MRS DUNNE (3.21): I move:

> That so much of the standing and temporary orders be suspended as would allow Mrs Dunne to move a motion regarding the Gungahlin Development Authority and Harrison 1 Estate.

Mr Speaker, we do not move lightly to suspend standing orders, especially on private members' day. After all, this is the day in the sun for the members of the opposition and the cross-benchers. However, the issues which have arisen as a result of two lots of questioning over two days in relation to Harrison 1 Estate are very important. Much of what has been said in this place, and done in other places, hangs on the issue of whether or not there is appropriate legal advice to allow this to happen.

For the benefit of the Assembly, for the benefit of the public and for the scrutiny and openness of government, it is important that we have an open and accountable system, and that this minister, on the basis of a simple request, provides that information to the Assembly.

This is not commercial-in-confidence information. By the minister's own description, it is information that goes to whether party A should deal with party B. It is not about the content of any deal they might come up with. It seems that, from what the minister has said, it is about whether or not the Gungahlin Development Authority should deal. There is serious concern in the community about this. It goes to a great deal of what this government is trying to do in the area of land development.

Mr Hargreaves: On a point of order, Mr Speaker, it appears to me that the member is debating the issue, not why we would need to suspend standing orders.

MR SPEAKER: That is a fair point. Mrs Dunne, stick to the reasons why we need to suspend the standing orders.

MRS DUNNE: If, in a spirit of openness, this government is not prepared to come to the party and simply table the information as requested, we do need to suspend standing orders. That way we can see if we can make this minister as accountable and open as he says he is. That is what the Chief Minister said this government is about.

Accountability and openness are constantly peppered through this government's pronouncements and publications but, when it comes to simple acts of showing accountability and openness, they fail every time. It is regretful that we have to suspend standing orders over simple legal advice of the sort this minister has said underpins this decision.

It is the business, and the right, of this Assembly to scrutinise what goes on. This Assembly cannot scrutinise without this piece of information. That is why I am asking that this Assembly look favourably upon the notion of suspending standing orders—because this government has been ungracious. This is another attempt by them to stifle openness and accountability.

The suspension of standing orders is about openness and accountability, as is the substantive motion. It is really about the capacity of this Assembly to do its job and scrutinise the executive, which goes to the heart of what we do in this place. I commend the motion to the house.

MR CORBELL (Minister for Health and Minister for Planning) (3.23): The government will not be supporting this motion today. We will not be supporting the motion because it is simply a cheap and quick way for the opposition to try to keep this issue alive.

In relation to legal advice per se, if Mrs Dunne did a freedom of information request, I am sure she would have learnt by now—

Mrs Dunne: I rise on a point of order, Mr Speaker. This is not a debate about whether or not we should suspend standing orders—it is a substantive debate.

MR CORBELL: Yes, it is. This is a debate about whether we should suspend standing orders.

Mrs Dunne: No, it is not. You have not mentioned the suspension of standing orders.

MR CORBELL: Mr Speaker, Mrs Dunne is seeking to suspend standing orders so she can move a motion, which is quite significant, directing me to release a certain document. In similar circumstances, Mrs Dunne could lodge a freedom of information request for this sort of information, but she would not normally obtain legal advice to the government in a freedom of information request, for obvious reasons.

The obvious reason is that it would be forcing the government to reveal legal advice provided to it, or to one of its agencies or authorities, when there is an existing contractual negotiation under way. When it is known in the public realm that other parties potentially wish to take legal action against that contractual negotiation, why should the government be forced to release its legal advice in that context?

It would potentially prejudice and expose the territory's position, when other parties are not being required to do the same. I believe that is highly inappropriate.

This Assembly has more things to do today than worry about this fairly cheap attack by Mrs Dunne, in an endeavour to make a scandal out of something which is not a scandal. If Mrs Dunne is so sincere about getting this information, there are avenues other than wasting the time of the Assembly during private members' business today.

MR SMYTH (Leader of the Opposition) (3.25): In his speech, Mr Corbell eloquently says why this information should be tabled. If the government has complied with all the terms and conditions—

Mr Hargreaves: I raise a point of order, Mr Speaker. The minister is addressing the substantive issue, not the suspension of standing orders.

MR SPEAKER: That is a fair point.

MR SMYTH: I am speaking on what Mr Corbell spoke on. If I am out of order, then Mr Corbell is clearly out of order as well.

MR SPEAKER: Mrs Dunne drew the attention of the Assembly to the standing orders in relation to Mr Corbell's speech, and Mr Corbell referred to the suspension of standing orders. I would ask you to debate the substantive issue as well, which is the suspension of standing orders.

MR SMYTH: I believe we should suspend standing orders so we can gain access to this information. Throughout question time yesterday and today, Mr Corbell has hidden behind legal advice. The question is raised as to why, if the territory, through the GDA, had complied with all the terms and conditions of the document it put out before the tender went through, why do they need legal advice at all? The answer is that potentially they have not done that.

I believe it is fair and reasonable for members in this place to know whether the government is complying with its own processes and whether there is fairness and equity in what has been carried out. However, we are denied that on the possibility

that somebody, who might be aggrieved with the territory not complying with something that Mr Corbell asserts they have already complied with, will take legal action. In my view, it is fair and reasonable that Assembly members are given access to this information and that we should therefore move to suspend standing orders.

Question put:

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

The Assembly voted—

Ayes 8		Noes 7	
Mrs Burke	Mr Smyth	Mr Berry	Mr Quinlan
Mrs Cross	Mr Stefaniak	Mr Corbell	Mr Stanhope
Ms Dundas	Ms Tucker	Ms Gallagher	
Mrs Dunne		Mr Hargreaves	
Mr Pratt		Ms MacDonald	

Question so resolved in the negative, in accordance with standing order 272.

Vietnamese community in the Philippines

Debate resumed.

MS MacDONALD (3.31): In closing, I want to talk about the amendment that has been put up by the opposition. The opposition has maintained that it is a mere change of the word "grant" to "process", but this is no mere change. It will water-down the intent of the motion. The effect of the amendment would be that the stateless Vietnamese in the Philippines would need to reapply for visas. This would necessitate them going through the whole visa application process again, which they have already attempted. Their applications are already in place.

I had a conversation with a number of people from the Vietnamese community when they were here before. They were not happy with the idea of the amendment. They were not happy with the proposed change. They were fearful as to what going through the application process again would mean. They believe the process is not free from corruption. They believe that people living in the Vietnamese community in the Philippines would need to go through the process again.

These people believe the applications would have to be made within the Philippine community and that that process is open to bribery and corruption. Indeed, there was a suggestion—not just of financial corruption in order to try to get through the application process—of the "in kind" corruption, whereby women must sell themselves in order to get favourable treatment.

I therefore reject the proposed amendment. I note that Ms Tucker spoke fairly well on the reasons why the amendment should be rejected. Mr Smyth says that he and the Liberal Party support the motion, save for that small amendment.

As I have already mentioned, it is more than a small amendment and would detract from the intent of the motion—the intent is to quickly find a solution for these people stuck in limbo. To make this amendment would water down the intent and effect of the motion, making it worthless. The opposition may as well oppose the motion, considering the effect the amendment would have.

Mr Pratt made comments about all the others who are waiting to come to Australia while there are other people waiting in refugee camps who have equal merit and need to be considered. However, that is a different issue, Mr Temporary Deputy Speaker.

Mr Pratt also made a comment to the effect that at least the stateless Vietnamese are not economic refugees. I reject that statement. It puts refugees into classes of those who are most worthy and those who are less so. I have never understood the shunning of people who want to make better lives for themselves—as though fleeing from abject poverty were some sort of crime.

Mr Pratt also asked why I am not making a statement, within this motion, condemning the Vietnamese government. That is because this motion is about trying to find a solution—by getting the federal government to change its position and allow these people to come to Australia, with their extended families.

That brings me to the issue of extended family. The granting of the right of Vietnamese in the Philippines to come to Australia was on the basis that they have close family here—that is the issue. All the people whose applications I have spoken about today are in a situation where they do not have brothers or sisters or mothers or fathers.

It is not a nuclear family situation—it is their aunts and uncles. For many within the Asian community—and especially in the Vietnamese community—the definition of "family" goes well beyond the nuclear family. That is important to these people. They feel a great attachment to their entire families, not just to their nuclear families.

I will quote from a letter from Phillip Ruddock to Hoi Trinh. It says:

> There are approximately 175 persons under consideration for visas at the current time.

He then goes on to say:

> This will bring this program to an end.

In other words, he is saying that they will not allow it to go beyond these 175 persons. At the end of the letter, he says:

> The remaining members of the group are not in imminent danger and appear to be able to be successfully integrated into Philippine society.

I reject that. Integration involves having full rights. These people do not have full rights within Philippine society. They are not entitled to go and get work, which puts an end to all sorts of opportunities for them; they are living in less than desirable

situations; the work they do get is not sanctioned work; and they are not entitled to travel freely. There are so many limitations placed on these people that it is ludicrous to say they are able to integrate into Filipino society.

The federal minister closes by saying:

> Should they wish to migrate to Australia, they may apply under the normal family or skills streams of the Migration Program.

Mr Temporary Deputy Speaker, that is ludicrous. The idea that they can apply under the normal family stream is wrong, because the normal family stream applies to close family. It does not apply to extended family—aunts and uncles—who are the sponsors in these cases.

Mr Temporary Deputy Speaker, there is a minor point I did not speak about before which I would like to mention. I refer to an issue which has been raised in this discussion throughout the world, not just here—that the argument is being used that the stateless Vietnamese are going to be granted permanent residency status in the Philippines, and that this will make a difference.

In fact, as a letter from a member of the House of Representatives committee states, the average timeframe for a bill to go through in the Philippines is eight to nine years. That is not a short-term solution for these people, who are not necessarily looking to settle permanently in the Philippines in any case. They are looking to be with their families here in Australia.

Finally, Mr Temporary Deputy Speaker, I thank the people who have risen to support this motion. It is an important motion for the people of the Vietnamese community in Australia, which is a tight-knit community. I feel that I have been a small player in it, although the Vietnamese community here in Canberra have been saying today that they really appreciate the fact that I have brought this up; that it is an important issue; and that I am doing a big thing for them. I commend the motion to the Assembly.

Amendment negatived.

Motion agreed to.

Refugees

MR BERRY (3.42): I move:

> That the ACT Legislative Assembly declares the Australian Capital Territory to be refugee friendly.

My motion does not state that the ACT is not refugee friendly; it is a clear statement of this Assembly's position in relation to the treatment of refugees. I refer, first, to the second verse of our national anthem, which honourable members might remember goes something like this:

Beneath our radiant Southern Cross
We'll toil with hearts and hands
To make this Commonwealth of ours
Renowned of all the lands;
For those who've come across the seas
We've boundless plains to share;
With courage let us all combine
To Advance Australia Fair.

Those members who have access to a computer and to the RealPlayer program will be able to listen to the national anthem, which is sung by Julie Anthony, at the website of the Prime Minister of Australia, John Howard—the best site at which to listen to that anthem. What do we, as Australians, think about people who come to our country? National politics on refugees has been darkened because of the children overboard scandal, the divisions caused in our community as a result of the Pacific solution and refugee detention centres in deserts and other places in Australia. I believe that that division has developed a subtle xenophobia, which is permeating society.

People who come to Australia also have an underlying fear, particularly if they are not from the same cultural background or religion. The aim of this motion is to try to draw members of the community together and to encourage them to open their hearts and hold out their hands to refugees who come to this country. We have all heard of the horrid circumstances faced by refugees from countries in which summary execution, incarceration without trial, torture and rape are commonplace. It would be hard for many Australians to comprehend those issues. That is why we must elevate above tension debate about whether or not refugees come to Australia.

Earlier today Mr Pratt referred to many millions of refugees around the world. We all know of the deplorable circumstances in which many of those people live. When refugees come to Australia we have an obligation to ensure that we work to undermine those who attempt to use the refugee issue to divide society. We have some examples of people who have attempted to deal with this issue in a humanitarian way. Bega Valley Shire Council has taken steps in relation to this issue. The following motion was recently put to council:

That the Bega Valley Shire Council

(1) Supports the efforts of the Bega Valley Rural Australians for Refugees group (BVRAR) in their endeavour to bring a more humane response to the treatment of refugees currently held in detention centres;

(2) Supports in principle the Welcome Towns proposal subject to the Federal Government policy change permitting asylum seekers to be released into the community while their applications are determined; and

(3) Encourages the Federal Government to review its policies connected with asylum seekers and refugees with the aim of reducing the time people, particularly asylum seeker children and their families, are held in detention centres until relevant health and security checks are completed.

From information that I have gleaned from the Internet I understand that about 25 councils across Australia have already declared their towns as refugee welcome zones, which is the honourable thing to do. The principles that underpin these sorts of statements include: welcoming refugees into our community, upholding human rights for refugees, demonstrating compassion for refugees and enhancing cultural and religious diversity in our community. Those are all things that we in the ACT say we do.

This motion, which is a strong statement from the Assembly, will back up those principles. After having had some discussions with the Chief Minister, I assure members that I do not believe that the government is backward on this issue. This government does quite a lot for refugees. I was requested to move this motion at a rally that was held on Sunday.

Since that time I have not been able to go through all the services that are provided for refugees but I have had a discussion with the Chief Minister who indicated a willingness to review the services that are available to refugees and to determine whether they reflect the sentiment of my motion. I trust that that will occur in due course and that we will hear more about it in the future. That is extremely important.

The rally on Sunday to which I referred earlier was attended by a number of brave souls—it was pretty miserable from time to time—and stirring speeches were made by some people experienced in the problems and the plight of refugees. Ms Tucker, who has a long association with the defence of refugees, spoke at that rally, as did Ms Dundas and others. So people are aware of the need to be more compassionate to refugees.

