LEGISLATIVE COUNCIL

Friday 17 November 2000

The PRESIDENT (Hon. J.C. Irwin) took the chair at 10 a.m. and read prayers.

SITTINGS AND BUSINESS

The Hon. R.I. LUCAS (Treasurer): I move:

That standing orders be so far suspended as to enable petitions, the tabling of papers and question time to be taken into consideration at 2.15 p.m.

Motion carried.

ENVIRONMENT, RESOURCES AND DEVELOPMENT COMMITTEE: ANNUAL REPORT

Adjourned debate on motion of Hon. J.S.L. Dawkins:

That the report be noted.

(Continued from 8 November. Page 321.)

The Hon. T.G. ROBERTS: I rise to indicate my support for the motion noting the Environment, Resources and Development Committee's annual report, which is the committee's 40th report. The report was tabled in the House of Assembly and subsequently in the Council.

I add my thanks to Heather Hill, our previous secretary/research person. Heather was a very efficient and effective secretary and research officer for the committee during difficult times, I guess. Some committees have more stability than others: this committee has had a change of personnel, and the work that Heather did as a research officer for the committee was gratefully appreciated by all members, because she had a finger on all the buttons all the time. For all members who serve on committees, regardless of their roles and responsibilities, the secretary, staff and research people who keep those committees together play an extremely important role, having a wide range of duties to perform.

Committees are under resourced. It seems to me that every government has a policy of limiting the resources of committees to limit their effectiveness. I make that criticism not in a paranoid way but in a constructive way so that this government might look at the resources of some of the committees and perhaps provide a little more funding, particularly to bring expert witnesses before committees and to enable field trips and inspections.

The Environment, Resources and Development Committee has many briefs which cover the whole of the state, but it is in the habit of inviting witnesses to come to Adelaide to give evidence when, as the very word 'environment' would suggest to many people, the committee should go out into the natural environment to look at many of the problems that are raised. Cutting costs keeps the effectiveness of the committee down, and we rely a lot on the evidence of witnesses. We do some field trips but, given the amount of time that parliament sits and the time that is available for committees to visit regional areas, I think it would make good sense to give them a little more funding so that South Australians can see how their taxpayer dollars are at work. When committees do visit regional areas, their presence is appreciated, and regional people get the feeling that they have not been forgotten.

A number of committees have had briefs to look at regional health and other problems and have travelled extensively. I am sure that members of those committees would have felt the appreciation and warmth of the people, particularly when looking at important issues of employment, the environment and regional development. These are the sorts of issues where regional people like to have a forum for their voice to be heard. Too often government's only pay lip service to the interchange of information. We tend to deal with peak bodies, which in many cases are not completely representative of the community's view, and to avoid difficult questions, particularly travel to remote areas. Certainly, Aboriginal communities would be the beneficiaries of any change in policy and if more funding was made available for travel within the state.

Some committees need to travel outside the state to keep up with national and international trends. Everyone talks about international best practice, but we need to see it in operation in other states, particularly the eastern states where the funding that is made available and the investment patterns outstrip those of this state. It would be of benefit to many members of committees during the breaks to travel at the committees' expense and with committees being given the imprimatur of a parliamentary inquiry so that all parties are represented. The Environment, Resources and Development Committee has representatives of all four parties, and it would be a feather in the cap of this government if it looked at the funding regimes for all committees to enable them to improve their contributions.

The presiding member noted that the committee looked at the rail links with the eastern states. As I said earlier, we did not travel to the eastern states to take any evidence; we called expert witnesses to the committee. But we did look at the integration of the rail links within country areas and the services for rail linkages into the eastern states, now that we do not have a single monopoly of ownership on rail. Because of the number of overseas investors that are looking at picking up services on our rail links, there is a vital imperative to get the linkages right, and the ownership questions are a part of that.

At the moment, we have a very fragmented approach to integration of rail, road and sea services. The sale of Ports Corp is probably a good example, where the investment that is required to make our port efficient is all integrated into other transport linkages. So, if we do not get our rail linkages right with our port hubs and road transport hubs we can make mistakes worth millions of dollars: they can be big mistakes.

I suspect that there also has to be a commonwealth component within the inquisitorial system that we set up. Unfortunately, as I have said, we looked at rail links with the eastern states in a limited way. The committee has certainly made recommendations that could be picked up to improve the circumstances in which we find ourselves at the moment. We have made recommendations about integrating road, rail and sea, and we hope that the government takes note of the comments made in the report.

The committee also has looked at a problem that has been with us for some considerable time, and that is the possible mining of oil shale at Leigh Creek and the problems associated with the mining of coal at the same time, and trying to ascertain whether the oil shale deposits within the Leigh Creek area are able to be mined successfully without impacting on the mining of the coal. We have tried, by calling witnesses, to work out whether there was any interest in the oil shale as an energy resource. I refer those who are

interested in the outcome of the inquiry to the report, where they will find a lot of information that has been held over time in many different cubbyholes and departments. Much of the information is now stored on computers, but previously it would have been stored in people's desks.

The committee tried to pull together a snapshot of the circumstances that exist at the moment and also looked at some of the possible health and safety effects of mining oil shale alongside coal. We also tried to look at taking on the brief of the possible health effects of mining coal in association with shale over the past 30 to 40 odd years and its impact on an individual's health, but it was not a part of our brief.

Three members of the Environment, Resources and Development Committee are also on the Occupational Safety, Rehabilitation and Compensation Committee, and we decided to make a recommendation to that committee to pick up the brief of looking at the possible impact of mining on the health of people who had lived and worked at Leigh Creek over a long time. As yet, we have still not had the cooperation required to make a report on that, as we are still struggling with the resourcing difficulties of getting together an epidemiological study and whether such a study will come up with an accurate assessment of the situation as it applied since the coal deposit started operations.

Trying to track down individuals and work out their exposure to any possible carcinogens or irritants that may have impacted on their health and getting in touch with those people may be difficult but, if we are going to pick up that brief on the Occupational Safety, Rehabilitation and Compensation Committee, it is something that needs to be done.

The committee also looked at the tuna farms at Louth Bay, which led to a flurry of activity by government to try to overcome some of the breaches of the act that were being perpetrated in the area. We tried to do that in a positive way, without making scapegoats of people. We wanted to signal to the government that, not just the Louth Bay considerations but all problems associated with aquaculture (and in particular, in this case, the tuna farms) need to be dealt with.

They need to be looked at by the government for long-term solutions to apply to protect, nurture and expand a very important industry that has potential benefits for the state and for many people living in regional and isolated areas. It certainly has a large potential for growth. With natural fish stocks starting to dwindle in almost every variety of fish (swimmers and crustacea), there will be a huge potential, particularly in Asia, for clean aquaculture products from which South Australia can benefit in the long term.

The alarm bells rang and the government did make some attempts to try to overcome the difficulties that the Louth Bay residents were finding in what were found to be illegally sited cages. It certainly upset the tuna farm owners and people associated with the cages. In many cases they had had advice that they were not breaching any regulations or law. Unfortunately for them, the work of environmental protection of the sea floor and the possible outbreak of disease were considerations that had not been given enough scientific assessment and, consequently, recommendations were made to have a closer look at the way in which Louth Bay was being used in the aquaculture industry.

The environment protection inquiry took many months. That was one brief in relation to which we had a considerable number of witnesses. It might have been good to have some inspections, but we brought down a report without doing too many. I think that at the moment the government is drafting a report into changing the form and structure of the EPA. I understand that the committee's recommendations are high on the list of recommendations in mind for changes to the form and structure of the EPA, so we look forward to seeing the changes the government makes.

The other report completed related to environment protection. As I said, inquiries in progress include the native fauna and agriculture report, which is being drafted as we speak. The committee also has a brief on ecotourism. We will commence by looking at potential ecotourism developments and in situ ecotourism developments that are working and earning dollars for South Australia.

The committee will prepare a report that indicates how to work with the tourism industry to try to protect from any over-development to the environment that people would like to see. We also want to ensure that we get a fair share of international and national tourists to the state, in addition to providing people, if it is required, with quality accommodation or backpackers' accommodation. Other committee interests at present include the Barcoo Outlet, which will be a long-running environmental problem for the government and subsequently the state; and the interests that are trying to establish a ship-breaking industry in this state.

The committee has a watching brief on that matter, and we are developing other committee references to take us into 2001. With those few words, I will make a timely completion of my contribution. I thank the secretary, the research officer and the Presiding Member and look forward to a convivial Christmas break-up on 6 December.

The Hon. M.J. ELLIOTT secured the adjournment of the debate.

MEMBERS OF PARLIAMENT (REGISTER OF INTERESTS) (RETURNS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 8 November. Page 321.)

The Hon. P. HOLLOWAY: I indicate the opposition will support this bill. This bill was first introduced by the Hon. Terry Cameron way back in 1996, some four years ago, when he was then a member of the ALP caucus. He reintroduced the bill subsequently following the last election and again the opposition supported that bill. I have already spoken on this bill on a number of occasions. There are several points I would like to make again in indicating the opposition's support for the bill because it is essentially in the same form in which it was introduced four years ago, and the need for this bill is just as strong as it was four years ago, probably stronger. I shall say more about that in a moment.

If you cover the terms of the bill itself what they do is to propose a reduction from 50 per cent to 15 per cent in an MP's shareholding in a family company before full disclosure of the company's investment is required. That is something that is obviously long overdue. Similarly, the Hon. Terry Cameron provides a requirement to declare the assets contributed by another party to a joint business venture arrangement with an MP. There are provisions to ensure that all assets from which an MP derives financial benefit are disclosed. There is also a requirement to disclose all investments in a superannuation scheme established wholly or substantially for the benefit of a member of parliament, their family, a family company, a family trust or some other joint venture in which the member has an interest. Another

provision in the bill is the removal of the present exemption for declaration in relation to a testamentary trust.

So, there are a number of provisions in this bill which do close off loopholes that currently exist with the members of parliament register. I think it is important that we should close those loopholes. One would think that this bill should have been supported and passed many years ago—four years ago, in fact—when it was first introduced.

There are some comments in relation to this bill, though, that I would like to retract. Back on 4 August last year when I was again supporting this bill I made the following comments:

> It is fortunate that in this state there have been very few occasions when allegations or insinuations have been made against members of parliament regarding their pecuniary interests.

I made the comment that that probably indicates that the quality of our register and the ethics of members in this parliament are higher than in other parliaments, particularly the federal parliament. Of course at the time I made those comments 12 months ago there had been a number of allegations. In fact they were more than allegations. There were a number of federal ministers who resigned because they had been involved in areas in administering their portfolios when they had significant shareholdings in relation to those portfolios.

That was the case federally then, but unfortunately we have seen in recent days that a similar thing is happening in this state. I refer, of course, to the situation of the Minister for Government Enterprises in this state. I think it is rather timely that, as we debate this bill, just this morning on page 2 of the *Advertiser* there is more information about Minister Armitage's shareholdings. What this article indicates is that Dr Armitage had bought more than 6 600 shares in Optus in between two cabinet decisions offering assistance packages to the company. Apparently, Dr Armitage told the House of Assembly that he was not aware whether cabinet had received any information from Optus that was not available to the public. He said it had no bearing on the purchase of shares.

I think that really begs the whole point about having a register of members' pecuniary interests. I guess that most of us would have thought that, when this whole concept was introduced, declaring our pecuniary interests in shares would ensure the integrity of the system. I am sure we all would have thought that any minister of the Crown who was involved in decision-making would ensure that he or she did not have shares in companies that might be affected by his or her decisions. As I have repeated on a number of occasions, the cabinet handbook for this government states:

> Ministers must divest themselves of shareholdings in any company in respect of which a conflict of interest exists as a result of their portfolio responsibilities or could reasonably be expected to exist.

Quite clear enough, I would have thought.

The Hon. R.D. Lawson: Reasonably.

The Hon. P. HOLLOWAY: Well, reasonably—the QC over there is turning it all on the word 'reasonably'. I think that that is the whole problem with this debate: this government is turning it into a technical, legal exercise where the QCs and others are trying to find loopholes in the law to get out of it.

What I would suggest is that the behaviour of the minister is certainly not within the spirit of the law. I think any reasonable and fair-minded person out there in the one million voters of this state would absolutely agree with that. Whether a QC can find some loophole to get out of it or not is another matter. Certainly, the spirit behind the whole members of parliament pecuniary interests register is to ensure that members do not have any conflict of interest when making decisions that come within their areas of responsibility.

The Hon. T.G. Cameron: I will have to move an amendment to stop cabinet ministers buying shares between meetings.

The Hon. P. HOLLOWAY: As the Hon. Terry Cameron says, that is a very reasonable thing. The opposition fully supports this bill in its attempt to tighten the loopholes within the law that could exist through things such as joint ventures, superannuation trusts, and so on, and we should be tightening that, but I think we now have to question the whole value of the pecuniary interests register if ministers are actually buying and selling shares in between meetings at which they get information and, in many cases, it could be quite confidential and important information as to the plans of that company. If ministers are recipients of that sort of information and, at the same time, owning and buying and selling shares within companies that are affected by government decisions, then I think we have a real problem in this state. Just having a declaration of members' interests may well not be enough.

In summary, we support the bill in its attempts to try to close off some of the loopholes but, unfortunately, the integrity of our whole system has now been drawn into question by the recent actions of this government—one minister in particular—and I believe we have to rethink the whole concept behind the register itself.

The Hon. NICK XENOPHON: I rise to support the bill. This bill contains a number of clauses that, in many respects, are a long overdue reform of the register of interests for members of parliament. The Hon. Terry Cameron should be congratulated for introducing the bill because it contains very sensible reforms. I endorse the remarks of the Hon. Terry Cameron when he said that you could drive a truck through the current legislation governing disclosure of interests. I would go beyond that; I think you could probably drive a road train through the current legislation—

The Hon. T.G. Cameron: A few members have their truckie's licence.

The Hon. NICK XENOPHON: Or a road train licence as well. This is a bill that all members of parliament should seriously consider. It ought to be dealt with. I understand that this bill has been on the *Notice Paper* for some 18 months. I am not being critical of anyone in respect of any delays, but given issues of public confidence in members of parliament and the public having concerns about whether MPs are doing the right thing—and I hasten to add that I believe MPs do try to do the right thing—it is important that this bill is passed expeditiously.

I look forward to hearing the government's position on the bill. I do not think that the government should rely on narrow arguments that, in some ways, this bill is not practical. The terms set out in the bill are eminently sensible and I think the electorate would look askance if the government does not support this bill, because it would tend to indicate that there is a lack of willingness to be anything other than fully open and accountable with respect to the register of interests.

The Hon. T.G. Cameron interjecting:

The Hon. NICK XENOPHON: The Hon. Terry Cameron makes a good point. This bill ought to be passed. The thrust of the bill deserves to be applauded, and I look

forward to hearing the government's response in relation to this and I hope that it reaches the committee stage sooner rather than later.

The Hon. J.F. STEFANI secured the adjournment of the debate.

SOUTH AUSTRALIAN PORTS (DISPOSAL OF MARITIME ASSETS) BILL

Adjourned debate on second reading.

(Continued from 16 November. Page 558.)