The Queensland government conducted a large inquiry into the refugee issue, in particular in relation to temporary protection visa holders. I do not know of the existence of similar documents in the ACT government service area. A number of issues were raised in that document, which is available on the website, but I refer only to the executive summary, which states:

> The temporary protection visa was introduced to discourage unauthorised arrivals in Australia. TPV, temporary protection visa, entrants have been assessed as genuine refugees but they are provided protection in Australia for only three years. After 30 months TPV entrants have the option to apply for a permanent residency prior to the introduction of the TPV on all genuine refugees who are granted permanent residence.

The introduction of these temporary protection visas created problems for refugees who found their way to our shores. I refer also to some of the key findings of the research that is mentioned in the executive summary as I think it is extremely important in the context of this debate. Key findings of the research include:

> The detention experience for most TPV entrants has left them feeling exposed, vulnerable, and disillusioned. Time spent in detention was marred by negligent treatment by staff, lack of information pertaining to release and lack of information about what is going on in the outside world. All interviewees had experienced or witnessed mistreatment of detainees by detention centre staff.

Imagine that! If we put ourselves in that same position—in a societal black hole where we did not know for some time what went on outside of the walls of a detention centre—it could well destroy our sanity. Research also found:

> The physical health of TPV entrants has been undermined by detention experiences, post traumatic stress disorder symptoms and bureaucratic problems. TPV entrants experience significant mental health difficulties.
>
> - the denial of services to TPV entrants has led to social isolation;
>
> - the denial of English language tuition by the Commonwealth is a major barrier to TPV entrants' participation in society;
>
> - the capacity of TPV entrants to obtain employment is severely affected by their lack of English language skills and the Commonwealth's denial of employment assistance;
>
> - unattached minors experience unique psychosocial issues due to their age and service provision arrangements and their mental health was influenced by trauma, separation from family, anxiety, ethnicity, and physical health;
>
> - the Commonwealth's rhetoric and policy position on TPV entrants has created tensions within the community;
>
> - anecdotal evidence collected during the study reveals that the media has had a significant negative impact on the settlement of TPV entrants;

I moved this motion because I believe that we, as leaders in our community, must adopt a more positive approach. Our views on these issues are important in the context of sending positive messages to the community. The motion that I have moved will give us an opportunity to send such a positive message.

I said earlier that the Queensland government conducted a comprehensive inquiry into issues facing refugees in Queensland. We would not be able to identify the extent of the problems facing refugees in the ACT without conducting a similar inquiry. I know that a significant number of services are provided for refugees in the ACT—an issue to which the Chief Minister will refer later in his contribution to this debate.

After I, and a number of other people, had spoken at the weekend rally to which I referred earlier, somebody came up to me and said, "Why do you not move a motion in the Assembly? It is timely to extend the hand of friendship in the ACT. A declaration that the ACT is refugee friendly would be a nice thing to do. It would be a good, solid message." That is the sort of message that we would expect to come from this place.

At the rally on Sunday I, on behalf of the Legislative Assembly, took the liberty of welcoming refugees to the ACT. I trust that members will endorse that action, as I did not receive their prior approval. It is important that we, in our leadership role, take every opportunity to transmit positive messages to people—to community members as well as to refugees who have sought asylum and who wish to make a future in this

country. Their future is our future. Those are the sorts of things that we should be seen to be endorsing. I commend the motion to the Assembly and I look forward to receiving the support of all members.

MR SMYTH (Leader of the Opposition) (3.57): The opposition supports this motion and commends its mover. I think it is entirely appropriate that the Speaker welcomed refugees to the ACT on behalf of the Legislative Assembly, because it is their assembly. As he said earlier, their future is our future. The ACT has been refugee friendly for a long time. We have only to look at the successive waves of refugee groups that have made their homes in the ACT to realise that our city, which is harmonious, has accepted them.

In the post-war period Doc Evatt's £10 tourists and large numbers of German, Italian, Greek, Irish and British refugees arrived in Australia. Refugees from that war-torn part of the world sought something better. What they found in the ACT and what they helped to build is testament to their revulsion of what happened in Europe in the period 1939 to 1945 and their determination to build an egalitarian society that would ensure that those things did not happen again.

I think we all benefited from that initial population surge that saw many European refugees coming to Australia. All members would be aware of the Jennings Germans. From 1949 onwards, German craftsmen built a lot of early Canberra. Their work, which is still standing today, is testament to their skills. An Australian firm sponsored and assisted in the passage of a group of German carpenters whose solid contribution to this city should be recognised. In those days the ACT would have been a friendly place in which to live, even though it might not have been easy for different ethnic groups to settle here.

Clubs that were established in Canberra city in those days—for example, the German club—are still operating. We also have Greek, Italian, Irish, Polish and Hungarian clubs and, for the benefit of the Temporary Deputy Speaker, the Burns club—his favourite club and the site of many famous whisky tastings. Those clubs were not just tolerated; they were part of the fabric of the city; they were an exciting part of the city's nightlife and community life; and they were places where people would go for a meal.

People from some of the eastern European countries—Poles, Czechs and Hungarians—then started to come to Australia. Large numbers of them came to Canberra because they found in Canberra the freedoms that they had forgotten because of the persecution of, first, the Nazis and then the communist regime. As we moved into the 1970s Vietnamese people, or boat people, started coming to Australia. I still remember—and I am sure the Temporary Deputy Speaker remembers—the opening in Yarralumla of Dalat, the first Vietnamese restaurant.

In those days it was a fairly significant event. We actually noticed when people of another nationality, cuisine or culture opened a restaurant in Canberra. It was just fabulous. In the 1990s Ethiopian restaurants were established in Canberra. I do not want to talk only about cuisine; I want to highlight the fact that migrants bring with them the skills that they have learned either through education or through traditions

that are passed on to them. We have all benefited from traditions that are part of, and that cannot be taken out of, the fabric of Canberra.

In the late 1990s the Canberra community opened its heart to Kosovar refugees. The then government, which was willing to make accommodation available, said to the federal government, "We will take some refugees." Ms Tucker, the Chief Minister, other members and I made representations to Minister Ruddock to allow Kosovar refugees to stay in Canberra. We said, "They have settled in, they are part of the fabric of our community and we would be happy to keep them here. It would be a nice gesture."

There has been a wonderful tradition in Canberra of acceptance and acknowledgement of integration. We see that every year in our national multicultural festival. One facet of that festival is the fact that Canberra is home to diplomatic representatives. Because of its acceptance of immigration, and refugees in particular, Canberra has a strong sense of community. Community groups from many different continents are represented in Canberra.

In the 1980s and 1990s my mother, in association with other members of Curtin parish, was instrumental in the resettlement of Chilean refugees. Canberra accepted wave after wave of refugees from every continent and made them feel at home. We have benefited as a result of being given access to their cultures, their thinking, their views of the world and what they have to offer us. They have benefited because they have been presented with an opportunity to build a future in a country where they are not judged because of their colour, creed, religion or appearance, drive or level of ability. People should be judged because of who they are and not what they are or where they are from.

At times that is difficult. I am sure members remember telling jokes in their childhood about the Greeks, Italians, Poles, Irish and Vietnamese—jokes that at the time appeared to have been recycled and jokes that are told now more in jest. The opposition supports this motion simply because it is true. We are proud to be able to state that the ACT is refugee friendly. I join the Speaker in acknowledging that fact and I congratulate him on bringing this matter to our attention.

MRS BURKE (4.04): I support the motion moved earlier by the Speaker and I thank him for moving it. When I read the wording of his motion I wondered whether there was some sort of insinuation that the ACT was not refugee friendly. After thinking about the motion and after listening intently to Mr Berry's earlier contribution, I was concerned about the suggestion that the Canberra community does not contribute positively towards being refugee friendly. I cannot hold with that suggestion and I apologise if that is not the intent of the motion.

Because of the way in which this motion is worded people could be forgiven for thinking that they are not doing enough in that regard. Mr Berry referred earlier to xenophobia. Placing things in a public document such as this might have the wrong effect; it might drive wedges in a community that do not presently exist. I am sure that Mr Berry and others in this place will continue to do everything they can to improve this territory by lobbying the government of the day and by ensuring that the needs of refugees are met.

Canberra is a refugee-friendly place. Our track record as a community demonstrates that we welcome people with open arms, that we look after them and that we do our best for them. As Mr Smyth eloquently pointed out earlier, this goes back a long way. Canberra was built by some of those refugees who made Australia their homeland. Mr Temporary Deputy Speaker, even though you and I were not refugees, we are visitors in a foreign land. It would be illogical for anyone to assert that Canberra is not refugee friendly. Some people in the broader community might find that statement quite insulting. I ask Mr Berry to think about that.

For many years members of the Canberra community have opened their hearts, their minds, their wallets, their homes and everything else to accommodate refugees. As a former Rotarian, I was involved in the Kosovo activity. It is touching and moving to be able to do that sort of thing and to make a practical contribution. I do not contribute in debate on this motion with any sort of righteous indignation; I support the motion but I caution members to be careful. Sometimes the things that we write might not reflect the intention of our hearts. We should continue down this path but we should strive to do better. We must do our best or better for refugees to this great and, in my opinion, best city in Australia. As I said earlier, I support the motion moved earlier by the Speaker.

MS DUNDAS (4.08): As the current federal government and the federal Labor opposition are providing no moral leadership on the rights of refugees, it would be a positive step if members of the ACT Assembly supported this motion and sent a message to our federal representatives that we want refugees treated with respect and compassion. If all Australian parliaments passed similar resolutions declaring each jurisdiction refugee friendly, it would make our federal representatives reconsider their current stand.

As has already been mentioned in debate, last Sunday Mr Berry, Ms Tucker and I addressed a crowd that gathered in Civic on a freezing cold and rainy day to mark World Refugee Day. It was heartening on that rainy day—a day when a Brumbies match was being played—to see so many people sharing their feelings about refugees in Australia. It has been a long time since the Australian government treated asylum seekers with decency. However, there was a time when the federal government observed international law instead of turning its back on world opinion and saying, "We will decide who comes into this country and we will decide the circumstances in which they come."

There was a time when refugees were allowed to reach our shores and they were not turned back by navy vessels. They were not prevented from leaving Indonesia to attempt a risky sea crossing. There was a time when asylum seekers were not detained behind barbed wire unless there was a demonstrated health or security risk. There was a time when asylum seekers were assessed for refugee status without an artificial set of legal hurdles being placed in their way. If asylum seekers were found to be refugees, they were granted permanent residency. But all that has changed.

The so-called Pacific solution and cooperation with Indonesia led to the infamous sinking of the SIEVX. Mandatory detention, which was introduced by the Keating government, and temporary protection visas, which were introduced by Howard, gave

genuine refugees only three to five years of asylum and no chance to find work or build a life. As I mentioned in debate on the motion moved by Ms MacDonald, back in the 1970s most of the boat people arriving on our shores came from Vietnam where an American war, in which Australia participated, displaced over a million people.

Australia has now participated in not one but two violent conflicts in as many years, both of which created a wave of refugees. But this time around Australia sealed its borders so that poor and desperate refugees from those countries cannot reach our country. The Australian Democrats have consistently opposed wars that make so many homeless. We opposed mandatory detention in 1992 and we continue to fight for an end to this inhumane policy. We opposed temporary protection visas when they were introduced in 1999 and we continue to call on the federal government to grant permanent protection to refugees and to allow immediate family reunion rights.

We opposed the introduction of the Pacific solution in 2001 and we will continue to protest against the forced deportation of many people who do not even get a chance to have their claims for asylum assessed. Recently we have been standing up for the rights of children who, along with their parents, have been held behind barbed wire fences in the middle of the desert. Recent decisions of the Family Court have shown that this breaches Australia's obligations under international law. It has long-lasting impacts on children that cannot be ignored by the federal government, or by anybody who cares about human beings and children.

It is inhumane and tragic that so many children are being locked away without having committed a crime. The only reason that they endure being locked away is that they are trying to achieve a better life. Assembly members do not have any direct control over migration policy or law. However, we cannot simply give up and stand idly by while asylum seekers are sent back to repressive countries to be executed and children are incarcerated behind barbed wire fences, growing up amidst suicidal and desperate people.

These inhumane policies will be changed only if we all keep fighting the good fight and we make the message quite clear to the Federal Government that we are not happy and we want to see a change. We all have to work to turn back the tide of misinformation that the Howard Government has generated, to counter the powerful and emotive language he has used to whip up fear and loathing in the community—for example, terms like "illegal immigrant", "floodgates", "queue jumper", "people smuggler", or "terrorist". It is a big job, but we have morality, decency and international law behind us. If we keep working we will again see the day when refugees are treated more justly.

So I support the motion moved by Mr Berry. I already believe that the Australian Capital Territory is refugee friendly. But we are making an official declaration that we are welcoming refugees. We believe that they are an important part of our community. I reiterate all the other sentiments that have been expressed today. We do not believe that refugees should be treated inhumanely. This motion helps to focus the minds of government members on specific programs to assist refugees who arrive in the ACT either as permanent residents or on temporary protection visas. I hope that Assembly members, as community leaders, support this motion. We must work together to look

after human beings not just in this community but also around the world who are suffering terrible ills.

MR STANHOPE (Chief Minister, Attorney-General, Minister for Community Affairs and Minister for the Environment) (4.13): I am happy to support the motion moved earlier in the following terms:

> That the ACT Legislative Assembly declares the Australian Capital Territory to be refugee friendly.