The Hon. CARMEL ZOLLO: Like other opposition members, I oppose this privatisation of our state owned ports. The sale includes seven ports across South Australia. Before the sale of Ports Corp was announced, the Grains Council Deep Sea Ports Investigation Committee called for the upgrade of three ports: Port Adelaide, Port Giles and Wallaroo. On Yorke Peninsula, Ports Corp owns three ports: Wallaroo, Port Giles and Klein Point. I regularly do some travel on Yorke Peninsula and I know this sale is of interest to residents on Yorke Peninsula. The upgrade work at Port Giles and Wallaroo is very important to those communities, so I place on record that I am pleased that it will not be abandoned but will continue as was recommended by the deep sea ports investigation committee.

As in many other instances when we are about to sell public assets, we commit taxpayers' money, which we did not have to put into the asset previously, to make the sale process more attractive. We will see some $35 million of taxpayers' money being invested in port infrastructure. Outer Harbor will have a new terminal built for unloading from rail and road transport, storing and shipping grain. Minister Armitage announced that the combined wharf and transport infrastructure upgrades represent a significant contribution of $30 million to $35 million by the government to the grain industry. We agree it is a significant contribution, and obviously necessary as part of a deal to make the sale a reality for the government, which is desperate to sell at all costs.

Last year I supported a motion by my colleague the Hon. Paul Holloway, when he called for the government to guarantee the continued safe public access to commercial jetties for recreational purposes, including fishing. Last January minister Armitage committed his government to right of access when appropriate. I welcomed the announcement at the time with caution, as I thought it important that local communities should not be stuck with any liabilities for such access. People who fish recreationally are one of the largest groups in our community. My colleagues in another place forced an amendment to ensure their access rights. I notice that the Treasurer has now filed an amendment which appears to clarify this access.

Given the deal that has been struck for the upgrade, no doubt we will see this latest asset sale. We will also see the sale because the government has secured the numbers in this House, especially those of the Democrats. Sadly, another smart and profitable asset for the state will be gone.

The Hon. CAROLINE SCHAEFER secured the adjournment of the debate.

CASINO (MISCELLANEOUS) AMENDMENT BILL

In committee.

(Continued from 9 November. Page 377.)

Clause 6.

The Hon. NICK XENOPHON: My understanding is that we had not voted on clause 6, which relates to intoxication in the Casino. I would like to respond to some of the Attorney's comments that he made in relation to that clause, and then we could assess whether members wish to vote on that clause now and, if necessary, recommit it, because I understand that some members are absent due to illness and accidents. On that basis I will respond to the Attorney's comments in relation to the intoxication clause.

The Attorney on 9 November indicated his opposition to this clause and a number of concerns he had in respect of it. He said that he was concerned that this provision would reverse the onus of proof for the offence of permitting an intoxicated person to gamble in the Casino. He said:

> The prosecution would only need to prove that the person was intoxicated and gambled in the Casino. The licensee would then have to overcome a statutory presumption of permission by proving that he or she took all reasonable steps to prevent the supply of liquor to an intoxicated person in the Casino and prevent gambling by intoxicated persons in the Casino.

He went on to say:

> Further,the defence requires that all reasonable steps be taken. In effect, the licensee must guarantee that no intoxicated person will gamble in the Casino other than in quite extraordinary and unforeseeable circumstances.

He went on to make other points. In fairness to him, and to put his remarks in context, he said:

> An offence is committed regardless of the size or number of bets placed by the person, for example, buying a $2 lottery ticket (if such is sold there) or spending 20¢ on a poker machine would render the licensee liable.

He said:

> It may not go far towards combating addiction to poker machines (if this is the concern) because the evidence does not suggest that this addiction is related to intoxication, that is, many problem users remain sober.

He concluded by saying:

> It is suggested that this clause imposes an unfair burden on the Casino licensee. There is already sufficient legislative provision to deal with this situation. Alternatively, if not, and if there is to be a code of practice as the bill also proposes, this would be a more appropriate way of addressing this issue than by criminal sanction.

In relation to the issue that this is not an effective measure in combating addiction because there does not appear to be that much of a link between intoxication and problem gambling, it is true that the majority of problem gamblers probably do not have a problem with intoxication and that alcohol does not play a factor in terms of their problem gambling. Some people can lose their savings being stone cold sober. But it is the case that intoxication can accelerate levels of problem gambling and can be a determinative factor.

I referred members to the work carried out by Prof. Mark Dickerson in a comprehensive research paper published a couple of years ago where he indicated that two standard drinks could make a very significant difference to the level of control with respect to someone gambling, particularly on electronic gaming machines, and as a consequence levels of problem gambling could increase. Prof. Dickerson is not anti-gambling in his views. He has done work for Tattersall and undertaken quite a lot of research work for the gambling industry, so this is not a man with radical views against the casino industry or the gambling industry generally. I urge honourable members—

The Hon. R.I. Lucas: As distinct from whom?

The Hon. NICK XENOPHON: I am suggesting that, if you have someone who works for the casino industry, they can hardly be categorised as being anti-gambling or looking at a winding back of the gambling industry. I quite happily fit into the camp of those who want to see a winding back of the current levels of gambling because the accessibility and the sort of products on offer lead to a significant rate of problem gambling in the community. Prof. Dickerson says that not even intoxication but a few standard drinks can make a real difference.

In terms of the current difficulties that have been experienced in the Casino, in recent weeks I have spoken to two constituents, one who lost $10 000 in the course of an evening at the Casino. This man received payment for a motor vehicle, went into the Casino and alleges he had something like 10 or 11 double scotches in the course of a four or five hour period: he lost all his money. This person says that the Casino quite happily served him drinks during the period he was playing Black Jack. I have reported this issue to the Liquor and Gaming Commissioner. I understand there will be an investigation into this issue. I feel constrained in saying much more than that.

If this person's allegations are correct, my understanding is that he would have had a blood alcohol level of in excess of 0.2 while he was there. He said that the Casino did not take any steps to remove him until after he had lost all his money. In fairness to the Casino, apparently he was rather boisterous towards the end of the evening but, after he lost his $10 000, he was asked to leave the Casino. That will be investigated and further action may well be taken, but that is just one instance where something went wrong in terms of the system that was in place at the Casino.

I was recently contacted by a woman whose husband lost a much lesser sum, I think it was in the vicinity of $600, but for this family $600 was the difference between having food on the table and not having food on the table for a period of a fortnight. She tells me that her husband was already under the weather, intoxicated, when he entered the Casino, and that he exhibited gross signs of intoxication when he eventually arrived home several hours later. He lost all his money. She said that he was reeking of alcohol, that he was clearly in some difficulty because of his level of intoxication. I emphasise that it is not alleged that the Casino served him any alcohol but he was a regular at the Casino where his limit was only $10. This is a person who has a brain injury and he was known to Casino staff. On this occasion he went way beyond his $10 budget and lost his fortnight's pay cheque at the Casino.

There is something wrong with the system in place there and we ought to be concerned about that. The Attorney has raised a number of concerns, saying that it is too heavy an onus. I think there ought to be a heavier onus on providers of gambling services, given the research by people such as Professor Mark Dickerson that there is a link between heavy alcohol consumption and problem gambling, where people can lose a lot of money in a very short time because of intoxication, so there ought to be a greater onus.

This is not a radical measure. The New South Wales Casino Control Act has had this provision in place for a number of years. The only instance that I am aware of where it has been brought into play is the case of Alexander Preston against Star City Casino, where Mr Preston alleges in his claim before the New South Wales Supreme Court that he lost something like $3 million over the course of a number of months.

The Hon. T.G. Cameron: He must be a big drinker.

The Hon. NICK XENOPHON: In answer to the Hon. Terry Cameron, I point out that that case involves a number of other issues. He was a high roller, and a number of inducements and promises were made, according to Mr Preston's allegations, but that was a case where the issue of intoxication was brought into play. The issue will be determined by the New South Wales Supreme Court down the track.

I have just received a report by Sir Laurence Street dated 27 November 1991, which is headed 'Inquiry into the establishment and operation of legal casinos in New South Wales', as distinct from illegal casinos of which I understand there were many in New South Wales over the years. Sir Laurence Street considered the issue of inducements and he states:

> Many casinos provide inducements to gamblers who are attracted to casinos or, once there, to keep them gambling. These include free transportation, free meals, drinks and accommodation.

He goes on the say:

> Gamblers Anonymous members confirm that casinos will go to great lengths to hold onto a good loser. There are strong reasons for developing guidelines regarding the provision of inducements generally and I recommend that the authority give consideration to this.

I presume that it was on the basis of those recommendations, amongst many, of Sir Laurence Street that the issue of conduct in the casino, section 163 of the Casino Control Act, came into existence. I emphasise that this is not a radical clause. It is a clause based on existing legislation in another state. That in itself is not a reason to pass a clause but we are not doing anything path-breaking here. It is a clause that mirrors other legislation, and that legislation appears to have been accepted by Star City Casino without any rancour.

That clause will go some considerable way in requiring the Casino to have a system in place. The Casino will be able to have a defence to a charge if it took all reasonable steps to deal with this issue. 'Reasonable steps' would include having a system in place to deal with problem gamblers who are intoxicated. On that basis, I urge honourable members to support this clause. The concerns of the Attorney-General are exaggerated and do not warrant members rejecting this clause. I understand that the Attorney is not here today because of a meeting interstate, but it would also be useful if he could indicate what officers of the Liquor and Gaming Commission have to say about this clause, if that would be appropriate. For those people on the ground, the staff of Commissioner Bill Pryor can play a useful role in indicating whether they think this is practical. My understanding is that this is a practical clause; it is not a radical clause, and I urge honourable members to support it.

The Hon. R.I. LUCAS: I almost feel—although not quite—like Don Farrell at an ALP state convention speaking on this issue, because I have—

An honourable member interjecting:

The Hon. R.I. LUCAS: No, I actually have proxy votes in my back pocket, but not as many as Don Farrell would have at an ALP state convention. I have discussed this issue with my colleagues, the Hons Diana Laidlaw, John Dawkins and Trevor Griffin, who are absent this morning for this debate. The Hons Diana Laidlaw and John Dawkins share the concerns which the Hon. Trevor Griffin placed on the record last week. There are some aspects with which I disagree, but I must confess that in the main I agree with the concerns the Hon. Mr Griffin has expressed. When we have had this

discussion, I will be interested to hear from the Hon. Mr Xenophon as to how he would wish to proceed with this clause. At this stage, the collective four of us would be voting against the clause as it stands. That is why I am not quite as far advanced as Don Farrell; I am a long way short of a majority.

If we look at the continuum of what I would describe as negligence or culpability in relation to this, I suspect it would be shared with the following set of circumstances: if a person responsible for the particular gaming establishment—in this case, the Casino—was there eyeballing someone and deliberately feeding them with alcohol whilst they were so severely intoxicated that they did not know what they were doing and they were churning their money through the machine, I imagine that nobody in this chamber would want to support that situation.

The Hon. Mr Griffin—and perhaps the Hon. Mr Xenophon would also want to get a more significant group—has included potentially within the criminal sanction a whole variety of other circumstances as well. The Casino is a big institution, and clearly there are sections in the Casino such as the poker machine room on the first floor where the staff work there for the employer. Someone merely working in the establishment does not have any direct pecuniary interest in seeing someone go broke. That staff member is someone who is being paid a salary, a wage or whatever it is.

Somewhere else in the Casino, at the bar on the ground floor, or wherever else it might be, someone might be served by another member of the Casino and drink alcohol to a degree where they might be intoxicated. That is an interesting question which the Hon. Mr Griffin has highlighted, as well: some people can have the same amount of alcohol within their body and measure the same amount of alcohol if they undertake a blood test but externally they might be seen in two different circumstances. There are the quiet drunks and there are the boisterous—

An honourable member: One-pot screamers.

The Hon. R.I. LUCAS: Well, one-pot screamers, but there are also the boisterous, red-faced, blubbering idiots who look different from the quiet drunks.

The Hon. T.G. Roberts: They're being discriminated against.

The Hon. T.G. Cameron: Which category do you fit into?

The Hon. R.I. LUCAS: Neither I hope. The Hon. Terry Roberts says that they are being discriminated against. I guess, if one wants to look at it that way, that is probably true. The Hon. Terry Roberts, with his vast experience at the Somerset Hotel and other establishments in the South-East that he can call upon, has highlighted in a humorous way the particular challenge in relation to this issue; that is, two people can consume the same amount of alcohol and also might register the same amount of alcohol in their blood—and that does not necessarily correspond either—yet one of them looks externally visibly affected by something, for example, alcohol.

The Hon. T.G. Cameron interjecting:

The Hon. R.I. LUCAS: I am indebted to the Hon. Terry Cameron for suggesting that, even if he does not believe it. The other person who is affected has the same alcohol reading in his or her blood but externally looks no different. As has been highlighted by the Hon. Mr Griffin, one of the issues in this, in essence, reverse onus of proof issue which has been constructed here provides that:

> . . . it will be presumed in proceedings for an offence against [this subsection] that the licensee permitted the intoxicated person to do so unless. . . the licensee [can prove that they have done a whole series of reasonable steps].

What is reasonable for the Casino? You have staff on the first floor in the gaming room of 700 machines who are clearly not next to every gaming machine anyway. In a hotel someone has to serve you alcohol over the bar or at a table and has to make a judgment about whether or not they will continue to serve an intoxicated person. That is the dilemma hotels have and to some degree, as the Hon. Mr Griffin has indicated, they have to confront that set of circumstances anyway. But, at least as someone provides a service, they can see the Hon. Mr Xenophon or the Hon. Mr Cameron, or whoever it is, and decide whether or not they will continue to sell them a beer, or whatever.

The Hon. T.G. Roberts: Who's the red-faced screamer between the two of them?

The Hon. R.I. LUCAS: I suspect neither of them, but there is a former colleague of the Hon. Mr Cameron in the lower house whom I have seen at the Casino and whom I would put in the category of being a red-faced screamer, not only in parliament but also in the Casino.

The Hon. T.G. Cameron: In another place.

The Hon. R.I. LUCAS: In another place; in the gaming machine establishment playing the gaming machines.

The Hon. T.G. Cameron interjecting:

The Hon. R.I. LUCAS: But I would not mention that person's name. That person, visibly, having had a bit of alcohol, has a very ruddy complexion—and that may be the reason why this clause is in the Hon. Mr Xenophon's bill; to protect him against his own actions.

An honourable member interjecting:

The Hon. R.I. LUCAS: Nothing more to identify that particular person. In a hotel someone is eyeballing someone and providing the service. In the Casino, with the 700 machines, someone might breeze straight in from outside, go straight to a machine and start investing his or her money; they might have drunk at the Strathmore across the road.

The Hon. J.F. Stefani: Or have taken drugs.

The Hon. R.I. LUCAS: That's another issue but let's not get into that at this stage. However, the same person could go in on the ground floor, be served drinks at the bar on the ground floor of the Casino, go up the escalators to the gaming machine area, go straight to the gaming machines and invest all their money while in an intoxicated state. There is no requirement for a staff member on the first floor of the Casino to conduct a blood test, vet a person or conduct an eyeball to eyeball examination before that person is entitled to go on to a gaming machine.