The ACT Government has consistently expressed its support for refugees who reside in Canberra. I have taken every opportunity to encourage refugees to make their home in the ACT. I have also encouraged people in the ACT to be supportive of and sensitive to the needs of refugees. As has been mentioned, the ACT Government has provided free public school education, free medical treatment at ACT public hospitals and medical facilities, concessions on government services such as electricity, public transport and dental care, and access to translating and interpreting services.

The government has sought to improve the settlement conditions of refugees in the ACT. Quite significantly, we have attempted to close the gap left by the Commonwealth government relating particularly to refugees on temporary protection visas by offering free English language courses at the Canberra Institute of Technology and, concomitantly, free child-care services for those attending English lessons and transport to those lessons.

One significant point that was made earlier in debate was the fact that it has been left to the states and territories to pick up the fundamental support that the Commonwealth government perversely and meanly refuses to provide to many people who, irrespective of the final outcomes of their cases, have lived in Australia for many years. That has certainly been the experience of Kosovar refugees or families that have made Canberra their home. The children of those families, who have been in Canberra for a number of years and who attend our schools, have adapted perhaps more quickly than their parents.

They have learnt to speak English quite fluently as a result of their attendance at ACT schools but, in most instances, their parents or older members of the Kosovar community are faced with real difficulties. I have come to know many of those families who now attend English language classes. Their competency in English is improving dramatically and, as a result, their capacity to participate in community life has increased. Their self-esteem, their health, their whole outlook and their view of the world have greatly improved. Unfortunately, those services are not being provided by the federal government, which has a mean-hearted and mean-spirited attitude to the provision of support to people seeking asylum in Australia.

The government works closely with a number of refugee groups, notably, Canberra Refugee Support group, St John's Kippax Refugee Resettlement Committee and Companion House, to provide support to those people who choose to stay in Canberra. It has been asserted—Ms Dundas touched on this point—that, generally, the ACT community is very supportive of asylum seekers. Our community would have no hesitation in extending a hand of friendship and being friendly towards

asylum seekers and refugees. In that sense this motion confirms what I would regard as being the prevailing view and opinion in the Canberra community.

However, that is not the prevailing view and opinion in the parliamentary triangle. I am confident that this motion will be agreed to. However, I could imagine a motion being moved in the other parliament to excise the parliamentary triangle from the assertion or claim that the Australian Capital Territory is refugee friendly. Unfortunately, there will remain in this territory one body that cannot claim to be refugee friendly—the other parliament in the ACT.

Without detracting from that level of support of this government, it is fair to say that this government and members of the Assembly are prepared to support and advocate on behalf of refugees in the ACT. If we formalise that by declaring that we are refugee friendly, it will have a symbolic strength that should not be underrated. I am happy, on behalf of the government, to express our willingness to be regarded as a refugee-friendly place.

Mr Berry made the point in discussions with me that the ACT government, which has attempted to support refugees and asylum seekers in any way it can, will look more closely at other forms of assistance for asylum seekers over and above the assistance and support that are currently provided. I am happy to ask officers in my department to undertake a full review to ensure that the ACT is a refugee-friendly place in which to live.

MR CORNWELL (4.20): I am sorry that the last two speakers introduced another aspect into this debate, as Mr Berry's motion is perfectly acceptable and quite innocuous. I agree with the sentiments expressed by my colleague Mrs Burke. To be honest, I am not sure what is meant by this motion. I believe the ACT to be a refugee-friendly place, so I am a little puzzled as to why this motion has been moved.

How are we to determine whether or not the ACT is refugee friendly? I believe—and I am sure that all members believe—that the ACT is refugee friendly. No law establishes that either way. In a free society I do not believe that a motion of this nature requires the endorsement of the Assembly. If members wish to endorse this motion they may do so, but it is not required of them. The 320,000 people who live in the ACT have always demonstrated a generosity in relation to all sorts of things, including refugees.

I do not believe that that will change. Some people in the community might have a greater sense of social justice than others. I have not heard any claims about refugees being treated badly in our community. From time to time people experience problems because there are a few louts around the place, but that would occur in any community. The Speaker said earlier that 25 shire councils had passed similar motions. It is fine to pass motions such as this but they are really rather meaningless, just as the motion on nuclear-free zones was rather meaningless.

Nothing new will occur as a result of the passing of such a motion. The Chief Minister spoke in debate about services that are being provided to refugees in this city. I hope that similar services are being provided by shire councils, otherwise the motions that are being passed would be rather empty. There really is no reason for this motion. I do

not know whether it has the support of the majority of people in the community although, as I said earlier, there is nothing in the motion to indicate that the ACT is not friendly towards refugees. It is not terribly important whether the majority of people in the community support this motion; the fact remains that people welcome refugees to the ACT.

Even if we pass this motion, there is no law that provides that it must be enforced. We can do nothing other than express our views. However, that will not influence federal government policy, even though this is a federal matter. The federal government has in place its own policies and processes for dealing with refugees. This motion will hardly change federal government policies. Even if the Assembly passes this innocuous motion I do not believe that anything will change. Refugees will always be welcome in the ACT. I think this motion is stating the obvious. Nevertheless, as Mr Smyth said earlier, the opposition supports the motion.

MR PRATT (4.25): I support the sensible motion moved earlier by Mr Berry. However, I do not know whether the community needs to change the way in which it has been dealing with refugees in the ACT. I think the community does a terrific job. Nevertheless, we should put these things on the record to remind us of the need to take care of them. There are about 10 million to 15 million refugees, but millions of internally displaced people do not qualify as refugees.

Over the past decade massive and dramatic movements of people have occurred as a result of geopolitical changes since the end of the Cold War. That is what has caused these sorts of movements and concentrations of people. A major driver of this phenomenon has been the many local wars that have erupted since the fall of the Iron Curtain. Amongst these many refugees are millions of economic émigrés—people with whom we must sympathise who live in difficult places but who do not qualify as refugees.

Men have always been on the move to try to find better places in which to settle down. We cannot do much about that fact of life, but we know that the developed world simply does not have the capacity to take 10 or 15 million refugees and millions of internally displaced people and economic émigrés. Governments have to be able to control migrant intakes.

I refer to a point that was made earlier by a member on the crossbenches. At one time refugees and other people arrived on our shores without being checked. I do not know whether or not that is true. I do not believe that to have ever been the case. I do not believe that there has ever been a time in our history—except perhaps before colonial history—when that was allowed.

Australia is no different from any other country: it has always had some sort of system in place. It wants to be able to exercise control over its borders. I say to some members—but not to Mr Berry who moved this sensible motion—that they are playing the emotional card. They want to have a crack at the federal government.

That approach is wearing thin. When people use debates such as this as a means of attacking the federal government they should remember that they are also attacking the majority of Australians who support the policies of the federal government. The

majority of Australians are generous and compassionate people. Traditionally, most Australians have welcomed refugees, immigrants and visitors to this country with open arms. I challenge other members to deny that fact.

If we compare Australia's migrant and refugee programs with the programs of other countries, we see that Australia stacks up as a generous country. Most Australians are generous and traditionally welcome refugees. If most Australians support the federal government's policies, I caution those members who continually seek to attack them. Some members are using this motion as a baseball bat to attack the policies of the federal government. However, in doing that they are also having a crack at what most Australians believe to be sensible policies.

I deal now with the difficult issue of children in detention. We would like to see a change to the federal government's policies. The federal government should put in place a more workable program that enables children to be taken out of detention centres and put into some other form of accommodation. I do not know what is the answer to this problem but I am sure that all members would support such a move. I refer now to the Kosovars and Eritreans.

A few days ago I received news about an Eritrean family that I have been trying to help. A woman's two siblings were trapped in Sudan after travelling all the way across Eritrea and Ethiopia. They were in quite a difficult position. I took the case to DIMA, which was prepared to put people on the ground in that area to do something about it. It is pleasing when authorities take action in extreme cases such as this. I was pleased to see that action was taken in this case and that people did listen. On the issue of children in detention I refer to the Chief Minister's continual heckling in debate yesterday on the bill of rights. The Chief Minister misled the Assembly when he said that the opposition supports the jailing of—

MR TEMORARY DEPUTY SPEAKER (Mr Hargreaves): The member's use of the word "misled" was uncalled for. The member should either rephrase his sentence or withdraw that imputation. That sort of thing should be done by way of substantive motion.

MR PRATT: Mr Temporary Deputy Speaker, I bow to your wise counsel and withdraw that imputation. I simply point out that the Chief Minister was wrong in his assertion that opposition members support the jailing of children in detention camps. I would like the Chief Minister to take that on board and try to remember it in future. I commend the work of the ACT Refugee Council. It is doing excellent work with the Kosovo caseload and other refugees.

Mr Berry, in his earlier contribution, raised an interesting point relating to stress disorders in these camps. That is a real problem. It should not be forgotten that many people who have spent a long time in these detention camps and who have had their applications turned down a number of times are still going through the appeal process. It is sad that it has come to that. I would prefer it if all political parties got together and tried to sort out this wretched appeal process—a process that is abused by certain legal fraternities and activist groups.

At the end of the day those who lose out the most are those who are led up the garden path and told, "Just hang on for another 18 months. We will appeal and achieve a magnificent outcome." That is unrealistic and it is absolutely cruel. *(Extension of time granted.)* People in society in positions of authority and power should know better. Sometimes their intentions are well meant, but they are out of touch with reality. The people who are caught in the middle are the ones who suffer the most. They will continue to suffer for a long time.

Some members have said that there is no refugee queue. There is a refugee queue. I said earlier that millions of refugees are seeking places of sanctuary and resettlement. Some refugees, who have been in camps for a long time, in particular in East Africa, do not have the means to be resettled, returned or integrated locally and they do not have the money to travel. There might not be a linear queue, but large numbers of people around the world have been classified as refugees. They have been given little plastic buckets and they have been told to wait in blue plastic tents or to double up with host families somewhere. They have been waiting for a long time.

There is a refugee queue. The federal government must visit refugee camps, go to refugee centres or communal centres where people are doubled up with host families and seek out those people whose needs are great. All members should remember that there is a refugee queue. Despite the cynicism that exists I am sure we can encourage the federal government to do something about that.

I encourage the federal government to double its refugee intake and to seek out the most needy refugees. However, we need to be able to take care of those refugees. We cannot allow people to arrive on our shores when they feel like arriving after obtaining passage on a dangerous boat. Canberra, which has a proud history of accepting migrants and refugees, is a refugee-friendly place. The ACT is well equipped and willing to look after refugees. There is nothing to suggest the contrary.

MS TUCKER (4.40): I welcome the motion moved earlier by Mr Berry, though I do not totally agree with the sentiments that were expressed. I do not believe, for a number of reasons, that Canberra is friendly to refugees. I commend Mr Berry for moving this motion. It is important symbolically to indicate that members who are elected to this Assembly are prepared to make a statement such as the one that is expressed in Mr Berry's motion. Mrs Burke, who appeared to be offended by the suggestion that people in the community were not friendly to refugees, said that we should be careful with the words that we use in the motion.

The refugees to whom Mrs Burke spoke must have been different from the refugees to whom I spoke. I am sure that Mrs Burke asked a number of refugees about their experiences in Canberra but, as I said, they are certainly not the people to whom I spoke. Recently the federal government refused to put people through the settlement process because of the housing crisis in Canberra. So Canberra is not that friendly to refugees; the federal government is not settling them in Canberra.

I acknowledge what the Chief Minister and Mr Berry said earlier about the ACT government's provision of language courses and education for refugees. I commend the ACT government for providing those services. Mr Cornwell said earlier that the

refugee issue is a Federal matter, but it is a documented fact—in particular in Queensland—that it is a state and territory matter as the states and territories are carrying the burden of those costs. Mr Cornwell might not be aware of that fact.

Because of the poor policies of the federal government people in the states and territories have been abandoned. That includes people on temporary protection visas and bridging visas—a particularly inhumane policy—and so-called genuine refugees. The Federal Minister for Citizenship and Multicultural Affairs, the Hon. Gary Hardgrave, acknowledged that refugees are not being settled in Canberra at the moment. It is difficult for refugee families on limited benefits to afford accommodation in the private rental market.

I have referred on another occasion in this place to a family with four children that are living on about $150 a fortnight after the rent has been paid. States and territories have serious issues to deal with as a result of the poor policies of the federal government. In debating this motion we also have to address the issue of racism. I have to rebut some of the comments that were made earlier in debate. At the weekend I spoke to a refugee and asked how her children were settling into schools in Canberra. I asked her about their experience in those schools and also asked her whether they had experienced any racism. She told me that they had and she gave me a number of examples of quite unfortunate racism in the school system.

We must continue to reject racism in all forms. We know, from various committee inquiries, that Aboriginal people experience racism in our schools. I assure Assembly members that racism is also a problem for migrants to our country, particularly those of a different appearance. We have some work to do before we alleviate those problems. As I said earlier, it is important that we reject racism. I, and I am sure every other Assembly member, will do that.

I refer now to bridging and temporary protection visas. Some members referred in debate to TPVs, but they did not refer to bridging visas. I do not think people know what bridging visas are. Asylum seekers who enter Australia without appropriate documentation are usually detained while their refugee status is assessed. Some of the people on bridging visas who are put in the community while their refugee status is being assessed usually have no work rights or medical cover and they do not receive welfare payments. Hundreds of deeply distressed individuals and families are in this unenviable position—people who on the whole are being supported by church groups.

The Hotham Mission in Victoria is doing an important job. When refugees deplete their financial resources they face homelessness, hunger and illness, which is untreated. Many are in need of psychological help because of the trauma that they have gone through to get to Australia. A number of churches have established a charity called the Bridge—a program designed specifically to raise funds to support this group of people. I do not believe we have any such charities in the ACT. Members should be aware of the fact that the federal government's policies are placing refugees in a precarious position.