The Hon. Nick Xenophon: That is why it says 'reasonable steps'.

The Hon. R.I. LUCAS: I think that is the issue. With due respect to the Hon. Mr Xenophon, if someone comes to him and says, 'I have lost $10 000', or the $600 example that the Hon. Mr Xenophon has indicated, 'and on the ground floor the Casino staff plied me with alcohol', or whatever it might happen to be, and that person went upstairs without being stopped and gambled on the machines, I am absolutely positive that the Hon. Mr Xenophon will not guarantee that he, acting on behalf of future clients, would not seek to use the construction of this provision to argue a legal case to take the Casino to the cleaners. We had this debate previously, and I will not embarrass the Hon. Mr Xenophon again, because I sought an undertaking that he would not seek to use a

particular provision in future legal action against gaming establishments in the way that was being contemplated in the objects clause.

The Hon. T.G. Cameron: Are we seeing an amendment to that effect?

The Hon. R.I. LUCAS: We have already seen an amendment from the Hon. Mr Xenophon to that effect. He was unprepared. I asked him three times to give a guarantee that he would not be seeking to use—

The Hon. Nick Xenophon: Will you give a guarantee that you—

The Hon. R.I. LUCAS: I am not a lawyer. I do not have to give a guarantee.

The Hon. Nick Xenophon: Will you give a guarantee that you will not act as a consultant for the electricity industry in years to come?

The Hon. R.I. LUCAS: Yes. I thought we were talking about gaming. I will happily die in this chamber with my legs in the air. You will have to drag me out of here kicking and screaming. However, to de-personalise the issue, it does not have to be the Hon. Mr Xenophon who does it. What I am saying is that a lawyer like the Hon. Mr Xenophon, in my judgment, would be able to—

The Hon. L.H. Davis: Could there be a lawyer like Mr Xenophon? There could not be two of them, surely.

The Hon. R.I. LUCAS: I stand corrected: another lawyer who may seek to represent constituents using this particular clause. I think the issue is that it is very likely that lawyers would argue what would be reasonable steps in this case—that is, 'You are the Casino and you have staff who provided a patron with alcohol in another part of the establishment. We argue that, clearly, that person was visibly affected.' The staff may say, 'No, he (or she) was not affected', or whatever else it might be. The argument would then be: 'You allowed that person to go upstairs and lose $10 000 on the gaming machines on that particular night' and, therefore, it is a maximum penalty of $10 000 for each offence.

To summarise the Hon. Mr Griffin's position, he is sympathetic to having some sort of provision in the legislation. However, he believes that, looking at the continuum of negligence or culpability, this is too onerous on the Casino. He is not saying that his preferred position is to get rid of this completely but, if his vote is taken by proxy today on this issue, he is saying that this is not reasonable in terms of the degree of culpability or negligence of the proprietor of the Casino.

The Hon. Nick Xenophon: It is a criminal sanction.

The Hon. R.I. LUCAS: It is a criminal sanction, and he has grave concerns about that aspect of it. If there is a more reasonable position than the reverse onus of proof—although I accept that this is too stark—that would be closer to a situation where you can demonstrate clearly that somebody has been quite deliberately feeding someone alcohol, knowing that, at the same time, they are way beyond any reasonable position in terms of knowing what they are doing and that they are losing money hand over fist at the same time. I think everybody in this chamber would be prepared to support something like that. I am sure there is a step back from that, which is not quite as stark in terms of the onus on the proprietor to act reasonably, that more of us would be prepared to support,

However, the position of the Hon. Mr Griffin at the moment—and I, and a number of colleagues, support him on this—is that at this stage the balance in terms of this issue is too much weighted against the proprietor of the Casino and his staff and for the lawyers and individual constituents.

The Hon. Nick Xenophon interjecting:

The Hon. R.I. LUCAS: Regarding a consumer who then wants to take action against the proprietor, in some cases, under this clause, in my view and that of others, it would be unreasonable.

The Hon. M.J. ELLIOTT: Whilst the Democrats express support for this clause, I believe that 'reasonable steps' are already being taken. Everyone who goes into the Casino is screened anyway, because each person who goes in passes employees at the door. So, the first reasonable step is that those employees are under instruction not to admit anyone who is apparently intoxicated.

The Hon. T.G. Cameron: They enforce the dress code.

The Hon. M.J. ELLIOTT: They enforce the dress code but, because of the very nature of the Casino's operations, everyone who goes in goes past Casino employees—

The Hon. R.I. Lucas interjecting:

The Hon. M.J. ELLIOTT: I am saying that, in terms of reasonable steps—

The Hon. T.G. Cameron interjecting:

The Hon. M.J. ELLIOTT: I am not suggesting that they will get people to blow into a bag to check whether they are .05 or .08, but if a person arrives at the door clearly legless—most people go to the Casino to gamble—I think it is reasonable to expect that they would screen a legless person and say, 'I'm sorry, but you're not going in.'

The Hon. T.G. Cameron interjecting:

The Hon. M.J. ELLIOTT: That's fair enough.

The Hon. J.F. Stefani interjecting:

The Hon. M.J. ELLIOTT: At the moment?

The Hon. J.F. Stefani: Yes.

The Hon. M.J. ELLIOTT: I am saying that, if you have a clause like this in legislation and you seek to interpret it, what would be a reasonable step? I am not saying that people would have to blow into a bag, but if they arrive clearly legless they should not be going into the Casino. That is the first reasonable step.

My second point relates to people being served at a bar. There are already requirements in hotels about serving people who are intoxicated. That is the second reasonable step to be taken. If a person is clearly legless, the barman will not serve them with further liquor. As I said, my recollection of the Liquor Licensing Act is that that is supposed to happen now, anyway.

The third reasonable step is that a riding instruction is issued to Casino employees working at the tables or dispensing money. If the bill is passed in the form proposed by the Hon. Nick Xenophon, people will, fairly regularly, seek to change notes into coins. So, there are plenty of opportunities throughout the night to be seen by Casino employees, even if the customer is using the gaming machines.

The Hon. R.I. Lucas: You can do that at a machine.

The Hon. M.J. ELLIOTT: Well, staff are still going around carrying out a range of duties, and all that, in my view, constitutes taking reasonable steps.

The Hon. T.G. Cameron interjecting:

The Hon. M.J. ELLIOTT: The honourable member commented about gamblers having interlock devices. One possibility is that, if they want to, people could use gambling cards. In a reverse licensing sense, that almost has the effect of an interlock device, not in relation to drunkenness, but, if people are both regular drunks and regular gamblers—unfortunately, that is not an unusual combination—that would

probably help to cover all this, anyway. I am saying that, at this stage, there is no question that people who are heavily intoxicated are at much greater risk of sustaining substantial losses. I think we already accept that hotels have obligations in terms of serving people who are already very drunk; it is not unreasonable that similar sorts of obligations should apply to the Casino.

The Hon. P. HOLLOWAY: When the opposition considered this matter when the bill was first introduced some 12 months ago, we had a substantial debate about the impact of this clause. I think all members of this parliament would agree in principle that an intoxicated person should not be permitted to gamble in the Casino, and that is, of course, what is provided by the first part of this clause. However, in relation to the question of reverse proof, which is covered in clause 2, there was some considerable debate as to what that would mean. In the end, the opposition decided that it would support the clause on the basis that we understand there is a similar provision within the New South Wales casino act. Therefore, we would have thought that, if there were any particular problems with it, they would have been shown up there. It is for that reason that we support the clause.

I certainly listened with some interest to the contribution made by the Attorney-General last week, and he does make some interesting points. His conclusion was that, if there is to be a code of practice, as the bill also proposes, this would be a more appropriate way of addressing this issue than by way of criminal sanction. I suppose we will have to wait and see: I think a later amendment to this clause refers to a code of practice. So, if it is carried, maybe that is something that we can look at.

I do not claim to have any legal expertise at all, but I note that this clause provides a maximum penalty of $10 000 if the licensee permits an intoxicated person to gamble in the Casino. Therefore, I do not really see how the case could arise, as suggested by the Treasurer, that, if a lawyer were to take a case against the Casino, or sue it, this clause would be relevant. I would have thought that, if someone were to sue the Casino because they had been permitted to gamble when they were intoxicated, they would have to do that under the common law—and I would be interested to hear what some of the lawyers might say about that.

I can well remember a certain case when I was a member of another place and we often had to deal with neighbourhood disputes. One particular squabble involved a couple of neighbours and, eventually, things got out of hand and there was a bit of pushing and shoving. The police went around, but they declined to charge the offending neighbour with assault because it was such a trivial matter. In the end, the neighbour ended up taking the matter through the courts and received several thousand dollars in compensation and forced the people to sell their house. The lesson that I learnt from that was that sometimes suing people under common law can be far more devastating than applying a criminal penalty. I am sure the neighbour who lost several thousand dollars would have much preferred if he had been charged by the police, had pleaded guilty and received a $50 fine for assault. That probably would have ended the matter.

Just by analogy (I do not claim any legal expertise), I would have thought that this measure would not necessarily affect someone's capacity to sue the Casino: I am sure that they would have means of doing that, anyway. Of course, we have already had the debate in relation to the objects of this clause of the bill, and I think that we ought to revisit that issue later in the debate.

I note from the Attorney's contribution that there are already powers under the Liquor Licensing Act where it is a duty not to serve liquor to intoxicated persons. So, I would have thought that the whole case law in relation to what intoxication means and how it is interpreted has been pretty well developed through the courts under that section of the Liquor Licensing Act. That is why we certainly did not, in the initial instance, see this clause as being unnecessarily restrictive, given that I would have thought there are similar restraints already. If you cannot serve intoxicated people within hotels, if that is not a problem there, we would not have thought that, in the case of the Casino, that would be a problem here.

Certainly, in principle, the opposition strongly supports some measures to prevent intoxicated persons from gambling in the Casino, and we are inclined to support this clause. However, if, during the debate, we do end up with a code of practice, or if someone cares to suggest a more effective way to address some of the concerns that have been raised, I would certainly be happy to take the matter back to caucus and revisit it. But at this stage I indicate that, given that this clause exists in other legislation around the country, we are inclined to support it.

The Hon. CARMEL ZOLLO: As I have previously indicated, I support this clause. Much of the debate today seems to centre around exactly what we mean by the licensee taking all reasonable steps. Obviously, I agree with the Hon. Paul Holloway that, as an end recourse, there is the common law but—

The Hon. Nick Xenophon: Thank goodness for that: thank goodness for the common law.

The Hon. CARMEL ZOLLO: You would say that. Will the Hon. Nick Xenophon clarify what exactly is meant by taking all reasonable steps? We have heard all sorts of versions, but perhaps he would like to clarify.

The Hon. NICK XENOPHON: In response to the Hon. Carmel Zollo's concerns, my office has double checked with the Casino Control Authority of New South Wales this morning. We did not get through to Kaye Loder: I think she has since left that authority.

The Hon. Carmel Zollo interjecting:

The Hon. NICK XENOPHON: I think she gave the wrong answer in relation to a heroin trafficker spending his dirty money at the casino. In relation to this provision, this bill was passed in 1992. Casinos have been in operation in New South Wales since 1994 or 1995, and in all that time there have been no prosecutions under that section.

The Hon. R.I. Lucas: They don't have you over there, Nick!

The Hon. NICK XENOPHON: Are you suggesting that I leave the state? The Casino Control Authority has advised my office this morning that there have been at least two disciplinary actions but no prosecutions. In other words, the casino was the subject of disciplinary action for this particular section. I imagine that, because this section is in place, it puts a greater onus on casino management to have a system in place.

Some members have raised the quite legitimate concern as to what you define as reasonable. Does it place an incredibly heavy onus on the operator? There is the argument that people ought to be responsible for their actions. I think that these are valid points, but this clause is not radical. It says that all reasonable steps must be taken. My clear understanding of how this clause would work is that we

would put an onus on the Casino to ensure that a system is in place.

If someone walks in already intoxicated but not appearing to be intoxicated and they start to play poker machines in a corner of the large poker machine room at the Casino and do their dough, I cannot see that in those circumstances an offence would have been created. However, if it is a case where someone is sitting at a blackjack table and they ask for alcohol, the pit boss is around and can see who has been playing at that table; if that person in the course of five hours gets 10 or 12 double scotches and lose a fortune at the table, then I would have thought the Casino was in trouble under this provision. And so it should be.

I suggest that reasonableness must be taken in the context of what is practicable for the Casino. If you have a person who does not appear intoxicated but who is well over the limit, gets a couple of drinks, the staff cannot tell, and that person is in a corner of the poker machine room at the Casino and loses their money, I cannot see that there would be an offence, because whatever reasonable steps a casino could take would not be able to prevent that. And reasonable is just that: it has to be reasonable. We are not suggesting that the Casino has an onus to breathalyse every gambler—

Members interjecting:

The Hon. NICK XENOPHON: The legal definition of 'reasonable' as interpreted by the courts, and I believe that this clause will be voted on today but recommitted because a number of members—

The Hon. T.G. Cameron interjecting:

The Hon. NICK XENOPHON: No, the Hon. Terry Cameron asks, 'What is the definition of 'reasonable'? Before we return, I am happy to do some legal research and give an outline of the law of reasonableness.

The Hon. T.G. Cameron interjecting:

The Hon. NICK XENOPHON: I think it is a very good point that the Hon. Terry Cameron—

The Hon. R.I. Lucas: It was a reasonable question.

The Hon. NICK XENOPHON: It is a reasonable question and one that ought to be considered.

The Hon. Carmel Zollo interjecting:

The Hon. NICK XENOPHON: Yes, the Hon. Carmel Zollo says that it is a question of commonsense.

The Hon. NICK XENOPHON: I would have brought my *Shorter Oxford Dictionary* here this morning if I had known I would be facing these questions. 'Reasonable' is just that. In other words, any responsibility in this regard cannot be unnecessarily onerous or unnecessarily rigorous upon the management of the Casino.

The Hon. T.G. Cameron: I bet that if I asked you, the Treasurer and the Attorney I would get three different answers.

The Hon. NICK XENOPHON: That is right.

The Hon. P. Holloway interjecting:

The Hon. NICK XENOPHON: The Hon. Paul Holloway says that none of them would be right. That is an unwarranted slur on at least some of us—I do not know which one. This situation simply seeks to put the Casino on notice that it must take steps that are not onerous. Perhaps I will say what 'reasonableness' does not mean. The Casino does not have to take extraordinary or onerous steps to determine—

The Hon. T.G. Cameron: It must take all steps.

The Hon. NICK XENOPHON: It must take all reasonable steps, so this section is limited—

The Hon. T.G. Cameron: I am worried about how those two would be read together.

The Hon. NICK XENOPHON: Sure. This section is limited by virtue of the fact that 'reasonable' is included, which would give the Casino an out in circumstances where it could not have reasonably known that the person was intoxicated and was gambling.

The Hon. T.G. Cameron interjecting:

The Hon. NICK XENOPHON: Perhaps there is nothing wrong with that; that is a public policy consideration.

The Hon. P. Holloway: Who would prosecute, though?