I was pleased to hear Mr Pratt state earlier that the Liberal Party does not support the federal government's policy of placing children in detention. As I have not heard him make such a statement before it led me to believe that, at the next parliamentary

sitting, we should move a motion to send a clear message to the Prime Minister that we reject the federal government's policy of placing children in detention. After hearing Mr Pratt's contribution today I am sure we would receive unanimous support.

I am sure that all members would be concerned about what happens next. If we received unanimous support for a motion that rejected the federal government's policies relating to children in detention, would we then say that it was all right to have children and their mothers on bridging visas? I assume at this point that even members of the Liberal Party would not suggest that children should be separated from their mothers. However, we would probably have to separate them from their fathers.

Are children on bridging visas destined to become homeless and desperate? I hope not. Those issues would also have to be debated. Mr Cornwell said in debate that he was sorry that people had been brought into these broader issues but, as Mr Pratt chose to go into those broader issues in some detail, I need to respond some of his comments. Mr Pratt continues to make certain statements even though I have presented evidence and there is abundant evidence available to show that his statements are incorrect. Mr Pratt keeps repeating those statements as if somehow it will make them true.

One of the things that he says quite often is that most Australians are generous and that they traditionally welcome refugees. At present 71 countries accept refugees. In 2001 the top three countries receiving refugees were Iran, Pakistan and Tanzania. Those three countries host over 3.6 million refugees between them. Mr Pratt referred to the developed world, so I presume he is saying that, as Australia is one of the best countries in the developed world, that somehow makes it okay.

The fact that the majority of refugees are going to developing countries does not seem to be a problem. I think it is a problem if we consider the fact that developed countries are in a better position than developing countries to deal with refugees. I do not know from where Mr Pratt got his figures, as he never produces them. If his figures were based on the ratio of refugees to host country population we would have to include family reunions and other categories.

The normal ratio for the acceptance of refugees is as follows: one in 1,130 in Australia; one in 572 in Canada; and one in two in the Gaza Strip, which is not a developed country, so that does not count in Mr Pratt's mind. The ratio in other countries is as follows: one in 456 in Germany; one in 33,000 in Japan; one in 75 in Pakistan; one in 285 in Thailand; and one in 681 in the United Kingdom. I will not refer to all the other developing countries because, as I said earlier, Mr Pratt does not seem to think that they count.

I refer briefly to one other issue. In December last year we had a similar debate on a motion that I moved to establish refugee welcome zones—an initiative put forward by the Refugee Council of Australia, which is pretty much the same initiative as the one proposed in the motion we are debating today. While the intention of the motion was to implement a more formal system of refugee-friendly zones, it was really just symbolic. *(Extension of time granted.)* I do not understand why things have changed, but I am glad that they have.

I am glad that today the Assembly is making a strong statement in support of refugees. However, the point that has to be made—Mr Pratt does not appear to understand appeal rights, which is a matter of some concern—is that refugees are caught up in appeals. They still have the capacity to appeal, but it does take time. Mr Pratt seems to believe that refugees should not be involved in any delay. The only way to prevent those sorts of delays is by getting rid of appeal rights altogether.

Mr Pratt failed to acknowledge that we have significantly reduced appeal rights for one class of persons in this country, that is, refugees. Labor and Liberal party members who have been supportive of those policies will look back with shame because the Howard government and previous Labor governments have fundamentally abused the legal rights of that one group of people. Mr Pratt suggested that it is cruel to let people get caught up in the appeal rights that they have left, but he should be condemned for wanting to get rid of those remaining rights.

I acknowledge that the ACT government is providing some services for refugees to make up for the Commonwealth slack. However, the housing shortage is absolutely critical. When I raised this issue in the Assembly, Mr Wood responded reasonably positively by stating that the government could implement a program to assist in accommodating refugees or people on TPVs. I urge the government to pursue that program with enthusiasm. If it does that we can genuinely state that the ACT is a refugee-friendly place.

MS GALLAGHER (Minister for Education, Youth and Family Services, Minister for Women and Minister for Industrial Relations) (4.52): I will make only a few comments in debate on this important motion as I believe that other speakers have covered most issues well. Some members said that the ACT is refugee friendly but they were not sure about the Speaker's motivation or reason for moving this motion. The Speaker's reason for moving this motion is clear. Community leaders in this territory must state publicly that they welcome refugees to the ACT, that they respect their cultures and that they can learn from their cultures.

Community leaders must make those statements in light of some of the current national political debates. This period in our history will be recognised as a period of shame. I do not look forward to explaining it to my daughter when she is old enough to ask questions. Mr Pratt said earlier that we were playing the emotional card or that we were using the emotional angle to gain support. I do not know how he can say that this debate, which is about people, is not emotional. *(Quorum formed.)*

I said earlier that this period in our history will be recognised as a period of shame. We cannot have a discussion about this issue without emotions becoming involved. Mr Pratt said that emotional cards were being played but we have examples of events that are occurring every day. I refer, for example, to the children overboard incident, *Tampa* and the continued imprisonment of people who have committed no crime. Those isolated examples signify that shame. I strongly believe that the blame for those events should be laid at our feet because we are the leaders of this community. I am embarrassed at the appalling way in which certain groups of people in our community are treated.

One thing I have noticed is that this debate unites the community. Mr Pratt said that the federal government enjoys the support of the majority of Australians. However, I do not think it can be said that the majority of Australians support the federal government's policies in relation to refugees and asylum seekers. Mr Howard plays the race card subtly and well and he elicits support when it is needed. Community groups, church groups, unions, people in the community, grandmas and people at schools all work together in their own way to welcome refugees to the ACT. What is not being reflected nationally through public policy is being reflected at the grass roots level.

Last year I attended a function that was held at the Migrant Resource Centre for refugee children and holders of temporary protection visas. As the budget of the Migrant Resource Centre was limited to $20, it provided only biscuits and cheese. I was asked to present welcoming certificates to children between the ages of six weeks and eight years. Each child was presented with a certificate and a book and I said, "Welcome to our country. We are pleased to have you here. This gift is a little something from us." It was such a nice and happy occasion that I wondered what else could be done for those children, many of whom had obviously never owned a book.

That motivated me into hosting a Christmas party at the Assembly. Many members of this Assembly donated gifts for those children. Some concern was expressed about the fact that the Christmas party was not reflective of all cultures. However, at the end of the day, every child who attended that little gathering had a pretty good time, even if they did not understand the full meaning of Christmas. They certainly benefited from the little gifts that people had donated and there was time to reflect and to welcome them again. Unfortunately, what is happening at the grass roots level is not being reflected in national policy. Federal Labor, which is not necessarily blame free, must do some work in this area.

At 5.00 pm, in accordance with standing order 34, the debate was interrupted. The motion for the adjournment of the Assembly having been put and negatived, the debate was resumed.

MS GALLAGHER: Ms Tucker referred earlier to racism in schools. As the Minister for Education I am concerned to hear about cases of racism in schools. I acknowledge that we cannot ensure that racism will not occur in every playground. Some incidents of racism will occur but a lot of work is being done to ensure that inclusiveness and diversity are welcomed at schools. Children must be taught to respect and understand different cultures. When cases are brought to my attention I ask the department to look closely at them to ensure that we are making a clear statement that we reject racism.

A lot of workers in the ACT education system support school environments when issues arise involving people from overseas or indigenous students. I am more than happy to investigate any incidence of racism, as that is something this government rejects. To finish on a positive note, which is what Ms Tucker did, I made a decision not to refer to my daughter in this house. However, as I said earlier, when she asks questions about what is happening in relation to the refugee issue, I will have great difficulty explaining it to her.

Abby's close friends at school—if one has close friends when one is in kindy—are all migrants and refugees from Burma, Laos, Thailand and Vietnam. Abby is learning a lot and she is having a wonderful time with those students, even though there are some communication problems. However, they seem to manage all right. The nice thing about our education system is that young people can learn from and enjoy the opportunities that are presented to them. We can learn from young people how to deal with people in the adult world.

MR BERRY (5.02), in reply: I will not take up much more of the time of the Assembly, though I am happy that so many members contributed to debate on such an important issue—an issue that was enunciated in a pretty straightforward motion. I would like to respond to some of the statements that were made earlier in debate. Mr Cornwell asked why it was necessary to move a motion such as this. Ms Gallagher answered his question by stating that, because we are community leaders, we have an obligation to our community to promote healthy philosophy at every opportunity, to oppose racism and to oppose divisive elements that creep into society—one of the problems that arises in the refugee debate.

In recent years no-one made any great effort to promote the acceptance of refugees, so the community was not prepared for the recent pressure that was felt as a result of the refugee intake. Politicians and other leaders failed to address the issue comprehensively and in a way that would prepare the community. It is our job to send a message to our constituents and to provide leadership on this issue. It is all too easy in the political marketplace to respond to a poll that is undertaken by some sort of marketing company to test community feeling at a particular time. That is what occurs in modern politics. However, it would be dangerous to use such a poll to develop sound ideas in the community.

This straightforward and easily understood motion—which is a means of promoting an idea in the community—is an idea that we are all obliged to sell if want the community to develop into a more wholesome society that embraces all its constituent parts no matter where they come from. I acknowledge the useful contribution that was made by all members in this place, which I know will hold them in good stead. I acknowledge in particular the involvement of Ms Tucker on the refugee issue, as I know she has had a longstanding commitment to that issue.

Throughout our lives we have all been touched in one way or another by this issue. I recall as a little boy—some members might say that that was a long time ago and that I would not be able to remember—being puzzled by a situation in Glebe, where my grandmother used to live. I used to play with a little girl who could not speak English. I was told that she was Romanian and that she came to Australia in that flood of refugees after the Second World War.

It never really dawned on me what it was all about until much later. I can still remember being puzzled by the fact that we could not communicate but that we could play together. We played with little toys and things like that and everything went smoothly, but later on it became clear. The greatest shock that I ever received—I think I have told this story before—was when I met a Chilean refugee who had been tortured by the Pinochet regime, who had been left for dead and who ultimately found

her way into the health system in Canada. She then toured the world to promote the Chilean cause—the democratic cause. She had been tortured, smothered with petrol, burnt and left for dead on the side of the road. One cannot help being moved by such a story, but I wish now that I had never mentioned it.

The refugee issue is a tough one for us to deal with in a community sense. In the end politicians must provide leadership and generate quality ideas for the people whom they represent. That is the aim of this motion. I welcome members' support for my motion and, in particular, the Chief Minister's comments in relation to it. It is well understood that a range of services is provided for refugees in the territory. I also acknowledge that the Chief Minister and the government are committed to reviewing the services that are provided. I am sure that as this process continues and as gaps are found there will be some attempt to address them. I know that all members will keep open a weather eye for issues that affect refugees to this part of Australia.

Question resolved in the affirmative.

General government sector operating results 2002-03—estimated outcome

MR SMYTH (Leader of the Opposition) (5.09): I move:

> That this Assembly directs the Treasurer to provide the Assembly with a formal update on the Estimated Outcome for the General Government Sector Operating Result for the 2002-03 financial year by close of business 25 June 2003.

Mr Temporary Deputy Speaker, it's a little bit galling that we're sitting here when those of us that were in the chamber and saw a document accidentally being tabled know that the thing that I request is probably sitting in the tabling office as we speak. I think it's important that we ask for these updates because, if the information I've been hearing for some time now is true, then the estimate that the Treasurer put before the house on 6 May is something like 100 to 150 per cent out already, the day after we passed the budget. What this government has done is ask members of the Assembly to pass a document without the full picture. Mr Temporary Deputy Speaker, that is an unfortunate trend of this government.

Mr Temporary Deputy Speaker, it could be a little bit out. You can accept it being 5 or 10 per cent or maybe even 20 per cent out on the vagaries of things that might happen. But to probably be 100 to 150 per cent out, I think, is unacceptable. The current government went to the last election on the basis that they could control the accounts and that we should trust the Treasurer because he is an accountant. I think that reputation will be in tatters when we get these numbers, because the day after the budget was passed it is already shown to be a flawed document.

What did the Treasurer tell us when he came down to pass the budget? "I'm delighted to announce the budget remains at surplus over the economic cycle." We've had the economic cycle debate, and the Treasurer's lost that one. "Labor will achieve an aggregate surplus of $66 million over the four-year time frame."

Based on words from the Chief Minister, not from the Treasurer, it would appear we are already at least $107 million in surplus, not the $61 million that the Treasurer estimated. When you look at the chart on the page before page 1 in Budget Paper 2, you can see quite clearly, Mr Temporary Deputy Speaker, that the figures presented to this place are not to be trusted.

Mr Temporary Deputy Speaker, the final position for the financial year 2002-2003, of course, becomes the starting point for next year, and for some time now, indeed since budget day, I've been saying there has been doubt cast on the veracity of the Treasurer's figures. Recent announcements by the Chief Minister—not the Treasurer but the Chief Minister—would lead us to believe that the surplus is at least $107 million. Other sources have indicated to me that it may be as high as $150 million or $160 million. That would depend on whether or not we get paid for the land that has been either legally or inappropriately sold by Mr Corbell's department.

Mr Temporary Deputy Speaker, we'd be pleased if it were much stronger, and that would be great. I've been saying for some time that it should be stronger. However, you have to question how we as members of the Assembly can make informed decisions when we don't have the right starting point.

Today we heard from the Chief Minister, on the day after the budget was passed, there's at least enough money now apparently to build a prison. What's happened between January and June? Remember after the bushfires, Mr Temporary Deputy Speaker: "Oh, woe is us. We're broke; there is no money. Doom, gloom; the sky is falling." Today apparently there's been an announcement by the Chief Minister that a prison worth $102 million is now able to be built because the cash is there and things are so good.