The Hon. NICK XENOPHON: In this case the police and the Office of the Liquor and Gaming Commissioner would have authority to look at these complaints and to look at—

The Hon. T.G. Cameron interjecting:

The Hon. NICK XENOPHON: No, the issue of damages is separate. The remedy exists now under the common law if a person is intoxicated. I believe that a court would determine now—if it were presented with evidence that the Casino served someone alcohol when it knew or ought to have known that that person, first, had reached the point of intoxication; and, secondly, had lost a lot of money—that a common law liability would exist.

The Hon. T.G. Cameron: What if it is any money, not an enormous amount of money? Someone could lose $100.

The Hon. NICK XENOPHON: I can understand the Hon. Terry Cameron's concern, but there is a fundamental difference in regard to what the honourable member is talking about. The honourable member is discussing the issue of common law liability for negligence. This clause simply imposes a criminal penalty upon the Casino operators. In other words, if someone had lost a fortune at the Casino, they do not get any money back from the Casino as such. There would be a prosecution against the Casino by the relevant authority and, if it is found guilty, it will be fined. If the person who was intoxicated seeks to bring an action for negligence, it would involve different considerations.

The Hon. T.G. Cameron interjecting:

The Hon. NICK XENOPHON: If it were found guilty, obviously it would put the Casino in a more difficult position in terms of defending such a claim, but that in itself does not lock the Casino into not defending itself. As a common law principle, if the Casino knew or reasonably ought to have known that the person was gambling and was intoxicated, that would make a difference. In terms of what is reasonable, it gives the Casino an out. We have an esteemed Queen's Counsel in our chamber and, if he seeks to become involved in this debate, he might be able to proffer some free legal advice for members.

The Hon. T.G. CAMERON: I have some concerns about this clause. Perhaps the Hon. Nick Xenophon can address them either today or at some other stage. I am concerned about the interpretation of an intoxicated person, and as I understand it there is case law in relation to that. But it is my understanding that if the Casino supplies liquor to an intoxicated person, irrespective of whether they are gambling or not, they will be prosecuted under another act. I raise the question of whether this is double jeopardy. It is my understanding—and I cannot recall the content of the fine; I think it might be $20 000—that the Casino would be prosecuted already for supplying alcohol to an intoxicated person. This, to me, has the appearance of being double jeopardy—if I have any idea of what double jeopardy really means.

Members interjecting:

The Hon. T.G. CAMERON: I am not a lawyer and they never cease to amaze me with the interpretations they can place on things.

The Hon. M.J. Elliott: Did you see the film? It was a good film.

The Hon. T.G. CAMERON: No, but it is my understanding that the Casino will be prosecuted now for supplying alcohol to an intoxicated person irrespective of whether they are gambling or not. I would like clarification, if I may, from the legal eagles in this chamber as to precisely what intoxicated means. Does intoxicated refer only to alcohol? Could a person be high on heroin and perhaps give the appearance they are under the influence of alcohol? They could be under the influence of amphetamines or any other drug. Would the interpretation mean that that person was intoxicated? Would it place the Casino in a position where it has to make a judgment whether the person was influenced by drugs and/or alcohol to reach that determination of intoxication? I recall many years ago getting onto a plane and, as I sat down—

The Hon. Nick Xenophon: Economy or business?

The Hon. T.G. CAMERON: It was economy actually. As I sat down the chap next to me who I did not know took a swig of whisky out of a hip flask and he was spotted doing it. He offered me a swig and I declined. He put it in his bag and then put the bag up in the locker. An hour later, I could not work out why the attendants were not offering me a glass of wine. I pressed the button and was ignored. I had concluded my meal by the time I was able to stop someone as they were walking down the aisle. I said, 'Excuse me I have the button pressed and I would like a glass of wine.' The attendant replied, 'Sorry sir, but you have been banned.' I asked, 'Why?' The reply was, 'I am not allowed to tell you. I will have to get the chief steward.' The chief steward came down and told me I was intoxicated. I think the last drink I had had was about a week before. But I was guilty by association.

That is an example of the difficulty people can have in determining whether someone is intoxicated. I question whether a person would have an action at common law against the Casino if they were refused the right to gamble when they were not intoxicated. The honourable member is a plaintiff lawyer—I will give him that one to think about. If I went into the Casino dead sober with a breathalyser on me and I happened to stagger around a bit and was declined the opportunity to gamble, and I could certify right then and there that I was dead sober, with a reading of 000, would I have an action against the Casino for preventing me from gambling? I understand that the Casino does have some kind of power (I do not know exactly what it is) to refuse people the right to gamble, and perhaps I could get some clarification of that from the honourable member.

I am concerned that this clause means that the Casino would be prosecuted under the Liquor Licensing Act (I think it is) and prosecuted a second time for the same offence just because the person was gambling at the same time. In fact, a prosecution could be brought against a person under the Liquor Licensing Act, and they could be found guilty. Could that prosecution then be used to seek a prosecution under this act? I do not know; I am not a lawyer.

I am concerned about the word 'all' and, with respect to the Hon. Nick Xenophon, I do not find the explanation he has given acceptable. I do not think he has addressed that question. He may have addressed a question that the Hon. Carmel Zollo put to him, but I am concerned about the words 'all reasonable steps'. To me, words such as 'all' and 'reasonable' would be manna from heaven to a lawyer, and I would like clarification of that.

Who would take the prosecution against the Casino under this clause? It may have already been said in the debate, but could someone tell me what the law would be if the authorities did not take a prosecution? Would the individual then be able to launch a private prosecution under this act? So, if the authorities refused to act, could the person then say, 'Well, I am going to take a prosecution under this act and, if I can get a penalty, then maybe I can have a crack at them at common law down the track.'? I take on board the point made by the honourable member that there have been only two prosecutions, as I understand it—

The Hon. Nick Xenophon: Not even prosecutions; just disciplinary action.

The Hon. T.G. CAMERON: Right—in New South Wales. However, I have seen instances previously where we have gone through a reasonable period of time and no legal action has been taken, and then all of a sudden there is a flurry of claims which usually trigger legislation down the track to do something about it.

I have not given much consideration to the Attorney-General's suggestion of a code of practice, and it is difficult to consider that until we see something. I would ask the Attorney-General, if he would like us to consider the code of practice instead of supporting what the Hon. Nick Xenophon has put forward, to give us some idea of what is in his mind. Without that, I suspect I will lean towards supporting a clause along the lines that the Hon. Nick Xenophon has put forward. However, I do have concerns and I offer the Hon. Nick Xenophon and any of the other lawyers an opportunity to address them—I will get some free legal advice for a change.

The Hon. R.D. LAWSON: I support the first part of new section 42A, namely the prohibition against a licensee permitting an intoxicated person to gamble in the Casino. It is worth also considering in this context whether there ought not be some prohibition against intoxicated persons gambling in the Casino, because what is sauce for the goose must surely be sauce for the gander and, if it is an offence for the licensee to allow an intoxicated person, then someone who is intoxicated and is gambling ought also to be liable to prosecution. I do not agree with the introduction of a reversal of the onus of proof which is sought to be achieved in new section 42A(2).

I have heard some of the discussion this morning about what exactly are reasonable steps, and of course it is impossible to define what they are in advance. This is quite a chestnut in legal circles. Every jury of laymen is directed that, if they have reasonable doubt about the guilt of an accused person, they should acquit. It is often asked, 'Exactly what is reasonable doubt? Can you, Your Honour, explain to us what is a reasonable doubt?' Some judges over the years have tried to explain that to a jury, but courts on appeal have said, 'No, this is an irreducible concept. What is reasonable is reasonable: it is not unreasonable, it is not fanciful, but it is simply reasonable, and you, ladies and gentlemen of the jury, have to decide as lay persons what you regard as reasonable in these circumstances. It is not a question of finding some other definition of reasonable. Reasonable means reasonable: it means nothing more; it means nothing less.' It is one of those irreducible concepts. You can simply exchange it for any other word that means reasonable and you get nowhere. As I say, it is one of those irreducible concepts.

I doubt that there is any element of double jeopardy in section 42A(1) as is proposed. It is true, as the Hon. Terry

Cameron has pointed out, that the Casino, as the holder of a liquor licence, is liable to be prosecuted for serving liquor to a person who is intoxicated. That is one offence. Under this proposed offence there would be yet another offence with entirely different elements, not of serving liquor but allowing to gamble—

The Hon. T.G. Cameron: Separate prosecution.

The Hon. R.D. LAWSON: Separate prosecution, separate offence. Theoretically, it might arise out of something that happens at the same time as the waiter approaches and hands over the drink as the person is operating the machine, but certainly the Casino is subject to two separate offences because they are two separate acts.

The Hon. Carmel Zollo interjecting:

The Hon. R.D. LAWSON: It probably would be the case, and I must say I do not know whether the Casino allows liquor to be served to persons seated at machines, tables or any of the—

The Hon. T.G. Cameron: Go over there and have a look.

The Hon. R.D. LAWSON: I have not specifically examined that. The legal argument that arises under proposed section 42A(1) is whether or not the licensee has permitted. The prohibition is against permitting. The issue would arise as to whether or not the Casino knew or had reason to know that a person was intoxicated. There will always be an issue as to whether or not the Casino did permit the person to gamble. The Hon. Terry Cameron raised the question whether or not the Casino would have a right to refuse to allow a person who was intoxicated to gamble in the Casino. It is certainly my recollection that in very prominent letters the Casino reserves all rights to refuse any form of service or even admission to anyone it chooses, without stating any reasons. Therefore, if that is the case and that is brought to the attention of patrons as they—

The Hon. T.G. Cameron: Does that mean they have a right to refuse admission to the Hon. Nick Xenophon?

The Hon. R.D. LAWSON: Indeed. Under legislation such as the Equal Opportunity Act they might not be entitled to refuse on the grounds of religion, race, disability and so on; however, that question aside, the Casino does reserve to itself the right to refuse service. The Hon. Terry Cameron asked whether intoxication includes intoxication by some form of drug other than alcohol. Much legislation refers to intoxication whether by alcohol or other drug. Although I have not looked at the authorities on this, my understanding is that intoxicated in this context would mean intoxicated not only by alcohol but also by any other substance which causes intoxication. I indicate I will support the first measure, but I will not support the reverse onus, because I do not think it is necessary or appropriate in these circumstances.

The Hon. T.G. CAMERON: In view of the answer the Hon. Robert Lawson just gave, if a person was intoxicated and was under the influence of prescription drugs, could the Casino be found guilty? If a person was obviously in a state of intoxication but had taken drugs prescribed by a doctor, could the Casino be successfully be prosecuted?

The Hon. R.D. LAWSON: That possibility often arises in relation to people who are driving motor vehicles or have them under their control at a time when they are incapable of controlling the vehicle by reason of taking legitimate drugs or, more likely, a cocktail of prescribed drugs.

The Hon. NICK XENOPHON: In response to some of the matters raised by the Hon. Terry Cameron—and I am sure he will pick up any matters that have not been addressed—I agree with the Hon. Robert Lawson that this does not lead to double jeopardy: it is a separate offence. At the moment there is a loophole in the current Casino legislation. Whilst there is an offence under the Liquor Licensing Act regarding intoxication, there is not an offence that links intoxication and gambling. Having approached the authorities with respect to this gentleman who lost $10 000 or so in the course of an evening and who alleges that he had nine or 10 double scotches, my understanding of the current legal position is that they can bring a prosecution only with respect to the supply of alcohol, not with respect to the gambling losses in terms of doing something about that person losing all that money. The current legal position is that if somebody walks into the Casino and it might be apparent that they are severely intoxicated and they lose thousands of dollars, as I understand it there is nothing that can be done about it unless there is a provision that prevents an intoxicated person being on the premises. That would be the only offence.

So, at the moment there is a loophole. Because I have modelled this on the New South Wales act, where they have had only two disciplinary actions in a number of years without any prosecutions, it simply puts a greater onus on the Casino. I can understand the honourable member's reservations. I think the Hon. Robert Lawson has dealt with the issue of someone being intoxicated by heroin, amphetamines or some other thing. The definition of 'intoxicate' in the *Oxford Dictionary* of 1901, which I obtained from the Parliamentary Library, is:

> To stupefy, render unconscious or delirious, to madden or deprive of the ordinary use of the senses or reason with a drug or alcoholic liquor; to inebriate, make drunk.

The *Collins Dictionary* says:

> To a produce in a person a state ranging from euphoria to stupor, usually accompanied by a loss of inhibitions and control; make drunk, inebriate.

The second definition is:

> To stimulate, excite or elate so as to overwhelm.

The Hon. R.I. LUCAS: The Hon. Mr Lawson has suggested one way through this, which maybe we could look at in two weeks when it is recommitted—it does not necessarily have to be done today. The ultimate solution may be to support a provision 1, which makes it quite clear that the licensee shall not permit an intoxicated person to gamble in the Casino. You then do not have subclause (2), which reverses the onus of proof, where it is just assumed that they have, unless they can prove otherwise, done everything. The second alternative may well be the sort of idea the Attorney has suggested—and he will have to explore that—involving the code of practice provision. The third option may be to redraft subclause (2) so that it is a reverse onus of proof arrangement, as the Hon. Mr Lawson has highlighted, which in some way is a more reasonable provision—seeing that it is an irreducible minimum concept, as the Hon. Mr Lawson has eloquently put it—in relation to the proprietor. They would appear to be the three options between now and two weeks. I am sure that the Attorney, possibly the Hon. Mr Cameron and others may well want to explore alternatives in this area.

My final point—and a couple of members have hinted at it—is that on the few occasions I have ever been at the Casino it has tended to be after a function elsewhere, where we have had dinner somewhere and a good number of the company go to the Casino. Whether or not they are intoxicated is an interesting question. I will bow to greater legal knowledge than mine on intoxication. A good number of them may blow

more than .05, yet those people quite happily are able to bet, gamble and lose a little bit of money without becoming problem gamblers. That is the challenge. There is a significant—

The Hon. Nick Xenophon interjecting:

The Hon. R.I. LUCAS: 'Intoxicated', according to the *Oxford*, means that you are drunk. I suppose that our measure of 'drunk' is .05, is it not?

The Hon. M.J. Elliott interjecting:

The Hon. R.I. LUCAS: Is it? Well, what is the definition of 'drunk'? The Hon. Mr Redford in a moment can give us an example of what 'drunk' or 'intoxicated' is.

Members interjecting:

The Hon. R.I. LUCAS: I will rephrase that—he may give a legal view on what 'drunk' or 'intoxicated' is. A significant proportion of the clientele in the late evening and the early hours of the morning who go to the Casino would be considered intoxicated or drunk. A good number of them can happily participate in having a gamble and win or lose whatever amount of money and then move on without becoming problem gamblers. At the same time, I acknowledge that there are others who, even at that stage, may well have lost control and are the sort of people the Hon. Mr Xenophon is concerned about. There is a practical reality about who actually goes into the Casino. As I said, I am not someone who regularly attends the Casino by a long way. However, the few occasions I have been there would be after I had been to a function at the Hyatt, or across the road at Parlamento, or wherever it might be. After you have had a dinner, a few wines or drinks, someone in the group might say, 'Let's go to the Casino and have a punt.'

An honourable member: And a drink!