So we have all this extra money. Well, why wasn't that included in the budget? Why weren't we told last night? Why weren't we informed before today? Maybe we won't be informed today and we'll have to wait a little bit longer.

I hope that the Treasurer will accept the direction of this motion and table this document because it was apparent in the estimates process—and you, Mr Temporary Deputy Speaker, were part of that estimates process—that there were concerns about how accurate, how trustworthy, these figures were. This is what the motion is about. Can you trust the figures that the Treasurer has put before us? Is it transparent? Is it open? Is it accountable? Is it honest? They were the words that were used, ad infinitum, by the Chief Minister in the lead-up to the last election, and they are the words that we don't seem to be responding to well. It is important.

What's also important is whether or not the Treasurer will take the opportunity to inform the house when he actually knew that the surplus was going to be much stronger. Did he know before he read his speech in this place, when he said it was only $66 million over the four years, that next year there would be a deficit of $7.7 million?

As I've said, we've now got a prison that apparently can be built because we've got an extra $50 million. We saw the withdrawal of the bushfire tax. That was $10 million. How accurate are the Treasurer's figures? Can you believe him? How sloppy has been the putting together of this budget and then the updating of it that, even before it was passed, fiscal initiatives were being withdrawn and then, the day after it was passed, we can afford a new prison?

Mr Temporary Deputy Speaker, I cannot believe that the Treasurer's estimates can be so wrong and this can be so unexpected. He was warned. I hope he answers my questions, because the rumours coming from the upper corridor certainly were that he knew before the budget was tabled and that officials had briefed him that the surplus was much stronger.

I asked questions in the estimates and I asked questions on notice as part of the estimates process. The answer that really amused me was the one to the question: "Has the surplus gone up?" The answer was: "It has not deteriorated." We've talked about being honest, open, transparent and accountable. That's not accepting scrutiny. "It has not deteriorated." Well, we all know it hasn't deteriorated.

The question is: when did he know? How can he say that, in keeping with their commitment to be honest, open, accountable and transparent, when members of the Assembly haven't been updated? It's a reasonable request in the budget phase to ask for this data; it's a recommendation of the Estimates Committee that that data be tabled. Now we've been forced to move a motion today, because of the accidental almost-tabling of a document which, we all know, is sitting in the tabling office.

Mr Temporary Deputy Speaker, I think you could accept that a budget might be a little bit out at the end of 12 months. That your estimates are so out less than 60 days after the budget has been tabled is quite extraordinary. I predict the degree it is out will cause considerable embarrassment to the Treasurer, because it will show that the work has not been done properly; that his estimates for the coming year are inaccurate; and that, instead of being in deficit next year, we'll be very, very strongly in surplus. The answer to that is sitting in that room, and I hope the Treasurer just ends the charades now and agrees that the document be tabled.

MR QUINLAN (Treasurer, Minister for Economic Development, Business and Tourism and Minister for Sport, Racing and Gaming) (5.18): I do try in this place to avoid being offensive, and I will continue to do so, but I think you've got close to the border, Mr Smyth. There seems to be this passion for finding a conspiracy somewhere, and it does show, I think, an absence of a policy base for the opposition.

Mr Smyth, I think it was only yesterday, you demonstrated the most fundamental lack of understanding of the budget process. You didn't know the difference between the content of a budget and the content of an appropriation bill. Today you compound that fundamental lack of understanding by using the jail as an example of how the bottom line might have shifted—exhibiting again a fundamental lack of understanding of the difference between recurrent and capital expenditure.

I seek leave to table a brief document which I will discuss. I hope that it is distributed.

MR TEMPORARY DEPUTY SPEAKER: You don't need leave, Treasurer; leave is not required.

MR QUINLAN: I table the following paper:

General Government Sector Operating Result—2002-03 Estimated Outcome.

This brief document gives the latest estimate, an estimate that has been given in this place at question time before. It was given by Mr Stanhope; it was given by me. Should we take a recess before we discuss the motion?

MR TEMPORARY DEPUTY SPEAKER: Are you drawing attention to the state of the house, Treasurer?

MR QUINLAN: I'm just drawing attention to the fact that the mover of this motion and the bloke that actually needs to learn a little bit isn't here and might come back.

Mr Stefaniak: He's just had an urgent phone call. Just carry on.

MR QUINLAN: Urgent phone call, my foot! He gets out another press release which says, "Conspiracy, conspiracy." I think Mr Smyth, in matters financial, has some difficulties of explanation. We've seen over the years the perpetuation of the untruth of the fabled $344 million deficit. It's not true, but it's been repeated and repeated.

I have been encouraged—and I mentioned it yesterday—that there seems to be a growing understanding that things financial, no matter where you are, are fluid; just as so many other things in life are fluid. As the common measure of much of what governments do is dollars, then the movement of other things compounds upon the level of dollars.

Let me assure this place that, when I've been satisfied as to the numbers, I've informed this place of the bottom line as it has been relayed to me—not within five minutes, but when I've been satisfied that that figure should be put forward. That has been ever thus. Governments don't come in every day and say, "By the way, we've got a meter," like a jackpot string of poker machines with the figure ticking up and down.

In these pieces of paper that I have distributed, or will be distributing, or have distributed and taken back and will be distributing now—

MR TEMPORARY DEPUTY SPEAKER: Treasurer, the papers have been tabled. It's up to members then to request that from chamber support. Ms Dundas has already done that. It's members' responsibility to do that, not yours.

MR QUINLAN: Can I seek leave for them to be distributed to all members?

MR TEMPORARY DEPUTY SPEAKER: You can make a request.

MR QUINLAN: Thank you. I so request that they be distributed.

MR TEMPORARY DEPUTY SPEAKER: In the interests of transparency and openness, Treasurer.

MR QUINLAN: Mr Temporary Deputy Speaker, with the greatest of respect, this one ain't a joke.

I do this with trepidation. Some of the work on the table on the front—as the documents are being handed out—was done by my own fair hand, and done this afternoon. What this paper demonstrates and what it shows—we want to do it a little slowly—is the operating result, the movement in figures from the original budget through to the estimate that was included in the following year's budget and the actual.

I direct your eyes to the year 1999-2000, when Mr Smyth was in this parliament, when the estimate included for the budget purposes and budget debate was a $63.7 million deficit. The actual result was an $81.3 million surplus. The difference between the original budget and the final actual was $145 million. This is not atypical. Remember. Get it in perspective, for heaven's sake. We're turning over the best part of $2½ billion.

Even Mr Smyth recognised, probably pre-emptively, that if the land at Harrison is withdrawn and re-auctioned it will be re-auctioned next year. There was a $38 million bid for it, which should have been paid. We will score a million out of the deposit. There will be a $37 million turnaround from that one event. So it's not unusual. These figures bear out that, year in year out, there is fluctuation.

I just pulled out the Commonwealth grants figures because they come towards the end of the year. I pulled out gross expenditures to show that, in 2000-2001, the last full year of government by the Liberals, between the estimate they put in their budget in May and the end of the year, the final report, there is a difference of $125 million. Mr Smyth was part of that government. Does that mean Mr Smyth can't be trusted? Or does it mean that the best estimates of Treasury are exactly that—they are estimates.

We've had, I think, some acceptance during the last year or so that things are relatively fluid. But every now and then we return to the anal: "You said it was $53 million and it's not $53 million; you can't be trusted." What's been provided from time to time is the best estimates that have been available.

What is clearly demonstrated to you is that this is not an atypical event; that over time there have been such years with fluctuations; that there have been such years with fluctuations from a government that you were involved in, Mr Smyth. I know that it was run mainly by Mrs Carnell and, latterly, by Mr Humphries and that you didn't have a lot of say; nevertheless, you're connected to it. So can you be trusted, Mr Smyth, because of these figures?

I don't care if you move a motion like this; that's fair enough. But the language that you stoop to from time to time is just getting close to the edge. You've demonstrated, as I said yesterday, that you don't know the difference between a budget and an

appropriation bill. Today you've demonstrated that you don't know the difference between cash management and accounting, the difference between recurrent and capital expenditure.

You've got evidence now in front of you to demonstrate that the events that have occurred in recent times are not atypical, and you've got the hide, I bet, to put the press release out now: "Don't know what they're doing. Blah, blah, blah." It is an appeal to people's lack of understanding. People don't understand the complexities of accounting or how finances can be fluid. But there ain't no profit in me bodgying the figures, giving you wrong figures.

We've told you in this place a couple of times that officially it's $60 million, it could be $100 million, it could be more. Only time will tell. There has been quite clearly a history that things improve towards the end of the year. Let's hope it happens again. How about we celebrate!

There were a few other things said yesterday that I didn't quite address and that are associated with this matter. I think you, Mrs Burke, were one of those who were saying, "You've made all this money; why don't you do so and so?" Again, there's a fundamental lack of understanding between having the heap of dough but setting trajectories out forever, indefinitely. You can't actually put in place programs unless you know you've got continuous funding for those programs. You can't actually live just in the present; you must take account of the future.

The budget is our best endeavours. It won't be right. I'll say it now: it won't be right. There's probably not a damn line in it that will fall out exactly, unless it's the grant line where we just write the cheques and make someone else fit the circumstances. But circumstances will change. For God's sake, can there be just some flexibility of thought in this place instead of the "Ha, ha, it's different. Nya, nya, nya". Let's go and paint the picture.

Mr Stefaniak: Well, you've got the money, Ted. You can build the prison, mate. Pass my sentencing package to slot a few crims in there and pass his corrections package which will rehabilitate them.

MR QUINLAN: If I might allow myself to be diverted: Mr Stefaniak, that's one of my major concerns. Build it and they will fill it.

In regard to the numbers: you have what I have. You also have perspective; you have context. For God's sake, look in context at what you get from time to time.

MR SMYTH (Leader of the Opposition) (5.30), in reply: Mr Temporary Deputy Speaker, I thank the Treasurer for the document.

Question resolved in the affirmative.

Inquiries Amendment Bill 2002 (No 2)

Debate resumed from 21 August 2002, on motion by **Ms Dundas**:

> That this bill be agreed to in principle.

Debate (on motion by **Mr Quinlan**) adjourned to a later hour.

Gaming Machine (Allocation) Amendment Bill 2003

Debate resumed from 18 June 2003, on motion by **Mr Stefaniak**:

> That this bill be agreed to in principle.

MR QUINLAN (Treasurer, Minister for Economic Development, Business and Tourism and Minister for Sport, Racing and Gaming) (5.33): Mr Temporary Deputy Speaker, it won't come as a surprise that the government will not be supporting this bill. It's been a matter of public debate for some time. Our position and our platform position are fairly clear, and that really swings on the fact that the government believes that poker machines and the proceeds of poker machine operations should remain within the not-for-profit sector. As such, we will not be supporting it.

MS DUNDAS (5.33): I'm a bit concerned because I think I'm going to take a little more time to say what I need to say than the Treasurer did. But to look at this bill in detail, the Gaming Machine (Allocation) Amendment Bill: it raises a host of issues about regulation and ownership of poker machines in the ACT. The massive growth in poker machine numbers during the 1990s did lead to huge profit increases for ACT clubs which now depend on poker machines for over three-quarters of their revenue.

With rising profits, clubs drastically alter the way they allocate their funds. In addition to cheap food and alcohol, they've moved into huge capital investment projects, both inside and outside the ACT, as well as new commercial ventures such as accommodation, fitness and real estate.

Many ACT businesses have lost income, and some small business owners have lost their livelihoods. This is due to no fault of their own but to the unfair competition which has seen not only poker machines denied to all operators but also clubs enjoying significant taxation advantages.

As the Productivity Commission report on Australia's gambling industry notes:

> Large clubs have the appearance of being more like commercial enterprises, with expert commercial management and ambitious expansion plans.

I understand that this distortion in the ACT economy is generated by the restriction of class C poker machines to licensed clubs, and this is the primary reason why Mr Stefaniak has presented this bill to the Assembly. I sympathise with his intentions, since I've spoken to a number of business owners who say they struggle to compete against the expansion of registered clubs into their industries. This problem has been virtually ignored by governments—by this government and by former governments.

We also need to be looking at this issue from the perspective of problem gambling. Much has been made of the fact that class C poker machines are currently restricted to

registered clubs in the ACT. We have previously heard the Chief Minister stand up in this Assembly and declare that there will be no pokies in pubs, as if this was a great policy initiative preventing problem gambling.

Actually, there is very little evidence to show that the ownership of the machines has much impact on problem gambling. In fact, it appears to be a very odd idea that a problem gambler will be more tempted by a poker machine if it is owned by a private operator. Only one argument specifically relates poker machine ownership to problem gambling, being that a not-for-profit entity is less likely to encourage gambling, because their profit-taking motive is lesser.

However, there is no evidence to back up this theory. In fact, we see frequent electronic advertising by registered clubs, including television ads that depict gamblers at poker machines, with huge wads of cash, and big grins on their face. It does appear that there are many people in the ACT who are willing to heavily promote gambling in the ACT.

The second major argument for restricting poker machines to non-profit, registered clubs is that the resulting revenue goes back to the community. Firstly, I believe that this actually has nothing to do with problem gambling. Secondly, I think it is wrong to try to defend something that does a social harm by arguing that a related social good is compensation. This social mathematics has no logical basis, but we can ask whether this theoretical social good is being delivered by clubs and whether this could be as easily provided by the private sector.

Most benefits provided by the clubs industry are already provided by the private sector. Clubs originally filled gaps in the market where private incentives were too small, particularly by bringing together interest groups, be they sporting or ethnic, with the proliferation of poker machines. This has substantially changed. Whoever has the poker machines, the associated employment and economic activity will be similar. That clubs give part of their revenue back through cheaper alcohol is of dubious social benefit, especially considering concerns about the increase in binge drinking and alcohol consumption, especially among young people.

Private operators are also able to donate to sporting teams and community organisations. In fact, the Gambling and Racing Commission has criticised the low levels of community contributions by clubs, particularly to social welfare organisations. The commission has even recommended that the level of social welfare contributions be legislated. The community benefits of poker machines are clearly better enforced by regulation than by trusting whoever owns them to fund community organisations that provide the greatest benefit to the community.

But the idea that poker machines should be only restricted to not-for-profit organisations begs the question: why only poker machines? What about casinos, lotteries, and sport betting? Why is it okay for some forms of gambling to be run by private operators but not others? What is so special about poker machines?

If the government is serious about returning the profits of gambling to the community, I expect them to present legislation banning private operators from operating any form

of gambling; otherwise this argument of returning gambling profits to the community is simply a smokescreen.

Other arguments against allowing poker machines outside registered clubs are actually arguments for better regulation of poker machines, irrespective of where they are. I believe it was Ms Tucker who previously mentioned research indicating that proximity to residences has a large effect on the incidence of problem gambling.

The Victorian government even restricted the number of poker machines in the suburbs, particularly near low-income areas. The message here is not that clubs are better for problem gamblers but that we need to pay closer attention to where poker machine venues are located and regulate for this appropriately.

We should consider removing poker machines from our suburbs and restricting them to town centres and larger commercial areas. The restriction of poker machines to clubs has not stopped the drift of pokies closer to residential areas. In fact, as Mr Stefaniak mentioned in his opening speech last week, a number of suburban taverns have shut down, only to be replaced by a club with poker machines in exactly the same place.

Another argument is that allowing poker machines beyond registered clubs will greatly increase access to poker machines. Once again, this is an argument for better regulation. Perhaps a cap on the number of venues with poker machines or maybe a cap on the number of machines per venue would be better. There will always be a market for venues without poker machines. Indeed I think that there are still a number of clubs that don't have poker machines.

The commission should be able to consider the number of venues that have access to poker machines and be able to restrict the proliferation of venues. The simplistic idea that restricting poker machines to clubs will stop this proliferation of venues has proved ineffective and is inequitable.

There is also the idea that the need to sign in at clubs or to be a member allows a greater ability for problem gamblers to self-exclude. However, in practice, many venues are left unattended or are laxly supervised. Once again, this is an argument for greater regulation of venues. A requirement to identify patrons before allowing access to poker machines could be applied to any venue, regardless of ownership.

A lot of hype has surrounded the proposal to extend poker machines beyond clubs. Opponents try to paint a picture of every pub and hotel being filled with wall-to-wall poker machines. But the reality is likely to be somewhat different.

Firstly, this bill only allows a small number of machines at each venue. Secondly, there are only a few machines left within the ACT cap to be distributed. This means any change will operate completely differently from the situation in New South Wales and Victoria where the introduction of poker machines in pubs was accompanied by a huge increase in the number of machines. Thirdly, the ACT has introduced additional requirements, including staff training and the addition of higher taxation of private enterprises, so that adding only one or two poker machines is only marginally attractive.

The biggest argument against the idea that poker machines will sweep the territory is the previous conduct of the Gambling and Racing Commission which has approved few applications for additional venues or increases in machine numbers. And there is no reason to believe that this would change if this bill were passed.

Consecutive governments have used the restriction of poker machines to clubs as a substitute for proper regulation. Instead of providing an evidence-based approach to regulation, the government's policy basis seems to be: we think that clubs are good for the community; so if we restrict poker machines to clubs, then everything will be okay. This is not an informed policy, nor is it accurate.

The ACT's regulatory framework for poker machines is inadequate and ad hoc—and I can't keep repeating this enough. We are looking for change. We are looking for a regulation system that recognises that we do have a number of problem gamblers in the ACT and that we need to better manage that. We have repeatedly called for the government to provide us with a comprehensive framework for dealing with gambling in the ACT. We have had, from memory, three reports in the recent past that call for a complete overhaul of poker machines and gambling in the ACT. Yet this government still has not progressed.

The Gambling and Racing Commission cannot effectively manage the existing allocation. Poker machine licences continue to be released in perpetuity, with no ability for that application to be reviewed. The commission is unable to remove inappropriate machines from venues or refuse undesirable applications if criteria are met. This leads to the discussion we were having this morning about the Belconnen pool, where the premises have been licensed but zero poker machines have been allocated because that is the only way that the commission can deal with that situation.

We need to stop expecting poker machine numbers to rise and rise. We need to start thinking about managing our machines dynamically and empowering the commission to authorise the cancellation and reallocation of existing licences. In this way not only can machines be transferred to locations or proprietors most likely to minimise problem gambling but new areas and new venues can be provided with machines without increasing the total number of machines. In fact, the number of machines could be aggressively reduced.

I would like to say in conclusion that this is not meant to be in any way an anti-club statement, nor is it meant to be to a certain extent a pro-tavern or pub statement. My main concern with relation to poker machines is how they are regulated, irrespective of where they are.

I've said today—I've said before—that we are actually approaching this whole thing in very much an ad hoc way. We dispense with one piece of legislation today relating to what happens in venues where there are poker machines. We have this debate now. We've had another piece of legislation dropped on us this morning by Mrs Cross in relation to pokies and gambling venues. This is a very ad hoc and piecemeal way to deal with the entire situation.

To that extent, I am quite uncomfortable with what it is that Mr Stefaniak has put forward today in that it's just another piecemeal piece of legislation. But I believe that the essence of what is trying to be achieved—in that we do need to be looking at how poker machines are allocated, where they are allocated and the restrictions that we put on the machines and not so much on the licensing requirement for that venue—does need to be deeply explored.

I again repeat my call for the government to take the lead on this. You have the reports; you have the commission providing you with information; you have a department working on this. Yet, we are doing this piece by piece. I don't think that is a productive way to continue to move forward in dealing with problem gambling or the proliferation of poker machines in the ACT.

If the government would come forward with a proposal, a discussion paper or some type of constructive consultation with all of the community, we might be able to actually move forward, as opposed to inching forwards and backwards as this Assembly has been doing with this issue.

I do think that this is a very important debate—and I'm glad that we're having it—but, in terms of looking at this as a big picture, this is just one other amendment that doesn't look at the entire community; so it is to a certain extent disappointing to see that we do have to do it in a piecemeal approach, as I've already said.

So I thank Mr Stefaniak for bringing this on for debate today. I hope that the government is listening to what it is that the community is saying and what it is that the Assembly is saying here today: we do need a complete overhaul of the way poker machine licences are allocated and of gambling in the ACT.

MS TUCKER (5.47): The Greens won't be supporting this bill. I notice Mr Stefaniak has, in his presentation, spoken a lot about the need for justice and equity. I believe that that call is really only looking at justice and equity from a particular perspective, which is equity for particular businesses. What the Greens are interested in is looking at a broader concept of equity.

I understand that some taverns are struggling. They claim that is because they don't have poker machines. I know that some small clubs who do have poker machines are struggling and are closing down. I also know that some taverns are doing very well. I acknowledge that the clubs are able to subsidise alcohol and food from the revenue from the poker machines. I acknowledge that creates a disadvantage for the taverns and hotels that can't compete with those sorts of prices.

I also want to get on the record that I am very concerned about the club industry generally in terms of what's happening to it—the size of the clubs. The concern I have is that really they're moving away from the community roots and the notion of the community club.

But I think it's important to note that these smaller clubs, even with poker machines, are also struggling and are closing down. So you have to see it as a broader issue about big and small as much as the question of having poker machines or not.

Ms Dundas raised a hypothetical question, to a degree, about why we keep focusing on poker machines and why we have casinos in the private sector and other forms of gambling in the private sector. The reason that there is so much attention in Australia, and in fact world wide, on poker machines is that poker machines are a particular problem. I received a letter from Lifeline, and I'll read part of it:

> I am writing with regard to the proposed private members bill allowing hotels and pubs to install up to 10 poker machines. I urge you on behalf of Lifeline Canberra and many clients that we see not to support such a bill.
>
> Lifeline Canberra runs gambling care, the only specialised counselling service for people experiencing difficulties with gambling. As you may be aware, most people experiencing problems with gambling in the ACT have problems with electronic gaming machines. In any year more than 80 per cent of our clients will be EGM players.
>
> Our counsellors work with clients to overcome their problems of gambling. In doing so, they hear firsthand of the incredible hardship and distress which problem gamblers and their families face. Many of our clients tell us that they have contemplated suicide as a way out of their gambling problems. Lifeline Canberra is firmly of the view that no additional electronic gaming machines should be permitted in the ACT.
>
> A significant factor in development of problem gambling can be attributed to an increase in accessibility of gaming machines. Introduction of poker machines in hotels or pubs or to the casino would increase accessibility and would also increase the number of people who develop problems with gambling.

I've received a lot of correspondence on this, taking different positions on it, obviously; people have different views on the issue. I'll just read to you one more letter, to give a sense of how some people who are personally involved feel about this. This person wrote:

> As a concerned wife of a husband who has a poker machine addiction, I am pleading with you to please not give your support. My husband has a drink at the local tavern so as not to be tempted by poker machines in clubs, where on numerous occasions he has gambled his whole pay away.

That's just an example of one person who's dealing with this issue.

But that is not, obviously, a reason to support a particular position on this policy. I'm reading that out as an indication of one person's experience. But obviously when you look at what's coming from Lifeline as well, which is the key counselling organisation that's assisting people with this problem, the position that this woman has put is supported more broadly by Lifeline.

The real issues are justice and equity—and I will come back to that. We want to look at social justice and equity; we want to look at the adverse impacts of gambling on our society; and we want to look at how we can, as much as possible, reduce the harm associated with poker machine use. The figures that we are given, of course, are just

the tip of the iceberg; there are all sorts of academic arguments about how you define problem gambling. But what we know—there is general consensus on this—is that the number of people who are even identified under the current system as having a problem with gambling, and that is at the extreme end, impact upon at least 10 other people.

We also know that there are extremely large costs to society and that society has to carry the costs of those problems, through things such as counselling, employment loss, fraud, legal costs and so on. New South Wales at one point in time did actually estimate the cost. From memory, it was about $48 million in the year that they did it.

So the question we have to ask as a community is: what do we do to reduce the harm? We need to answer that, and to answer that question we need to look at the research that exists. As one of the people who were instrumental in having gambling looked at in this Assembly and having the Gambling and Racing Commission established, I know there was very little research when we first started looking at this, which was in about 1996.

We know that there was already in Sydney a gambling institute. Jan McMillen was doing the work then, as were a couple of other academics. But since then, of course, there's been a much broader interest in the research that's occurring, and we have the ACT government now supporting the capacity at ANU for us to have our own research into the issues so that we can actually assess the social and economic impact of gambling on our community.

We've seen this government increase gambling tax in this budget, which is not a wise move, according to most commentators. We know governments are already heavily addicted to the revenue that comes from gambling and have to be concerned to see that addiction increase. It's a very easy slug on the community as a tax, and one that doesn't bring a lot of controversy, except from people who are concerned about the social harm. That's the position that Ms Dundas and I are particularly putting today.

One of the things that have come out of the research—an argument put forward by the taverns—is that they'll have a smaller number of machines; that therefore will reduce the capacity for anonymity; and that will make it difficult for people to gamble in a problematic way. However, the Productivity Commission found on that that the anonymity was not that important; what's a greater influence is the access to the gambling facility. That's coming out consistently in all the research. Quite recently, Dr Marshall, a PhD fellow, had a presentation on the geography of gambling and concluded that the correlation between location and gambling activity was definitely there; it was certainly more pronounced than the socio-economic divide.

He said that the research was finding more gambling intensity within population areas with high EGM concentration than within population areas with less EGM concentration and that increased frequency is more important than the time spent gambling. Once again, if it's easy to do, if you get there, it's more likely to be a problem that will increase the frequency of the gambling, which obviously leads to the issues of problem gambling.

As to the increased access: enough said. That leads to greater gambling. They have an assumption—they call it distance decay—that there is less involvement the further that machines are from EGMs; people within 500 metres are more likely to use machines more often and for longer.

Basically, what I'm saying here is that the research is supporting previous research, which was that we do have to be aware that the easier it is, the more we make venues that have poker machines more accessible, the more the problems are going to increase. That is the reason that we are not prepared to support this bill, basically.

What we know is that this would be setting a precedent, even though it only involves a few taverns and hotels at the moment. Of course, once this is accepted, then you have the potential, as you see with clubs, for organisations to come in and become very large and very well off as a result of having poker machines. You will see an increase in gambling resulting from that.

I remember, in lobbying from the Hotels Association, I was reassured, at one point, that I needn't worry, because it wouldn't have an impact on the clubs' revenue and the clubs' money that came from the poker machines, which was an argument, in my view, for not supporting it. What was explained to me was that yes, more people would be gambling, or there would be more gambling, if you increased the availability in that way, but it would not have an impact on existing businesses. Obviously more people would be using the product. That's exactly what the research is saying will happen.

I know people think that we're overstating the problems associated with gambling—or that's one of the arguments that are put. But I don't believe that, when people put that argument, they support it with figures and costs, cost analyses of actually what the impact is; not only the financial costs—although, as I said, it has been done; New South Wales did it once—but the social costs as well; and what it means for people if they have someone close to them who is gambling inappropriately. What is inappropriate is a value judgment, of course.