The Hon. R.I. LUCAS: Some to have a drink, but some go there to have a coffee and gamble. They have done their drinking for the night, so they just have a coffee and they gamble. Others will have a drink, and they will continue their drinking. That is the sort of person who ultimately loses control of everything they are doing, and I am sure all of us agree that we would not want to see them. Someone could be intoxicated, as opposed to 'legless'. That is an interesting definition. The Hon. Mr Elliott has introduced the terminology 'legless'. It probably does not have legal significance, but we have a sense of what it means. 'Legless' is obviously a quantum above intoxication.

An honourable member interjecting:

The Hon. R.I. LUCAS: I'm not sure how you would define that.

The Hon. M.J. Elliott: 'Legless' is obviously intoxicated.

The Hon. R.I. LUCAS: As opposed to just intoxicated?

The Hon. M.J. Elliott: Yes.

The Hon. R.I. LUCAS: There are some interesting legal distinctions in relation to 'legless' and 'intoxicated'. People might be boisterous and happy, and might be intoxicated or drunk on whatever definition one adopts for intoxication, but on Hon. Mr Elliott's view of the world a significant number of people would be stopped at the door.

An honourable member interjecting:

The Hon. R.I. LUCAS: The Hon. Mr Xenophon has to explain that. All I am saying is that a lot of drunk or intoxicated people go to the Casino who in the end are not the problem gamblers and who, on my personal experience, are people about whom I would not be concerned if they lost their $20 or $50 at the Casino at 1 a.m.

An honourable member interjecting:

The Hon. R.I. LUCAS: Or even some of them $1 000; but I acknowledge that there are some people, as the Hon. Mr Xenophon indicated, in relation to whom all of us would share that concern. The difficulty with this clause and the reason we have been on it for an hour is that everyone has some knowledge of this area, of drinking, intoxication, being 'legless'—

The Hon. M.J. Elliott: By way of observation!

The Hon. R.I. LUCAS: Yes—and gambling. They are the only two points I raise.

The Hon. A.J. REDFORD: I ask members to reflect on the days when drink driving used to take place before we had breath analysis machines. In those days, you would get pulled out of your car, asked to walk a white line, put your finger on your nose, and so on. You were tested to determine whether you were physically capable of exercising physical control over a motor vehicle. That in itself created enormous problems, because there was a substantial degree of subjectivity attached to it by police officers and, ultimately, by tribunals who determined it. That led to the development of a breath analysis machine where you had a physical means of measuring the level of alcohol in one's blood. Indeed, anecdotally some people might say they are perfectly capable of driving a motor vehicle at a certain level of alcohol in the blood—or at least put that proposition at the time the law was introduced—and parliament said, 'We have to draw a line somewhere.' In that area, parliament sought some measurable standard.

Admittedly, the stakes are much higher when you have someone who is under the influence of alcohol or intoxicated, or to use the Hon. Michael Elliott's term 'legless', in charge of a motor vehicle as opposed to someone sitting in front of a poker machine or at a roulette table. It creates some problems in respect of uncertainty. I suppose it might be easier—and I was listening to the debate earlier—to look at providing some guidance in the code of conduct as opposed to using the general term of 'intoxication'.

The Hon. P. Holloway interjecting:

The Hon. A.J. REDFORD: That is true, but I am not sure that they have those sorts of penal sanctions.

The Hon. M.J. Elliott interjecting:

The Hon. A.J. REDFORD: I stand corrected, but I am not sure that that might not also attract some attention from certain lobbyists and other groups who are anti-gambling. It seems to attract a lot of attention. In any event, intoxicated people would quickly leave if they exercise their rights under the liquor licensing law. It is a difficult concept for a busy person in a casino with substantial numbers of people gambling, whether it be on a machine or at a table. It puts a significant onus on those people. At the end of the day, there is the argument that there are occasions in our lives—perhaps remote occasions in the eyes of some—when we have to take responsibility for our own conduct. We cannot sit down and mollycoddle every single person for every second and minute of every day. Sometimes you make mistakes when you are intoxicated—I am sure we all have—but you have to accept those consequences at a personal level rather than look for someone to wet nurse you during your leisure activities.

The Hon. T.G. CAMERON: I have another question for the Hon. Nick Xenophon. This clause will apply to the Casino. Is it his intention to insert a similar provision in other acts of parliament to cover gaming machines in hotels, TAB offices and bingo ticket selling booths in shopping centres? I have sat in the Arndale Shopping Centre and watched people spend thousands of dollars on bingo tickets in an hour.

I am not joking—I have seen them spend thousands of dollars on bingo tickets. Is it his intention to flow this on to greyhound racing, trotting and horseracing, or in fact anywhere people might gamble?

The Hon. NICK XENOPHON: You have given me a lot of good ideas.

The Hon. T.G. Cameron: Lottery tickets?

The Hon. NICK XENOPHON: I think the Casino does have a special responsibility as the state's largest gambling house, given the size and scope of the operations, but, if this clause is successful, then in some respects it is a test clause for—

The Hon. R.I. Lucas interjecting:

The Hon. NICK XENOPHON: The Treasurer is chuckling now. Why is he surprised?

The Hon. T.G. Cameron interjecting:

The Hon. NICK XENOPHON: There could be different policy considerations, but I would have thought that, if someone loses thousands of dollars in a casino or the gaming room of a hotel, the considerations ought to be the same. I would have thought it might be easier for a hotel with a much smaller room to comply with it. Section 108 of the Liquor Licensing Act provides:

> If liquor is sold or supplied on licensed premises to a person who is intoxicated, the licensee, the responsible person for the licensed premises and the person by whom the liquor is sold or supplied are each guilty of an offence. Maximum penalty: $20 000.

Subsection (2) provides:

> It is a defence to a charge of an offence against subsection (1) for the defendant to prove—
>
> (a) if the defendant is the person by whom the liquor was sold or supplied—that the defendant believed on reasonable grounds that the person to whom it was supplied was not intoxicated; or
>
> (b) if the defendant is the licensee or responsible person for the licensed premises and did not personally sell or supply the liquor—that the defendant exercised proper care to prevent the sale or supply of liquor in contravention of subsection (1).

I think paragraph (a) may be of interest to the Hon. Terry Cameron and other members who have reservations about supporting this other clause. I still believe that the reverse onus of proof is a much more preferable course, particularly because it does not appear to have been an unreasonable onus on the operators of the Sydney Casino in the past five or six years, given that there have been only two disciplinary actions. That would be the way to go. I still think that there is a problem with that subclause in the light of there being so few prosecutions. I cannot remember when the last prosecution was: I can check with the Office of Liquor and Gaming here in South Australia. All we are trying to do is prevent those cases where the Casino clearly has an obligation to intervene when a person is intoxicated, and this clause would simply put some onus on them to do the right thing.

The Hon. T.G. CAMERON: I thank the Hon. Nick Xenophon for his candidness in answering my question. I certainly hope that hoteliers and bookmakers, and what have you, do not hold me responsible if the Hon. Nick Xenophon seeks to insert this provision elsewhere. I suspect it was in the back of his mind, anyway. But I thank him for his candidness in advising the committee that this is only a test clause and that, if he is successful on this, he will seek to flow it on to other acts of parliament. That brings me to another question. I do not share the Hon. Nick Xenophon's view—

The Hon. J.S.L. Dawkins: Why don't you just sit down and vote?

The Hon. T.G. CAMERON: No, I am having a bit of fun here. We have plenty of time to consider legislation: we have extra sitting days. The government and the opposition have persuaded me that we can get through all the legislation in the days that they have set aside. If it was their joint decision that they wanted to close the parliament down, so be it. If we do not get to all the legislation before we run out of time, then they will both have to have another meeting and make another decision as to whether we continue sitting or whether we adjourn for four months and come back in March. But that decision is not mine. I have only one vote in this Council. Getting back to the point at hand—

The Hon. P. Holloway interjecting:

The Hon. T.G. CAMERON: I can remember putting a point similar to that to Senator Chris Schacht. I reminded him that every member of the Labor Party caucus had only one vote. He said, 'Don't you believe it: Keating's vote is worth more than anyone else's in the caucus.' I think he was right.

Whilst I was sitting here listening, I thought about the implications of flowing this clause on, particularly to hotels. I do not agree that the Casino should be subject to this penalty and nobody else should be. I take the view that, if the Casino is going to be held responsible for laws like this, then hotels and, in fact, anybody in relation to gambling should be held responsible. However, I would like members to think about some of the practical problems if this was flowed on to hotels. When you go into many country hotels—and a lot of city hotels, these days—they do not have many staff rostered on. The act requires them to segregate all the evil gamblers into another section of the hotel, and they have only one staff member on. If a legless person walked into a hotel but did not order a drink, the hotelier might not even be aware that that person was gambling until an hour later.

The Hon. Nick Xenophon interjecting:

The Hon. T.G. CAMERON: That sorts that one out. Thank you.

The Hon. R.I. LUCAS: I understand from the Hon. Mr Xenophon that he will consider and reflect on the eloquent views that have been put by the Hon. Mr Cameron and others in committee this morning. On that basis, I will not pull out my Don Farrell type votes from the back pocket and vote against the clause at this stage. We will let the clause go through and reflect on it in two weeks when the Hon. Mr Xenophon and the Attorney have had a chance to reflect on these issues.

The Hon. NICK XENOPHON: I am happy to proceed on the basis suggested by the Treasurer. Given that the Hon. Robert Lawson has said that he will support subclause (1) but not subclause (2), I take it that there will not be a problem with the clause being split, in due course.

The CHAIRMAN: It is a conscience vote, as the honourable member realises, so it is not just the Hon. Mr Lawson—

The Hon. NICK XENOPHON: I know that. Some members may support subclause (1) but not subclause (2).

The CHAIRMAN: We can do that if that is the desire of the committee.

The Hon. NICK XENOPHON: We can deal with it on the voices and recommit later.

The CHAIRMAN: The question is that lines 3 to 11 stand part of the bill—and that includes the heading down to the end of proposed section 42A(2).

Question agreed to.

The Hon. NICK XENOPHON: I move:

Page 5, after line 11—Insert:
DIVISION 5B—RESPONSIBLE GAMBLING CODE OF PRACTICE
Responsible gambling code of practice
42B. It is a condition of the casino licence—
(a) that the licensee must adopt a code of practice approved by the authority providing for practices directed towards encouraging responsible gambling, including the provision of training to staff relating to responsible gambling and the services available to address problems associated with gambling; and
(b) that the licensee must ensure that operations under the licence conform with the code of practice approved under this section.

This clause provides that it is a condition of the Casino licence that the licensee must adopt a code of practice approved by the authority (that would be the Gaming Supervisory Authority) providing for practices directed towards encouraging responsible gambling including the provision of training of staff relating to responsible gambling and the services available to address problems associated with gambling and that the licensee must ensure that operations under the licence conform with the code of practice approved under the section.

This clause simply provides for there to be an obligation on the Casino licence that certain practices designed to minimise the harm associated with gambling form part of the conduct of the Casino. It is not a particularly onerous provision. It seeks to do what is similar to legislation that has been passed in the past few months in Victoria, New South Wales and Queensland, as I understand it. I am happy to provide honourable members with a copy of those relevant provisions in relation to that. I ask that members support this amendment.

The Hon. R.I. LUCAS: At the appropriate time, I will move my amendment to this amendment from the Hon. Mr Xenophon. I indicate (and I have had this discussion with the Hon. Mr Xenophon) that I do not potentially have a problem with the direction in which the Hon. Mr Xenophon is heading. The reason why I have moved the amendment in the form that I have is that the government has, in two other pieces of legislation before the parliament, introduced legislation in the terms that I have introduced—that is, that there be a code of practice approved by the authority which deals with a certain restricted number of items. It is in the proposed TAB legislation and it is also in the proposed Lotteries Commission legislation.

So, at this stage, the amendment that I am proposing to the Casino legislation is consistent with the proposals in the TAB and the lotteries legislation. It may well be that the Hon. Mr Xenophon believes that the parliament should change the division in the TAB and the lotteries legislation to make it consistent, and I can certainly understand his viewpoint in that respect. But, from my viewpoint, and in relation to TAB and lotteries, it is a government position in those two bills; that is, that there be a code of practice, but handling a restricted range of things, not as all embracing at this stage as the code of practice that the honourable member is envisaging in his proposed section 42B.

In relation to the general issue of responsible gambling codes of practice, or responsible gaming policies, as the honourable member will know, it is my view that it would be an improvement in responsible gaming policy if we could see some greater level of consistency between the states and territories on this issue.

It is an issue that I (on behalf of the South Australian government) am pursuing at the ministerial council on gambling. There is probably a reasonable prospect that the other states will agree, at least, to pursue this notion. As I have said before, it is probably unlikely that in the end we will get 100 per cent consistency, given the different environment in which gambling has developed in each of the states, but I am sure that there will be a possibility of greater consistency in terms of responsible gaming policies between the states and territories as compared to the current situation.

Ultimately, from my viewpoint and that of the majority of the government members, I believe, a broader notion for all our gambling providers is potentially something that we could support. However, before we do so, we would like to know what we are actually supporting. The open-ended clause 42B that we are talking about now, as proposed by the Hon. Mr Xenophon, provides:

. . . must adopt a code of practice approved by the Authority providing for practices directed towards encouraging responsible gambling.

In essence, that means that the authority will take over responsibility for the gambling code of practice. Whomever we appoint to the authority will be the authority who will make the final determination about a code of practice for responsible gambling within the Casino. Ultimately, those sorts of decisions are taken either by governments elected by the people or by parliament in some indirect way.

I cannot see how you would actually vote for a code of practice in parliament, although it is technically possible. Certainly, some provisions that we will put into that legislation will be essential elements of a code of practice, but a code of practice might build on the legislative provisions and then have a range of other code of practice provisions as well, which might not be necessarily legislative but which in essence have been decided by someone as being appropriate.

Into those I would perhaps put things agreed at national level by the ministerial council on gambling, which might say that such and such is a provision that we think ought to go into a code of practice, even if it is not legislated. Perhaps the ministers can see some sort of consistency in that and have them included in some way in a code of practice within a state or territory provision.

In my judgment, the provision we have here has jumped a couple of steps. I understand why the Hon. Mr Xenophon wants to do that: he wants to get to the end of the process very quickly. The problem I have, as have a number of other members at this stage, is that jumping to that step and giving an authority—an unelected body—the capacity to make these sorts of decisions on our behalf is not the process I believe we ought to be following. We have a government and a parliament that have been elected.

The Hon. Nick Xenophon interjecting:

The Hon. R.I. LUCAS: Only in restricted areas. We have restricted the areas to the display of signs, the provision of information, the availability of services and the provision of training, whereas in the Hon. Mr Xenophon's provision it could be anything that the authority determined if it believed that it was directed towards responsible gambling. It might decide at this stage—and we might all agree with it—that we should ban advertising, or that there should be no advertisements depicting anyone with a smile on their face—all those sorts of things that some of us might find a little over the top. The Hon. Mr Xenophon might be delighted.

The process that the honourable member has suggested is that an unelected body—not a government or a parliament but the supervisory authority—would be the body making these sorts of decisions at this stage, and that is perhaps jumping a step down the track. There are other ways in which the code

of practice could be decided. Either the parliament or the government could actually decide a code of practice, but at this stage I am suggesting that we move slowly.