As much as we focus on responsible service and responsible gambling, stopping people smoking, putting clocks up and the like, you will find, as the evidence has supported, that this problem will increase as you make gambling more accessible; and you will see an impact on society. The people who will be impacted upon quite often will be innocent, and they will be the families of people who are gambling inappropriately. As I said, it's definitely a value judgment about what's appropriate and not a judgment that someone can make from the outside.

It doesn't matter how much we talk about responsible service. One person can responsibly gamble $1,000 in a weekend, depending on their income, obviously. Another person can be totally irresponsible in gambling $20 in a weekend if they're on a Centrelink pension. As we all know, if you live on a Centrelink pension, you're under the poverty line anyway. If you've got a family depending on what's already under the poverty line in benefits from the federal government, then that $20 is inappropriate. Gambling venues—and the clubs put this line, and I reject it—say that

they will be able to stop inappropriate gambling. I don't believe it. I think it's quite spurious to ever suggest it. They obviously cannot do that. What they may be able to do is occasionally touch on someone who has an extreme problem.

MRS BURKE (6.00): I was not actually going to talk on this but, having had a small business myself for some 14 years, I can identify with a few of the things that have been said. Mr Stefaniak, in closing, will give some statistics and numbers—that is not my forte, although I know that these taverns and small clubs want a small number of machines—two. They want to be able to upgrade. Some of them are struggling businesses. How can they possibly compete in a marketplace such as Canberra? I will refer back to that in a moment.

An argument has been put that, if they are struggling, they should not be in business and that just having poker machines won't be the making of these businesses. That could be true to a certain extent, but businesses have to change. Environments change, so businesses have to be innovative and find different ways to support activities. This is not about supporting gambling per se in a big way, and I will move on to that, too.

Mr Stefaniak has put forward a very fair request. I also agree with Ms Dundas's comments that we perhaps need to take a broader look at the whole allocations situation. That is a very sensible comment to make. It will create a more level playing field. I, as a businessperson, can understand the cry from the smaller tavern owners. It is very difficult when a virtual monopoly of bigger businesses continually swallows up everything you are trying to do. What we are proposing here allows small operators the option to mix and match.

I find it quite amusing: we carp on about discrimination in this place and people's rights. Is this not a form of discrimination, if we looked purely and simply at what is being proposed here? I also wonder why the government is so keen to see the control of the big club revenue stay just there, with the big clubs. Mr Stefaniak will probably articulate this much better than I can but, from a simplistic point of view, these taverns would have to contribute gaming tax more than the bigger premises. Mr Stefaniak may help me on that one.

Many small taverns are huge supporters of their local communities. All the industry wants to do is keep pace with the times and upgrade. I immediately think of a couple of taverns and tavern owners that I know. It is a place of community; it is not a place that condones alcoholism or any of those things. There are some very responsible club owners, tavern owners and small club and hotel owners in this town. They would not be in business if they were not. Those that are not good will not keep pace with the market and will fade away anyway. That is business.

We are talking about a situation where, with the size of some of these machines, many clubs are not physically going to be able to get more than the actual number required at this stage. That may or not be a point. I do not know.

Gambling certainly is a problem in our community. We are casting some grave things upon our tavern owners when we say that gambling is a big problem and they should not have these machines, and that is that. Are we saying that they are irresponsible?

Are we saying that they are less irresponsible than the big clubs? Are we saying that they do not really care about people in the community?

I think that is a slur on small clubs. I think that small tavern, club and hotel owners have a far better relationship with their clientele and patrons than the informal big clubs that we have in our city. It is a much easier place to make friends. Coming from the Old Dart, for me pubs were very much a place of meeting and befriending people. You did not have to have beer. I can go into a tavern next door to my husband's business and have a coffee or a sandwich; I do not have to sit there playing the gambling machines or drinking or smoking if I do not want to.

We have got to be a little bit sensible and not so precious—saying "This is definitely not" and, "We cannot do it"—bearing in mind the review that Ms Dundas has suggested would also be a good idea. I would have thought it much easier to fulfil our responsible gambling management at this level, at a community level, where mate looks after mate, rather than in some of the very large, and often impersonal, clubs where you can wave in and wave out and nobody knows you. I am a member of a couple of those clubs. You could drift in and drift out and gamble your life away, and nobody would really care.

A far greater duty of care is exercised by people in taverns because it is a place of community. They support the community that they are in. Ms Tucker alludes to the fact that people are more likely to gamble if the machine is near. That may be so in some cases. But then we go onto another tangent about heroin injecting rooms. Therein lies another little gem. I think we need to be careful when we talk about that too. Poker machines are a source of revenue, income and entertainment to many people. I have to laugh here because it is marvellously hypocritical of this government. They had a stab at me in relation to the Currong apartments scratchie scandal. How hypocritical. Come on, give me a break.

Ms Dundas raises an intelligent point, and I keep reiterating it: maybe it is time we had a review of the whole allocations matter. Where is the equity and fairness in this government's dealings with smaller business? Taverns and pubs are small businesses, and I have given some very good reasons why two upgraded and modern machines are not going to be the downfall of people. I was actually accused by our esteemed Chief Minister and minister for housing of being the downfall of people with a $5 scratchie. Well, surely the same applies—or does it not? Maybe not. We have moved the goalposts; that is probably right.

Smaller taverns can be more price competitive when they offset the cost of their meals, and Ms Tucker alluded to that. When you have got gaming revenue, it is easier to keep the cheaper meals. The bigger clubs have got it down pat; they can do it all the time. There are people I know who cannot make it by bus or car, and maybe they need to be able to walk a short distance to a club. Older people in our community need facilities like this where they can meet. It is a meeting place; it is a place where they can go.

If clubs cannot offer an alternative in terms of cheaper meals, I think that is sad. That is being discriminatory and inequitable. Do we want to be known as that? Again, I am not espousing the virtues of gambling or otherwise. That is people's choice. But if we

do not agree to this, we are not giving our smaller taverns and clubs the opportunity. We are being very unfair and unreasonable.

Some of the comments made have been very close to inferring that small tavern and hotel owners do not act responsibly in relation to the care of their patrons, and it seems that only the big clubs can manage. Therefore, they will have the machines. They are the only responsible ones. Not so. I object to that. I think that is downright wrong, and I think it is rude to suggest that. I would suggest that the opposite is true. In a small venue there would be a better opportunity for owners and landlords to exercise a duty of care over their patrons. I will be supporting Mr Stefaniak on his move here, and I urge other members of this Assembly to give careful consideration to the bill.

MR STEFANIAK (6.09), in reply: I thank members for their contribution.

Mr Stanhope: Is this your bill, Bill?

MR STEFANIAK: It is, Jon. I was a little bit worried initially, with Mr Quinlan doing a 30-second burst and only Ms Dundas in the chamber, but it has ended up a reasonable debate. I think my colleague Mrs Burke made some excellent points, and I will go through some of the comments other speakers have made.

Mr Quinlan was very brief. He stated the Labor Party's position of going for not-for-profit. A big problem for the Labor Party in this is the absolute hypocrisy of their position. They receive significant funds from clubs—over $300,000. Indeed, 20 per cent of the pokies reside in the Labor Club group, so Labor have a conflict of interest in any debate on poker machines. I would have liked Mr Quinlan to say a little bit more, but he did not, so we will leave that there. He is, at least, predictable. I did not expect the Labor Party to budge on this one iota, and I think that is quite sad.

Mr Quinlan: Scratchies bad, pokies good.

MR STEFANIAK: Could you control him please, Mr Speaker? I will come to Ms Dundas, if members just shut up. Ms Dundas talked about problem gambling. She made some good points, too, in relation to not-for-profit. She stated that other forms of gambling run by organisations are not necessarily not-for-profit.

Newsagents come to mind. Talk about the ubiquitous scratchie, which we have heard a lot about around here lately in terms of the budget. You can get that at newsagents; you can get lotto tickets. There is a small commission, not much at all. But newsagents are not not-for-profit organisations. They are business people, they are a very important part of our community, and they get some money from gambling. Someone mentioned the casino. That is a for-profit organisation that has gambling. There are, as Ms Dundas correctly says, a lot of organisations that receive money from gambling and are not for profit.

Ms Dundas makes some very good points on how machines are allocated, and she has cited an example recently. The gaming commission has proved to be pretty tough and rigorous in how it does things. She mentioned the cap being extended. In my bill this is all done within the cap. It enables class C machines or B machines to be distributed

in accordance with the cap. It reserves 192 machines for taverns and hotels, all within the cap. That is hardly a proliferation.

She mentioned piece-by-piece legislation. I think she is supporting it—I am not too sure—and complained about that. Unfortunately, in this house quite a lot of things are done piece by piece. But this particular piece of legislation is simple, and it is eminently sensible. It relates back to sections put in an act about 19 years ago. It is an issue that has been around for that long.

Taverns and hotels have consistently sought access to up-to-date machines within the current legislation for premises with general licences—hotels with accommodation for 12 or more persons. That has been there for about 19 years. All this does is give them fair-go access to modern poker machines. Nothing more, nothing less. I do not think that is piecemeal; it is actually very basic.

I knew Ms Tucker was not going to support this, and I thank her for telling me that beforehand. She made a number of other points. She stated that, yes, there are some struggling hotels, some struggling taverns and some struggling clubs. Some are, some aren't. It is basically the same for clubs. So what is the thing there? I could tell her, to start with, that not all taverns or hotels would take up this offer anyway. There are some that, by the very nature of their business, would not want to go down this path. But it is there to enable them to have access to these machines. I want to make that point for her.

In terms of equity, we are dealing with little suburban taverns. We are not dealing with some of the trendy joints around town, which would not be remotely interested. We are dealing with struggling little suburban taverns. We are dealing with small hotels. We are dealing with six hotels that satisfy the accommodation criteria and, as I said when I introduced the bill last week, provide very important tourist accommodation services.

I gave the example of some visitors from New South Wales who visited the Gold Creek Federation Square tavern wanting a little flutter and moved on. Indeed, a number of people have gone to that establishment and walked out because there were no gaming machines there, and they went off to a nearby club. It is a question of fairness. It is a question of these businesses—which are very important for our tourism industry and for the suburbs, as Mrs Burke very capably said—being a community centre and a place where people go to meet with their friends. It is very important for them.

Ms Tucker talked about addiction and pokies being a particular problem. A gambling addict can be addicted to virtually anything and, yes, I suppose poker machines can be a problem. But to overcome the problems Ms Tucker talks about, you would need to ban poker machines totally. As long as there are some, if you are addicted you are going to go and play them.

I cannot really understand that argument from someone who supports a controlled heroin trial as a way of monitoring heroin addicts and keeping them alive as a bottom line. A corollary would be: if you are a gambling addict, at least if you are in a small place—be it a tavern, hotel or small club, where people know you and

care about you—you are far more likely to have your gambling habits controlled, as with a heroin habit, than if you are in a big, anonymous place.

I do not subscribe to shooting galleries or heroin trials. I know Ms Tucker does, and in this she is contradicting her own rhetoric about supporting heroin trials. People in the ACT have lots of access to poker machines. Mrs Burke, and maybe Ms Dundas, too, made some comments on how easy it is and how, especially in a larger establishment, you can get swallowed up. You are anonymous, no-one necessarily knows you, and you can give your addiction full rein there.

When I introduced this bill, I gave a personal example, from when I was helping on the board of a small club, of how you can assist someone who might have a bit of a gambling problem because you know them and can say "Hey, mate. Stop. You're going a bit overboard." If you know someone, you are able to do that. I have yet to see that happen in a big establishment. If anything, this may assist some problem gamblers.

Taverns and hotels will also contribute to things like the community contribution fund. If they get the poker machines, their rate would be somewhat higher than for the clubs. There are some issues of equity here. This is a very simple bill. Ms Dundas commented on how a number of taverns have gone broke and have been taken over by clubs. What could have been two machines might be 70 or more machines because a club has gone in. That does nothing to help problem gamblers; that is very much a proliferation.

In terms of equity, little hotels and little taverns have to charge a hell of a lot more. They are not on a level playing field whatsoever. They are charging something like $3 for a schooner instead of $2.40 or something, which you can get at a club. Trying to compete with the meals is very difficult. They are charging nine or 10 bucks for a counter lunch instead of the five bucks you can get in a hotel. They are quite clearly not on a level playing field, which makes it very difficult for them to compete.

This bill will assist in some way. It will assist people who have had trouble even taking a holiday because it is a family business, and in many instances that is what we are talking about. These are people who have been working, say, for seven years and have difficulty getting away. This bill might assist them to hire casuals for three or four weeks to enable them to have a break. It might assist in terms of people not having to do two jobs and running themselves into the ground. Why do they stay in the industry? They like it because it is a people industry. People like that might not have to do two jobs.

There is so much inherent fairness in what we are trying to achieve here. We are not about extending caps. It is not a foot in the door to open the floodgates. These people do not want the floodgates opened; they just want a fair deal. They already have access to two non-existing class A machines—the last one went out in 1994—and, in the case of the six hotels, up to 10 class B machines. But they do not have access, and they never have had access, to up-to-date class C machines.

That is all they are after. They are not after more. It is not like the taverns want to have six, 10, 15, or 20. It is not like the hotels want to become poker machine palaces

with 40, 50, 60 or 100. Far from it. They just want a fair deal. That is all they are seeking, and it is quite clear from the numbers in this Assembly today that that fair deal is not going to be given to them. It is very regrettable. It denies them basic justice and equity.

Question put:

> That this bill be agreed to in principle.

The Assembly voted—

Ayes 6		Noes 8	
Mrs Burke	Mr Stefaniak	Mr Berry	Mr Quinlan
Mr Cornwell		Mr Corbell	Mr Stanhope
Ms Dundas		Ms Gallagher	Ms Tucker
Mr Pratt		Mr Hargreaves	
Mr Smyth		Ms MacDonald	

Question so resolved in the negative.

Inquiries Amendment Bill 2002 (No 2)

Debate resumed

MR STANHOPE (Chief Minister, Attorney-General, Minister for Community Affairs and Minister for the Environment) (6.26): The government has substantial concerns with this bill and believes that it should be opposed. Ms Dundas proposes that section 14A of the Inquiries Act 1991 be amended by repealing subsection 14A(3). By omitting subsection 14A(3) of the act, she would remove the limited privilege, currently provided by that provision, of inquiry reports made public by a Chief Minister outside the Assembly. This would have the effect of requiring a report to be brought before the Assembly before any privilege applied to it.

In her presentation speech, Ms Dundas said that her bill was in response to concerns related to the way the report of the board of inquiry into disability services was made public. Following consideration of the report, and legal advice received, I decided to make the report public by tabling it in the Assembly rather than outside the Assembly. This was done to afford the report full parliamentary privilege, which resulted in criticism as the release of the report was said to have been delayed.

The effect of Ms Dundas's bill would be that, in order to attract privilege, the release of all reports produced by boards of inquiry would be delayed until the Legislative Assembly was sitting. Such a delay would not, in all cases, be acceptable or appropriate. This bill may mean that the implementation of measures to address issues—for instance, identified in inquiries—would need to be delayed.

Ms Dundas's bill is defective in that it considers only a single issue and fails to consider the workings and objectives of the act in a comprehensive way. As I previously announced, I have asked the Chief Minister's Department to undertake a

full review of the act to examine all major issues raised following the release of the Gallop report, including the associated legal proceedings, not just the issue of parliamentary privilege.

It is expected that a number of amendments will flow from that review to the Inquiries Act. These will provide for, amongst other things, clearer requirements for ensuring procedural fairness, whilst ensuring that investigations are not impeded and that appropriate immunity provisions exist. This integrated approach will ensure a more effective and longer-term outcome than piecemeal reforms. The review is well advanced and should be completed in time for the August 2003 sittings.

With regard to the amendment proposed to section 14A of the act, it is important to note that section 14A was introduced for inclusion in the act by the Carnell government in 1996 as a response to issues that arose out of the release of the Stein report. The purpose of inserting section 14A of the act at the time was to clarify the privilege status of reports made under the act and provide protection from defamation should a report be distributed prior to being tabled in the Assembly.

Ms Dundas's bill would, instead of providing a solution, actually reverse the whole process and result in a return to the situation that existed prior to the 1996 amendment. While the 1996 amendment was intended to cover issues associated with an early release of a report in case the Assembly did not sit for a considerable period of time, it failed to examine other issues surrounding a report, especially those associated with the various aspects of parliamentary privilege itself and the issue of protecting persons adversely named in a report.

A more considered and integrated approach to the issues is advocated and the government has, as I said, commenced a review to achieve just that end. These are the reasons the government will oppose Ms Dundas's bill.

MR STEFANIAK (6.30): Firstly, I thank Ms Dundas for the document she gave me this morning and the summary of her bill. This was introduced at about the same point Mr Humphries introduced a bill, and I thank Ms Dundas for the talk this morning. We had a good chat, if only briefly, in relation to this.

The opposition, too, will be opposing this. I have a lot of sympathy for what Ms Dundas is attempting to achieve, and it is really a question of the best way of achieving it. It is very different to the bill Mr Humphries put in. I suppose both of them—and, indeed, what the Chief Minister says he is trying to achieve—are going down the same track.

We recently passed an act to enable protection to continue for the McLeod inquiry, which is apparently going to be brought down out of session. Ms Dundas's bill would ensure that, once anything is tabled in the Assembly under the Inquiries Act, privilege flows from there. But it does have to be tabled in the Assembly. Mr Humphries' bill indicates it could be tabled outside of sitting. Given that the Assembly sits from about 42 to 45 days a year, albeit spread out with significant gaps within that, when an inquiry is finished, the public would expect the report to be tabled promptly.

What led to these bills were delays in relation to the Gallop report—and there were problems there. But there are clearly instances when it is proper for the results of an inquiry to be put out publicly as and when they happen, the public not having to wait until the Assembly sits. That is the main reason why we feel there is a better way of doing this. I thank Ms Dundas for introducing this bill; it is a very important area. I look forward to seeing what the government is going to bring in. If it does it by August of this year, that will indeed be quite interesting, and I hope they are accurate there. Obviously, we can look at this again. The opposition will not be supporting Ms Dundas's bill.

MS TUCKER (6.32): The Greens will be supporting this bill because it removes a clause in the Inquiries Act that awards parliamentary privilege to the report or any part of the report when and if it is made public. The section which Ms Dundas's bill removes is 14A(3), which reads:

> Where a report or part of a report is made public by the Chief Minister before it is laid before the Legislative Assembly, the report or part attracts the same privileges and immunities as if the report or part had been laid before the Assembly.

We went through a debate exactly on this issue last week, which was informed by legal advice sought by the Clerk. In essence, I have a view that we should not be granting parliamentary privilege to reports of inquiries established under their own act by the executive of government. If privilege is necessary when it comes to publishing reports, then clearly we can amend the act to ensure that it is granted.

I note that members of the board of inquiry have the protections and immunities of a Supreme Court judge, just as legal practitioners assisting the board have the protection of a barrister and witnesses appearing before it have the same protection and liabilities as witnesses in the Supreme Court. It seems fairly careless to deem a report protected by parliamentary privilege when the proceedings that gave rise to that report are protected in such a specific and different way. I do not think this is such a complex issue.

I am glad to hear the Chief Minister say he will undertake a review to look at it further, and I will be interested to see the results. But tonight I am happy to support this bill.

MS DUNDAS (6.34), in reply: Mr Speaker, to close debate, I thank members for their comments today and the ongoing debates that have been raging through this building about how we conduct inquiries of this place and of the executive and how they are granted parliamentary privilege in the protections of this house.

My bill today removes ambiguity by stating that privilege only exists once the report has been tabled, effectively ending any prereleases of a board of inquiry report. The bill would also ensure that the Assembly is the first to know of the outcomes of the inquiries performed by the executive under the Inquiries Act. That would be by ensuring that the inquiry report attracts parliamentary privilege on the day that the

report is tabled in this Assembly. It would ensure a level playing field for all of those involved in any inquiry.

The reason there were delays in the tabling of the Gallop report was not the inaction of the executive government or conflicting legal advice; rather it was the fact that the executive government released part of the report to a select few of the players. These people did not like what they saw in the report and took out an injunction to stop the further release of the report. This was not a matter of parliamentary privilege; this was a matter of selectively releasing information. The argument and conflicting legal advice over the extent of parliamentary privilege came after this mismanagement of the release of the report.

Then Mr Humphries introduced some legislation, which has the exact opposite effect of my legislation, to extend privilege to any prereleasing of the report. We have also heard from the Chief Minister that the Stanhope government is reviewing the Inquiries Act and that we can expect an outcome of this review soon. But this review has been going on for the last 12 months, and I am sure that the information from the review would have been helpful in the debates we had over the last couple of months about the McLeod inquiry.

We have seen a haphazard approach to inquiry reports, with bits of them released to some people, some of them given to departments and some given elsewhere before they are actually given to the parliament. That shows a complete lack of respect for the way parliamentary systems are meant to work. And what is the role of parliaments versus the role of governments? I welcome the comments from the members today and recognise that this piece of legislation is not going to become law, but I think it is an important debate that we are having about how the executive and inquiries under ACT law are reported to this place.

Because of the recent debates over the bushfire inquiry, we all have a heightened awareness of the rules governing privilege as they extend to boards of inquiries and other inquiries. I thought it was appropriate to debate this bill today because the bill would make clear when and where a board of inquiry report can be released. The bill makes the Inquiries Act more workable and restores the Assembly to its place at the heart of parliamentary privilege, not the executive or a minister's press conference.

Question resolved in the negative.

Adjournment

Motion (by **Mr Stanhope**) proposed:

> That the Assembly now adjourn.

Death of Dr George Stern
Suntory Cup

MR SMYTH (Leader of the Opposition) (6.38): I rise to speak on two issues. The first is the death of Dr George Stern. Aside from Dr Stern's many achievements as a scholar, academic and chess player, he also ran a course at the ANU Centre for

Continuing Education, where he tried with never-ending patience to teach public servants plain English. But it was not only plain English that Dr Stern taught. As only a truly gifted teacher can, he filled his somewhat lugubrious students with a passion for English and a passion for writing well at work. Indeed, a student who had just completed the course used his new-found skills with great success to write to Parking Operations to get out of a parking fine.

Whilst I never attended one of Dr Stern's courses, I have heard much of them. In an indirect way I am a beneficiary of Dr Stern's work, as one of my staff attended a course and uses the skills acquired to this very day. On behalf of the many hundreds—perhaps thousands—of Dr Stern's students, I would like to pass on my sympathies to Dr Stern's family and pay my respect to one of Canberra's truly fine academics.

On a more joyous issue, the ACT has just taken out first, second and third place in the New South Wales Suntory Cup cocktail competition. I will read from the press release that was issued from In Blue Bar and Nightclub. It reads:

> It was a pivotal moment for the ACT hospitality industry yesterday—

That would have been 16 June—

> when bartenders from two ACT establishments took the top three places in the Suntory Cup NSW Final. Mark Stephens from *Hippo Bar* in Civic won first place in the competition, with Matthew Lanham and Laurence Kain from *In Blue Bar and Nightclub* taking second and third places respectively. The NSW Final was held at the Lightning Ridge Bar in Sydney's Star City Casino on Monday June 16, 2003.
>
> The Suntory Cup is Australia's premier cocktail competition in which bartenders from across Australia are invited to submit their own original recipes for adjudication. Entries were due on May 31, with the top 20 entrants from each state announced a week later. Of the 20 NSW finalists, a phenomenal nine entrants represented Canberra establishments.

At that time, Canberra did not have its own competition.

> Furthermore *In Blue Bar and Nightclub* in Civic had four finalists; the most from any single establishment in NSW or the ACT. There were also three finalists from *Mortis*, and one finalist each from *Hippo Bar* and *Trinity Bar*. The winner proceeds through to the National Final, which will be held in Sydney in July.
>
> According to Michael Trenerry, ACT/NSW Off Premise Manager for Suntory, over 135 entries were received from NSW and ACT. "We allocated one day to process the entries and it took us over three days to make up the final 20. This year's competition had proved already to be bigger and better than any year previous," he said. These comments reinforce the ACT's newly found prominence.
>
> State finalists made their cocktails for a panel of judges, and were marked on aroma, taste and presentation. And after a long deliberation process—

Well, how long does it take to drink 20 cocktails?

> the results were announced, with the top three places a clear twenty points ahead of other entrants.
>
> Matthew Lanham's cocktail, Jus de L'Asie, (Juice of Asia), featured the unusual combination of spring onion, lime, lychees along with hazelnut and blackberry liqueurs. Lawrence Kain's cocktail, Allota Feijoa, utilised the uncommon feijoa fruit with midori, gin and Bacardi limon. Both cocktails were muddled—a preparation technique where fruit is squashed to the bottom of the glass to extract its flavours and juices.
>
> The results of this competition are testament that the Canberra hospitality industry is coming into its own, and Canberra bartenders are at a level equal to, and above, those working in Sydney. This was highlighted by the announcement yesterday that in 2004, the ACT will have its own Suntory Cup State Final.

So, well done to the guys at the bars, and well done to the industry around the ACT.

Red Tape

MS MacDONALD (6.42): Mr Speaker, I rise to speak about something that gives me a great deal of pleasure. On Saturday night just gone I had the great pleasure of attending Red Tape, which was the student fashion collections of the CIT Bachelor of Design (Fashion) students. I wanted to talk about that for a bit and, primarily, congratulate all seven Bachelor of Design (Fashion) students. They did an absolutely fantastic job of getting their collections together and presenting them to the good number of people who turned up at the National Museum of Australia.

Those students about to graduate are Louise Silver; Dianne Carroll; Julianna Perric, who has Jep Designs fashion label; Nishaan Sekhon, who has the Toy Soldier fashion label; Kathy Gesouras, who has the Motto fashion label; Samantha Scott, who has the Jinger fashion label; and Freya Ansell with the Freya fashion label. All of these students undertook study at CIT in the last 3½ years. This was their final work, which they put together themselves and which they are assessed on.

I would also like to congratulate Barry Roantree and all staff of the Faculty of Design at CIT for bringing the students through this time. Thanks also to the sponsors, who were Models Dot Com, Cataldo's, Escala shoes and accessories, Stocks jeans, CityNews, CITSA, Allens, Unions ACT, the Southern Cross Club and the Kaleen IGA, for giving their sponsorship to such a fantastic event. Thanks also to the National Museum of Australia for giving the in-kind donation of the venue.

Also, thank you to Charlie Brown, who is a fashion designer based in Sydney, who is very successful and has her fashions worn by famous people all over the world, although I did not know who she was until after I got introduced to her and said to Barry Roantree, "Who's that?" and he said, "That's Charlie Brown, and she's very famous." I now know.

Not all the fashions were to my liking, but it was a wonderful collection. Good on the students! It just shows what wonderful training and education goes on through CIT. Congratulations once again. I wish all of those seven students—soon to be graduates—the best of luck in the future. I hope they are able to forge well ahead, get some work here locally and not end up taking their talent out of Canberra too soon.

Question resolved in the affirmative.

The Assembly adjourned at 6.47 pm.