We have the same provision that I am recommending in the TAB and lotteries bills. It does not ultimately prevent the parliament taking the next step, as the Hon. Mr Xenophon suggests, but at least there would appear to be the capacity for agreement on this issue, because the government has it in the bill and I understand that the opposition is going to support similar provisions in a bill in another place.

I think that the TAB bill is still at the second reading stage. I am not sure whether the lower house has reached the committee stage yet, but it is still down there. My understanding is that we do have, in one of these rare areas, the capacity for the government, the opposition and, perhaps, the Hon. Mr Xenophon to at least agree on a base position, with the Hon. Mr Xenophon arguing that he wants to go to the next step very quickly, and I understand that. But at least there is the capacity here for a provision that would then be replicated in the legislation relating to the Casino, the TAB, and, maybe, lotteries (if lotteries comes through both houses), with still the capacity, as I have outlined, and the commitment, that I am sure we all share, to see how much further we can go, not only within South Australia but also, in my judgment, at the national level.

The Hon. Nick Xenophon interjecting:

The Hon. R.I. LUCAS: It might be but, ultimately, we will each have to take a decision as to whether it is useful to have a greater degree of consistency between the states in terms of responsible gaming policies; or, this current situation where, 'I am tougher than you; I am weaker than you; or you are weaker than me.' People are working in all the jurisdictions trying to, in the case of gaming machine manufacturers, for example, manufacture machines that are suitable for all jurisdictions if every state has different provisions. Again, it might be a point.

If there is a chance to have a greater degree of consistency between the states, let us at least give it a go. However, that is not the main point. The main point, I think, is the issue that we have the capacity in the TAB, lotteries and now Casino legislation to endorse the same provision, with the honourable member foreshadowing the situation that he wants to go further and make it much tougher. If the honourable member goes down that path, I am surprised that he would see it as preferable that these sorts of decisions would ultimately be taken by an unelected body, the Gaming Supervisory Authority. I mean, shock, horror, I might put all five representatives on the authority from the hotels industry, or some future Labor Treasurer might do that. I am sure that would be the case because we are reasonable people.

An honourable member interjecting:

The Hon. R.I. LUCAS: We Treasurers are reasonable people. The issue, again, hinges on who should make these decisions. Ultimately, I believe that the government has been elected and it ought to take responsibility; other than that we will see a more prominent role from parliament. We may well see a sharing of divisions of responsibility in relation to those decisions, but not, at this stage anyway, leaving it as a final decision for the Gaming Supervisory Authority to determine what should go into a code of practice.

The Hon. P. HOLLOWAY: The opposition will support the Treasurer's foreshadowed amendment. We certainly support the idea of a code of practice. I note that the Hotels Association has implemented a code of practice for sometime and I believe that it has made a useful contribution towards harm minimisation within the hotel industry. For the reasons just outlined by the Treasurer in relation to consistency, we support his approach on this occasion. As the Treasurer said, that does not certainly preclude in the future the option of increasing constraints on the Casino, or any other gambling body for that matter, should the government of the day so provide. I indicate our support for the Treasurer's foreshadowed amendment.

The Hon. T.G. CAMERON: I thank members of the committee for their contribution on this matter. It has been informative and, for me, educational.

The Hon. Nick Xenophon: What about your contribution?

The Hon. T.G. CAMERON: I said that I thank honourable members. I am not talking about myself. As I said in an earlier contribution, I am attracted to the clause the Hon. Nick Xenophon has put forward, and some of the clarifications and answers he gave me have pushed me in the direction of supporting his clause. For me it will be a choice between the clause that the Hon. Nick Xenophon is suggesting or the code of practice. I have not seen the code of practice yet, so I do not know how anybody could say they are prepared to support it, because we do not know what is in the Attorney-General's mind. I shall be making a choice between supporting the code of practice and supporting the clause either identical to or very similar to the Hon. Nick Xenophon's. I suspect at the end of the day the Australian Labor Party will be attracted to the code of practice.

The Hon. M.J. ELLIOTT: I indicate that I am supportive of the notion of codes of practice and would hope that eventually when we establish some gaming oversight bodies, in particular not just a body overseeing probity but another body that is involved in gambling related harm—

The Hon. Nick Xenophon: That has some real teeth.

The Hon. M.J. ELLIOTT: Yes. However, I believe that the body looking at issues of gambling related harm should be in a position to produce draft codes of practice, which it can then recommend to the political process for adoption and enforcement by the agency which is in charge of probity, licensing and so on. I think it is important that we keep those two separate. In the interim, I am supportive of this amendment.

The Hon. NICK XENOPHON: I urge honourable members to consider supporting the clause I have introduced because the Treasurer's proposed amendment, whilst consistent with the bills in the other place in relation to lotteries and the TAB, is not even a toothless tiger: it is more like a toothless pussycat in the sense that the Treasurer's proposed clause provides only for a code of practice in relation to some basic things such as the display of signs, the provision of information—

The Hon. A.J. Redford: We've got a Treasurer with a social conscience.

The Hon. NICK XENOPHON: A Social conscience? However, it does not deal with the heart of the issue, that is, to reduce the harm associated with gambling. The Treasurer makes a point that an unelected body, the Gaming Supervisory Authority in this case, should not be making these decisions. But at the moment no decisions are being made other than through the parliamentary process, and it is a bit like swimming through quicksand in terms of getting some legislative amendments through which will have some teeth and which will be effective in reducing the levels of problem gambling.

I therefore urge honourable members to support my amendment, because this would at least put an onus on the authority to consider issues that relate to minimising the problems associated with gambling. South Australia is being left behind compared to other states in terms of consumer protection measures. And, with respect to the Treasurer's approach that there be a national code, some national consistency, I can see some rationale in that, but it really seems to be a case of having the lowest common denominator. If we had that approach 20 or 30 years ago when consumer legislation was implemented by the Dunstan government, or for that matter the sex discrimination legislation introduced by the Hon. David Tonkin, we would not have got anywhere. If we had waited for Queensland, Western Australia, or Tasmania to be dragged into line on a national basis, nothing would have happened. It really begs the question why we have state parliaments: to deal with situations that are clearly of local concern. It seems to me that this clause will have to be recommitted.

The Hon. R.I. Lucas interjecting:

The Hon. NICK XENOPHON: That is right. I have been reminded. The Treasurer has given me a reality check. He has reminded me that—

The Hon. R.I. Lucas: You can still recommit it.

The Hon. NICK XENOPHON: We can still recommit it but the record states, I think, that the Democrats are with me on this. I will not seek to divide in the circumstances, so the government can kill off this clause now.

The Hon. R.I. LUCAS: I move:

Proposed amendment to clause 6—Leave out proposed new section 42B and insert:

Responsible gambling code of practice

42B. It is a condition of the casino licence—

(a) that the licensee must adopt a code of practice approved by the authority dealing with—

(i) the display of signs, and the provision of information, at the casino relating to responsible gambling and the availability of services to address problems associated with gambling; and

(ii) the provision of training to staff relating to responsible gambling and the services available to address problems associated with gambling; and

(b) that the licensee must ensure that operations under the licence conform with the code of practice approved under this section.

The Hon. R.I. Lucas's amendment to the Hon. Nick Xenophon's amendment carried; the Hon. Nick Xenophon's amendment as amended carried; clause as amended passed.

Clause 7.

The Hon. R.I. LUCAS: I think this should be relatively mercifully brief. The government opposes this clause. The government announced in the last budget an allocation of an extra $500 000, which is coming from the revenue that we take from the Casino, TAB, lotteries and the gambling providers to be provided broadly to gambling rehabilitation services. The argument has been—I think with some substance, and I have said this before—that the $1.5 million that comes from the hotels and clubs industry to gamblers' rehabilitation was fine, but why should not the other gambling providers provide moneys to gamblers' rehabilitation? Certainly the government agrees with that view. We take a considerable amount of taxation revenue from those industries at the moment and will continue to do so should any of them be privatised in the future, such as the TAB. What the government is saying is that an additional $500 000 should go to gamblers' rehabilitation, and indeed that decision has been taken and is being actioned at the moment.

It is not correct for anyone to argue, at this stage, that the other gambling providers are not making a contribution to gambling rehabilitation because they are: we collect the revenue and we have indicated that an allocation from that will go to gambling.

The Hon. Nick Xenophon interjecting:

The Hon. R.I. LUCAS: No, I accept that. I said at the time that I was sympathetic to the views, but we had to go through the budget process. We have now gone through the budget process and we have done that. From that viewpoint, I do not want to extend the debate. The government opposes this clause.

The Hon. P. HOLLOWAY: The opposition will oppose the clause. It is not that we have any objection to the principle of the proceeds from taxation provided by the Casino going towards assisting people who are affected by gambling; on the contrary we support that. However, we believe that can and should be done as part of government policy rather than through amendments to the act. For that reason, we oppose the clause.

The Hon. NICK XENOPHON: Given that the government and the opposition have formed a symbiotic relationship on this clause—

The Hon. L.H. Davis: What is that word again?

The Hon. NICK XENOPHON: Symbiotic; do you want me to spell that for you? To make it easier for some members, the government and the opposition are like Siamese twins on this clause; they are joined at the hip pocket. It is welcomed that the government has finally chipped in $500 000 from all the gambling codes to contribute something towards problem gambling. This clause would have simply ensured that there was a regular income stream to be used for the purpose of rehabilitating problem gamblers to assist those families in need. The fact that it is now done on an ad hoc basis at the whim of the government of the day is unsatisfactory. I realise the clause will be defeated, but I hope that this issue will be revisited down the track because the current situation relating to funding is clearly unsatisfactory.

The Hon. M.J. ELLIOTT: I indicate that, in my view, the moneys currently being committed to gambling related harm are grossly inadequate. While it might be argued that government should make a decision on the amount, this parliament has made decisions on a number of occasions over the past couple of decades in terms of expanding gambling opportunity, but it has not at any stage so far picked up any responsibility, and although this clause may not be perfect and is certainly not ideal it is at least an expression by this parliament that the current levels of assistance to gambling related harm are inadequate. For that reason alone I will support the clause.

Clause negatived.

Clause 8.

The Hon. R.I. LUCAS: Again, I do not think this need be an extended debate. I oppose this provision, although in the end I would not die in a ditch on it. My colleagues the Hons Trevor Griffin, Diana Laidlaw and John Dawkins have also indicated to me that they oppose this provision. The debate has been held previously. The Attorney or someone has made the point in debate about the comparative penalties under similar gambling and casino legislation, so from my point of view I certainly oppose it going up to $1 million. If it is not successful on recommittal, there may well be a capacity for a lesser sum than that, but I do not want to enter into a Democrat option here. I oppose the extension from $100 000 to $1 million, as my three absent colleagues have also indicated.

The Hon. P. HOLLOWAY: The opposition will oppose the clause. It is not that we have a particular view on the size of penalties in relation to this matter but more that we believe that the administration of an act should be the province of the government of the day, acting on the information it has from its various arms of administration of this act. It is for the government to determine the appropriate penalties, given the information. If the government were to put to us a case for increasing the penalties because of abuses or if the Casino authority was putting out information in its annual reports and so on, we would review it but, given that no evidence has been provided for the need for the increase, we will not support it.

The Hon. M.J. ELLIOTT: The Democrats are prepared to support the clause, noting that there are only two numbers on the table, and that is the current $100 000 or $1 million. We are open to persuasion as to whether it should be another figure. We certainly support the increase; and, in the absence of any other, I will take $1 million as the first and final bid.

The Hon. NICK XENOPHON: Enormous amounts of money can be lost at the Casino. The Adelaide Casino gaming manual (and I emphasise that it is no longer the current gaming manual for the current operators of the Casino) states in its 'Junkets and inducements' section that one high roller from South-East Asia had a turnover of $173 million in one weekend. He did not necessarily lose that amount.

The Hon. R.I. Lucas: It wasn't our Casino.

The Hon. NICK XENOPHON: Yes; it was the Adelaide Casino. The turnover of $173 million does not mean that that amount was actually lost: it means that that amount was wagered. The manual did not disclose whether the Casino or the high roller came out on top. It indicates that enormous amounts of money are wagered in the Casino.

The Hon. L.H. Davis: The Treasurer wasn't unhappy to hear your remarks.

The Hon. NICK XENOPHON: The Hon. Legh Davis says the Treasurer was not unhappy to hear the remarks. Perhaps he could share with us how much of that $173 million turnover found its way into government coffers. The New South Wales legislation provides a figure of $5 million, so it is not unprecedented. Notwithstanding that this is my clause, I put to the Treasurer that my understanding is that the $100 000 penalty has not changed since the inception of the Casino act. So, even allowing for CPI increases over the 15 years or so, the penalty has stayed the same. That by itself would indicate that there is some need to move penalties so that they are in line with inflation.

The Hon. R.I. Lucas interjecting:

The Hon. NICK XENOPHON: Even if it is at 3 or 4 per cent on a compound rate, over 15 years we are still looking at 50 or 60 per cent difference.

Clause negatived.

Clause 9.

The Hon. NICK XENOPHON: I move:

Page 5, line 34—After 'token' insert 'or the insertion of a coin of a value of more than $1'.

My amendment, given the questions of the Hon. Terry Cameron, would apply to the earlier clause that relates to gaming machines in the Casino, as distinct from gaming machines in hotels. In terms of coins, we are dealing with a coin of no more than $1, namely, the status quo. The Hon. Terry Cameron said that if there was a $5 coin—or the $2 coins that are not being used by casinos—there is a clear link between the denomination of the coin put in and the rate of problem gambling. They are $1 coins at the moment. We have the status quo because there is evidence interstate in terms of note acceptors that it can increase levels of losses and levels of problem gambling. It seems that this clause will need to be recommitted because it is identical to the other clause that has been recommitted. The Hon. Paul Holloway has some amendments in that regard as well.

The Hon. R.I. LUCAS: I seek guidance from the Hon. Mr Xenophon, given that we are almost at the lunch break. We can do one of two things. First, we can let this one rip through to the keeper and leave it in there on the basis that we will be revisiting clauses. I am not sure of the Labor position on this, and I can have that discussion with Paul privately. Most of these issues, as we roll back through the Casino provisions (whether we put them in or do not and in what form we put them in), will then flow through to this provision. You will want to replicate whatever you have achieved in the Casino in the Gaming Machines Act, rather than have two separate things.

It would seem sensible that maybe we let this go through at this stage on the basis that we will have a substantive debate about Paul's amendments when we go through the clauses again in relation to the Casino, and depending on what happens there I assume members will want to replicate some of those provisions in the Gaming Act. The clause going through does not indicate my support but indicates that it is part of a process. We can flag the issues and when next we return to this epic journey we can consider the particular issues then.

The Hon. P. HOLLOWAY: In terms of process, I am happy with that suggested by the leader of the government. We can certainly revisit this matter in relation to the clause on the Casino. My amendment on file to clause 9 is similar to the amendment I was going to move in relation to clause 5 in relation to smart cards. We had a lengthy discussion on this matter over the previous few weeks. The Hon. Nick Xenophon seeks to prevent the use of gaming machines by any means other than by the insertion of a coin. In other words, he would seek to prevent note takers, and the opposition agrees with that. He also wishes to outlaw the use of smart cards on machines.

My amendment seeks to at least permit a trial of the use of smart cards. During his contribution to the debate on clause 5 several weeks ago, the Treasurer quoted from an article in the *Australian* which outlined what is going on in New South Wales. I understand that the New South Wales minister responsible for gambling matters has introduced in that state a trial of the use of smart cards. He has introduced that trial on the basis that it has the potential to reduce the harm associated with problem gambling. There is no doubt that this new smart card technology really is a double-edged sword. It certainly has the potential to do much good. However, of course, in relation to credit, it has the potential for harm. Whatever we think about it, there is no doubt that the use of smart cards is becoming more common in a whole manner of applications.

Just yesterday I had a briefing with some people about introducing the use of smart cards on public transport in various places around the world; in fact, Brisbane and Sydney are looking at this sort of technology. There is no doubt that the use of smart cards has great benefits not only for consumers in term of convenience but also in terms of the information it provides. The information these smart cards provide on public transport is invaluable to the planners of public

transport in as much as they are able to much better plan for the future use of public transport.

Of course, in relation to their application for gambling it is much more complex. As I said, it is a double-edged sword, and we need to look at those matters. In his contribution, the Hon. Mr Xenophon conceded that smart cards may have a use. Either the Treasurer or the Hon. Mr Xenophon intimated that the Liquor and Gaming Commissioner at various conferences has pointed out how smart cards may have some application in the future.

I will sum up the opposition's position. Whereas we do not believe that at this stage we would necessarily want to open the door towards this new technology in as much as it is applied to gaming machines, nevertheless there is no doubt that there are rapid movements in this new technology, and there is also the potential for considerable benefit, as well as the potential for harm. My amendment seeks to at least permit a trial at this stage, should the government wish to do so. That trial will be permitted under regulation, and it would be introduced only for the purposes of looking at the potential of these cards to minimise harm. That is something we do not believe we should necessarily close off. While this technology is developing and while it has this potential, we believe we should at least be open minded enough to look at it. If it has the potential for minimising harm, let us have a trial to look at that matter, if it is appropriate.

That essentially sums up the opposition's position on the matter. We are happy to maintain the status quo at present on gaming machine operations in either the Casino or hotels and clubs, that is, they can be operated only by the insertion of a coin. However, if the development of these smart cards makes it appropriate to have a look at it and if the trial in New South Wales is a success, we would not want to preclude the government from going ahead with a trial in this state. That is essentially the opposition's position on this clause. In relation to the processes, as I said earlier, we are happy to see clause 9 go through as it now stands and we can revisit these issues when we return to look at the bill a little later.

The Hon. NICK XENOPHON: My preference is that the clause I moved in its purer form is adopted, but the Hon. Paul Holloway's amendment is a compromise position. It will not allow the open slather that potentially could occur under the current legislative regime. My understanding of the discussion of smart cards by the Liquor and Gaming Commissioner, in particular, at conferences (and I must emphasise that my understanding is that he was not endorsing their use but, rather, he was talking about proposed technologies) is that the technology that could potentially have benefit in reducing levels of problem gambling would be operated not by the industry but, rather, by regulatory authority. It would mean that all poker machines in a jurisdiction would be operated only by those smart cards so that, if you had a machine operated by a smart card and a coin, and you were excluded by the smart card from playing, if you could get $100 worth of change and put it down the machine that would defeat the whole purpose of the smart card.

I am open to the matters set out by the Hon. Paul Holloway. I obviously prefer my amendment. If this is the best we can do by way of a compromise, it is a much more cautious approach than the potential open slather we can have with the existing legislation.

Clause passed.

Progress reported; committee to sit again.

[Sitting suspended from 12.57 to 2.15 p.m.]

QUESTION TIME

WATER CONTRACT

The Hon. P. HOLLOWAY: I seek leave to make a brief explanation before asking the Treasurer a question about SA Water's activities in West Java.

Leave granted.

The Hon. P. HOLLOWAY: Earlier this week I asked the Treasurer six questions relating to the establishment of SA Water International and its operations in West Java. In asking the six questions, I pointed out that the Treasurer has responsibilities for the subsidiary company of SA Water in terms of the Public Corporations Act. Specifically, his approval is required for the establishment of the subsidiary and, as a condition of such approval, the Treasurer may impose certain controls on the nature and scope of its operations and its articles of association and so forth. The Treasurer took the answer to those questions on notice.

Since then, the Economic and Finance Committee has received further evidence raising concerns about the West Java operation, including the following:

· SA Water had pulled out of operations in the Philippines and China to focus on West Java, a move the witness described as 'Putting all of your eggs in the one basket case';

· that the West Java operation was subject to risks arising from political instability, commercial risk and lack of recompense if the venture should fail—and currency exposure, given that all investment was in Australian dollars and that all future revenue would be in Indonesian rupiah and that extreme fluctuations made hedging impossible;

· that United Water was standing back from the West Java deal but was happy for the public sector (that is, the taxpayer) to assume the risks;

· and that SA Water's representative in West Java, Peter von Stiegler, carries a hand gun in an ankle holster, together with large amounts of cash, and enjoys close relations with the discredited Golcar Party and the Indonesian military. Also, he has awarded contracts for political and strategic advice to the brother of the West Java governor.

My questions to the Treasurer, as the minister who has responsibilities for SA Water International under the Public Corporations Act, are:

1. Is the Treasurer happy with the level of exposure of the taxpayer to potential losses from the West Java operations, given that he has argued for privatisation of profitable government businesses on the ground that they are too risky for the government to own?

2. Has the Treasury undertaken an assessment of the potential losses to the taxpayer of the West Java operation and, if not, why not?

3. If the Treasury has made such an assessment, what is the potential scale of the loss to the taxpayer?

4. Is the Treasurer satisfied that the activities of SA Water's representative in West Java comply completely and absolutely with Australian law?

The Hon. R.I. LUCAS (Treasurer): I have taken previous questions on notice and I am happy to do so with those.

ELECTRICITY, SUPPLY

The Hon. P. HOLLOWAY: I seek leave to make a brief explanation before asking the Treasurer a question about South Australian electric power policies.

Leave granted.

The Hon. P. HOLLOWAY: On 2 November blackouts affected 35 South Australians because it was more profitable for South Australian generators to sell power to Victoria than to supply to South Australian consumers. On 5 November, Mr Allan Asher, Deputy Chairman of the Australian Competition and Consumer Commission, told a media outlet:

> We criticised for three years the proposals in South Australia to have such a small number of generators with so much market power. We'd also been arguing for much bigger interconnection between South Australia and New South Wales, so that competition really could work. Those things weren't done. . . In other words, if there were, as we'd argued for, much better interconnection between New South Wales and South Australia and between New South Wales and Victoria, there would have been tons of power for everyone, there would have been no reason for prices to go up.

In view of those comments, my questions are:

1. Does the Treasurer accept the blame for the exposure of South Australian industry and consumers to the risk of power shortages as suggested by the Deputy Chairman of the ACCC?

2. If not, has he spoken to the ACCC to correct the record?

3. Will the Treasurer rule out the occurrence of further power blackouts this summer as occurred as recently as 2 November?

The Hon. R.I. LUCAS (Treasurer): It is not for me to correct the record from statements made by a member of the ACCC; he is entitled to his view, if he has been correctly reported. Others can look at the facts of the situation and come to different judgments. I preface my comments by questioning whether he has been fairly reported because, on previous occasions when some of these issues have been taken up, it has been pointed out to us that the media reports have not always fairly reflected the views claimed to have—

The Hon. P. Holloway: It was an interview on ABC Radio National.

The Hon. R.I. LUCAS: It may have been. I am not saying that it is in dispute at all. I am just saying that, on previous occasions, it has been denied, and, for example, suggested that the comments were taken out of context. Let us explore those comments, if indeed they fairly reflect Mr Asher's views. He says that they had always argued there should be more generation. So too has the South Australian government, and the South Australian government has fast-tracked Pelican Point Power Station with 500 megawatts of capacity.

The Hon. L.H. Davis: Notwithstanding Kevin Foley's efforts to stop it. Where was Kevin Foley for that?

The Hon. R.I. LUCAS: Exactly.

The Hon. L.H. Davis: What about the transaction from New South Wales?

The PRESIDENT: Order! The Treasurer is answering the question.

The Hon. R.I. LUCAS: Kevin Foley and Mike Rann, supported by Paul Holloway, did their darnedest to ensure we could not fast-track Pelican Point Power Station. I attended a protest meeting of many hundreds at Port Adelaide where Mr Rann and Mr Foley sought to inflame the local residents against the government's fast-tracking of Pelican Point.

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: Mr Holloway is still arguing against Pelican Point Power Station. We need the power and he is still arguing against the—

Members interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: You didn't know where it was.

Members interjecting:

The PRESIDENT: Order! I have called for order!

The Hon. R.I. LUCAS: The Hon. Mr Holloway says they wanted it at Torrens Island. They were pushing for it to be in all sorts of places. They did not want it fast-tracked at Pelican Point. For Mr Asher to say that he had been arguing for three years and no-one would listen—that is the purport of what he said—is in strong denial of the facts. If Mr Asher wants to have a discussion about generation options, we are happy to do that.

What the government has done—and this had to be authorised or endorsed by the ACCC—is to restructure the existing generation options in South Australia to get the next element of competition between the generators in South Australia. In addition, we fast-tracked the Pelican Power station and we encouraged two other generation options in South Australia. Origin Energy has now proceeded with 80 megawatts of peaking capacity at Ladbroke Grove in the South-East. Further discussions on generation peaking options in the South-East are taking place as we speak. The Hon. Mr Roberts would be well aware of some of the discussions ensuing in the South-East about the generation options in that area.

We were told—I must admit that I did not hold my breath—that serious options were being contemplated in the Upper Spencer Gulf region by a number of the major power consumers, including Western Mining. When Western Mining commissioned Duke Energy to look at the construction of a power plant in the Upper Spencer Gulf region, the government was supportive of that. SAMAG is talking about a 300 to 400 megawatt gas-fired generation plant somewhere in or around Port Pirie. Again, the government is supportive of those generation options.

The Hon. L.H. Davis: Paul Holloway would have it in government hands. He would demand that the government own it.

The Hon. R.I. LUCAS: He would want government money to be diverted from hospitals and roads into the production of risky generation plants in South Australia. That is the Hon. Paul Holloway's solution to power generation in South Australia.

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: The Hon. Mr Holloway agrees that this is Labor Party policy: more scarce taxpayer funds will be taken out of hospitals and roads and put into the risky building of power plants. Sooner or later, someone in the media will ask the Hon. Mr Holloway or Mr Foley or Mr Rann, 'Okay, if you say all this, will you spend taxpayers' money on building new—

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: No. You can go ahead and build. There is nothing to prevent you. Labor policy, consistent with your philosophy, is: you can put $500 million of taxpayers' money into building your power plant at Torrens Island or Whyalla or wherever you want if that is the Labor Party's solution. Nothing prevents a Labor government from doing this.

The Hon. T.G. Roberts interjecting:

The Hon. R.I. LUCAS: You don't have to unscramble anything; you just have to get the money and build a power plant. If you are great believers in a taxpayer funded generation system, nothing will prevent you from spending your taxpayers' money on building plants. That is clearly what the Hon. Mr Holloway is suggesting—

The Hon. A.J. Redford interjecting:

The Hon. R.I. LUCAS: No, he does not have to; he has already made it clear that that is Labor policy: they will spend hundreds of millions of dollars of taxpayers' money on building a generation plant in South Australia. That is the Labor solution (Labor policy) to the power problems that confront the state. We will gladly stand up before the people of South Australia and say to them, 'Do you want the Labor policy endorsed by the Hon. Mr Holloway, Mr Foley and Mr Rann of spending $500 million of your money on building a generation plant with the ability to either win or lose a bit of money depending on how well they can run it, or do you want that $500 million spent on schools, hospitals, roads and police services in South Australia?' I know which way the people of South Australia will ultimately come down in terms of a choice between whether or not their hard earned hundreds of millions of dollars should go into building Labor government—

The Hon. L.H. Davis: The Paul Holloway memorial power station!

The Hon. R.I. LUCAS: As the Hon. Mr Davis says: the Paul Holloway Memorial Power Station. That is the sort of policy option that the Hon. Mr Holloway supports. The Hon. Mr Holloway asks questions about electricity, but when he gets into trouble he goes to water. In relation to Mr Asher, clearly, Mr Asher has not really thought through the situation in relation to this government's very strong endorsement and support for present and future generation options in South Australia.

Let us turn to the second point that he allegedly made, which related to interconnection options. We have indicated absolutely that we support further interconnection. Tony Cook from TransEnergie, as recently as two weeks ago, to paraphrase his words, said that they have got through the last planning obstacle in terms of the Mildura substation planning appeal that had been lodged against them. They won that case and they will have their 200 plus megawatt interconnector through the Riverland up and going by mid next year. Where is the Foley-Rann-Hon. Mr Holloway alternative, the Danny Price—

The Hon. L.H. Davis: The Danny Price interconnector and the Paul Holloway memorial power station.

The Hon. R.I. LUCAS: The D. Price interconnector. Where is that?

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: As we stand here on this lazy Friday afternoon in Adelaide in November of the year 2000, it is still struggling its way through national regulatory authorities, trying to get approval from the NEMMCO related agencies, the IRTC and others. It is still struggling to get approval just to be a regulated asset. It still does not have a route that it is agreed on. The latest headline in the Riverland is that they were originally going to go south of the river, then north, and now they have decided that they might go south again. They do not know where they are going, these people from TransGrid. If you want to rely on New South Wales Labor government apologists and supporters to deliver power to South Australia, you could die with your legs in the air before it was ever delivered. You are still waiting.

The Hon. L.H. Davis interjecting:

The Hon. R.I. LUCAS: Exactly. You are still waiting. There is nothing that the South Australian government can do in relation to the initial approval. It is a national body, not controlled by South Australia, set up by federal governments and federal authorities under national agreements—

The Hon. T.G. Cameron interjecting:

The Hon. R.I. LUCAS: As Mr Cameron said, backed by Keating, Bannon and the whole lot of them. The state government has no authority—

The Hon. L.H. Davis interjecting:

The PRESIDENT: Order! The Hon. Mr Davis will come to order. I ask him to stop interjecting.

The Hon. R.I. LUCAS: —over NEMMCO or the national authorities, which will either say yes or no as to whether it is a regulated asset and whether it can go ahead. We are just at that stage, which we are now told might be some time in early 2001, and that will be the earliest that it can be done. If they get that, it will be at least a couple of years, on the best estimates, before it can be constructed, because they are still trying to sort out a route—they have environmental approvals; they have landowners who are prepared to almost blockade their properties to stop people getting on them in relation to building the powerlines across their backyards, when they know up in the Riverland that there is an alternative: an unsubsidised, underground, unregulated interconnector which does not have to cause any damage to their properties at all in relation to—

The Hon. L.H. Davis: Mike Elliott might even like it.

The Hon. R.I. LUCAS: A very environmentally friendly underground interconnector through the Riverland. If Mr Asher—or, indeed, anyone else—is suggesting that the state government in some way has prevented Riverlink (or SANI, as it is now called) from proceeding, it is wrong, in fact. If anyone suggests that the state government has opposed the building of interconnections it is wrong, in fact, because we are strongly supporting and fast tracking the MurrayLink interconnector—the unsubsidised, unregulated, underground interconnector—through the Riverland.

If Mr Asher is fairly reported, in those areas he is clearly wrong in fact. If as the Hon. Paul Holloway indicates he is soon leaving, we might not have to worry about whether or not he still holds those views in relation to South Australia and its attitude towards generation and interconnection.

The Hon. NICK XENOPHON: As a supplementary question—

Members interjecting:

The PRESIDENT: Order! We have already spent 20 minutes on one question.

The Hon. NICK XENOPHON: Does the Treasurer agree that South Australian consumers pay the highest average pool prices in the national electricity grid, with a difference as of November 2000 of $69.96 per megawatt hour in South Australia compared to $37.96 per megawatt hour for Victoria, $37.39 for New South Wales and $53.80 for Queensland, and when does the Treasurer expect that South Australian prices will come down to levels comparable with those of the eastern states?

The Hon. R.I. LUCAS: The last figures I saw for year 2000 prices reflected a narrowing of the margin between South Australia and Victoria down to average prices of $57 and $37, but I am happy to check the particular time frame to which the Hon. Mr Xenophon refers and check my memory of the figures that I have seen. The simple answer

to the question is that we will see more competitive power prices in South Australia only when there is more competition.

That is why we are fast tracking Pelican Point and an interconnector to South Australia, and that is why we will continue to encourage more and more generation and interconnection. Although we are such strong supporters of clean, green power generation in South Australia, gas fired generation is more expensive than coal fire generation. If you want dirty, polluting coal fired generation, then clearly you can do it at a lower cost. In South Australia we pay the price of having a more expensive fuel source, because—

An honourable member interjecting:

The Hon. R.I. LUCAS: It is part of the component. Probably 70 per cent (although I am guessing the percentages) of our 3 000 megawatts of capacity in South Australia, the vast bulk of it, is gas fired generation. Torrens Island, Ladbroke Grove, Synergen and now Pelican Point are all gas fired generation. We are quite different from Victoria and New South Wales, and that is a competitive disadvantage that we have. It is the price we pay for being environmentally friendly, clean and green and also, frankly, because we do not have the huge resources of coal that some other states have. It is a price that we pay and, ultimately, with some of the debate going on at national level about emissions, carbon credits and other topics, it may well be that those who rely on cheap, coal fired generation at the moment will find in the future that the difference between coal fired and gas fired generation will narrow.

If that happens, that will be a further benefit for South Australia, in terms of power prices. But we have seen a significant narrowing of the difference in the past 12 months. The Hon. Mr Xenophon did not even splutter when he mentioned the average pool price of $37 in Victoria and New South Wales: when he was quoting the figures to me earlier this year or late last year he was using figures of $20 and $25 for Victoria and New South Wales.

Members interjecting:

The Hon. R.I. LUCAS: Yes. As the vesting contracts drop off, there have been issues in relation to Victoria, but the margins have narrowed in the past 18 months. The only way we will see a further narrowing is through further competition, which means not only Pelican Point and Murraylink, which we are supporting, but we have to try to encourage further generation options, particularly peaking plant capacity, such as Ladbroke Grove and others that are currently being contemplated.

The Hon. T.G. CAMERON: As a supplementary question, will the Treasurer advise business and residential consumers in South Australia exactly what the supply situation for electricity would have been in South Australia during the summers of 2001 and 2002 if Pelican Point had not proceeded?

The Hon. R.I. LUCAS: We would have been in a parlous state indeed and facing very significant—

The Hon. T.G. Cameron interjecting:

The Hon. R.I. LUCAS: Exactly—blackouts and, as the Hon. Mr Cameron has indicated, we would have had Mike Rann, Kevin Foley and the Hon. Mr Holloway standing on the steps of Parliament House attacking the government for blackouts here in South Australia because what they had was a very clever political conspiracy. They tried to stop us fast-tracking Pelican Point. We had Rann and Foley down there, arousing the emotions of the masses and the crowds at Port Adelaide and other protest meetings, trying to stop the fast-tracking of Pelican Point, because they knew that, if we could not get Pelican Point up for this year, we would have even more blackouts this summer and they could have got their political advantage—

The Hon. T.G. Cameron interjecting:

The PRESIDENT: Order! The Hon. Mr Cameron will come to order.

The Hon. T.G. Cameron interjecting:

The PRESIDENT: Order, the Hon. Mr Cameron! Just one person has been given the call.

The Hon. R.I. LUCAS: They would have had their partisan political advantage in the summer of this year and next year. As the Hon. Mr Cameron pointed out, our businesses would have suffered, our small businesses would have suffered, our consumers would have suffered and we would have seen the smug faces of Mr Rann and Mr Foley. Workers and their families would have been disadvantaged, all because Mr Rann, Mr Foley and the Hon. Mr Holloway knew that, if they could delay the fast-tracking of Pelican Point to get beyond this summer, they would have been able to achieve a situation where the people of South Australia, the—

The Hon. T.G. Cameron interjecting:

The Hon. R.I. LUCAS: Exactly. As the Hon. Mr Cameron says (and I thank him for his assistance), typical Labor Party—it puts the party before the people of South Australia.

ELECTRICITY REGULATOR

The Hon. T.G. ROBERTS: At the risk of being a bully, I seek leave to make a brief explanation before asking the Treasurer a question about the Electricity Regulator.

Leave granted.

The Hon. T.G. ROBERTS: On 1 November, the Electricity Regulator, Mr Lew Owens, stated that he had received legal advice that he did not have the power to require the private electricity retailer, AGL, to supply electricity to as many as 3 000 South Australian businesses. He said that he was unable to enforce appropriate terms and conditions of sale of electricity, including control of prices. He said that the businesses were:

> . . . on their own. At the moment, the legislation says there is no protection. . . there is [sic] no set prices, there's no obligation on AGL to continue to supply them, and there's no guaranteed terms and conditions. They are really on their own.

In addition, an article appearing in yesterday's *Age* newspaper from Victoria stated that the same AGL (which is South Australia's principal retailer) has applied to the Victorian Regulator to increase customers' bills to recoup the cost of an industrial dispute earlier this year. That is an unprecedented step in Australia's industrial relations.

The Hon. L.H. Davis: That was a snap strike.

The Hon. T.G. ROBERTS: If you want democracy—

The PRESIDENT: Order! The Hon. Mr Roberts is asking a question, not debating—

The Hon. T.G. ROBERTS: You had better keep—

The PRESIDENT: I will sit you down.

The Hon. T.G. ROBERTS: —these interjectors—

The PRESIDENT: Ask your question.

The Hon. T.G. ROBERTS: —in check. The *Age* article, headed 'Victorians may foot bill for power', states:

> An electricity company wants to charge customers $800 000. Hundreds of thousands of Victorians could be billed by an electricity company for costs it incurred as a result of industrial action.

That is unprecedented in Australia's industrial life.

The Hon. L.H. Davis interjecting:

The Hon. T.G. ROBERTS: It is not unprecedented at all. My questions therefore are:

1. Does the Treasurer intend to fix the anomalies in its legislation establishing the powers of the Electricity Industry Independent Regulator that have created uncertainty and alarm amongst as many as 3 000 South Australian businesses about the price and the availability of electricity after 30 June; and will the government give the Independent Regulator the powers needed to remedy the situation?

2. Will the Treasurer rule out absolutely that AGL has the ability to bill customers to counter the effects of such disruptions to supply and, if not, why not?

The Hon. R.I. LUCAS (Treasurer): The second part of the question relates to a Victorian case and precedent: it is not related to South Australia's circumstances. The application by AGL as I read it in the Melbourne *Age*, I think, involved a potential cost to Victorian consumers, not to South Australian consumers. I must admit I was intrigued at the honourable member's description of the industrial action in Victoria as being democracy in action. I have heard it described in many ways—

The Hon. L.H. Davis interjecting:

The Hon. R.I. LUCAS: That is the point. Their own union secretaries have—I will not say disembowelled their local affiliates—publicly disagreed in a strenuous way with the actions of their own membership at the local level regarding the wildcat strike which was called without authority and without any knowledge of the state secretaries of the union leadership. If that is democracy in action as described by the Labor Party front bench and the Hon. Mr Roberts, then heaven help South Australia if there is ever a Labor government here, because the Hon. Terry Roberts is a senior shadow minister for the Rann alternative government. If a senior shadow minister, a senior supporter of Mike Rann in South Australia on his own front bench, is saying that the actions of those wildcat strikes in Victoria—the union heavies and others who pulled out the power station on 20 minutes notice without telling anyone—is an example of democracy in action or something he can support or endorse—

The Hon. T.G. Roberts: Read *Hansard*.

The Hon. R.I. LUCAS: Well, if that is something he can support and endorse as a spokesperson for the Rann shadow government, heaven help South Australian business if a Labor government is ever elected here. If that was the sort of industrial relations policy that a Rann opposition, if ever elected into government, was going to allow, then the same problems that Victoria is facing at the moment would arise. Steve Bracks, even through his honeymoon period, has unions running out of control in Victoria, pulling the plug on power stations at 20 minutes notice without their state secretaries knowing anything about it. If that is the sort of problem Victoria has, then heaven help South Australia if we have a Rann government which will roll over and have its tummy tickled and endorse this sort of senseless wildcat action.

In South Australia I would hope that the government or the alternative government would continue a sensible policy of working with responsible union leadership as this government is doing in terms of shared objectives for South Australia's future. There are shared objectives that the workers and their families in South Australia share with the government and with their union leadership. This government is committed to working with responsible union leadership but we will not be in a position to support wildcat union action at the local level, undertaken by those union heavies in Victoria, where even their own state secretary and statewide union leadership were unaware of the actions they were taking until they actually occurred.

In relation to the first part of the honourable member's question regarding the Independent Regulator's report, I am not aware that the Independent Regulator has actually described the legislation as having anomalies that prevent him from taking action. I might stand corrected. I will certainly check the Independent Regulator's report. But I would be surprised if he has described it as an anomaly. He has just described the facts of the situation as passed by the parliament; that is, the government (supported by even the opposition, I think, in relation to the regulatory aspects) supported the regulatory framework that existed both for the electricity pricing order and the policing of that. I do not believe that was an issue that was opposed by the Labor opposition in South Australia.

The simple reality is that what the Independent Regulator is describing is that the full force of the competitive market will descend upon businesses post June 2001. Unless we can develop a more competitive electricity market in South Australia, along the lines I have suggested previously, then some customers, obviously, will have a situation where their previous contracts are going to have to be renegotiated in an energy market which is not favourable to the sorts of changes that most of us would like to see. Pelican Point will definitely be up and going to 500 megawatts. If TransEnergie is up and going by the middle of next year, as Tony Cook has suggested, we will have a more competitive power market and we will have the capacity to see, we hope, some downward pressure on prices, compared to where it might otherwise have been in the absence of the deregulated market.

I have always made it quite clear. If one looks at what would have occurred, electricity prices, whether it is CPI, would have continued at a trend line level. If we are to be fair in relation to privatisation, we need to compare the potential prices with the prices that might otherwise have existed under the Rann-Foley-Holloway model of taxpayers funding all these plants and absorbing all the losses we have seen being absorbed in Queensland as well as New South Wales.

STATE DEBT

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Treasurer a question about net debt and SAFA.

Leave granted.

The Hon. M.J. ELLIOTT: My question relates to the exclusion of SAFA and universities from net state debt calculations. The 2000-01 budget papers show that between 1990 and 1997 South Australian net debt was calculated with the inclusion of the net worth of universities and SAFA to the South Australian government. During that period, the state net debt grew from $4.6 billion to $7.5 billion. The budget papers also show that since 1997 net debt has been calculated without the inclusion of SAFA and the universities. The impact on the net debt bottom line of this change was approximately $500 million in 1997 and $350 million in 1998, because there was a period of only two years in which to establish the net effect of those two. This change is explained in the Auditor-General's Report to be due to an ABS reclassification. However, I have been informed that this

reclassification has not changed the fact that the re-inclusion of SAFA, in accordance with former ABS conventions, would currently improve the state's net debt bottom line by an estimated $300 million. My questions are:

1. What is the current financial net worth to the state government of SAFA which has been put to me as being in the order of $300 million?

2. If the net worth of SAFA to the government is not included as an asset in the state's net debt where is it included in the state's accounts?

The Hon. R.I. LUCAS (Treasurer): As I alluded to in response to an earlier question last week or the week before, this issue is an important one. The ABS changed its series on net debt in and around 1997. So, if you want to compare apples with apples it is clearly—

The Hon. M.J. Elliott interjecting:

The Hon. R.I. LUCAS: Yes, that is what I said, which, clearly, is the most sensible comparison that you should look at. The current $3 billion net debt that we have (approximately $3 billion) is compared to a $10.1 billion net debt that we inherited in June 1993 in real terms. If you make the adjustments, the ABS—

The Hon. M.J. Elliott interjecting:

The Hon. R.I. LUCAS: As you make the adjustments from the ABS to get an apples with apples comparison and, if you do as the Auditor-General does, that is, compare real prices in year 2000 dollars rather than 1993 prices with the year 2000, then, in real terms, the net debt has been reduced from $10.1 billion to about $3 billion by this government. It is a—

The Hon. M.J. Elliott: Where do you get the 10.1 from? The Auditor-General gives us nine point something, as I recall.

An honourable member: In real terms.

The Hon. R.I. LUCAS: Yes, in real terms. Yes, but the Auditor-General has not adjusted the earlier figures for the SAFA adjustment which the honourable member has just raised—that is the difference. If we are both talking about the same table, the $9.3 billion, $9.4 billion figure that the Auditor-General has does not make the adjustment for the SAFA and university adjustment. If you do that and do as the Auditor-General does outside debt in real terms, the actual improvement is from $10.1 billion in debt down to $3 billion by this government. This government has achieved a very significant reduction in debt and one I am sure that all members, including the Democrats, would warmly embrace, endorse and support. In relation to the issue—

The Hon. L.H. Davis: I don't think they do.

The Hon. R.I. LUCAS: They don't? I am surprised.

An honourable member interjecting:

The Hon. R.I. LUCAS: Sort of like magic; you just close your eyes and wish it. In relation to which particular account line the SAFA figures are included in, I am happy to take that on notice. Clearly, we would have to report the SAFA figures in a number of budget lines, and I am happy to find the appropriate line for the honourable member and bring back an answer for him. In relation to the earlier part of his question as to whether or not his estimate of $300 million is correct, I am happy to take that on notice and bring back a reply.

OVERSEAS REPRESENTATIVES BOARD

The Hon. CARMEL ZOLLO: I seek leave to make a brief explanation before asking the Treasurer a question about the overseas representatives board.

Leave granted.

The Hon. CARMEL ZOLLO: It was reported in the media several months ago that members of a review board scrutinising South Australia's 11 oversees trade offices, in relation to concerns about financial transparency, cannot do their job because they are not being given relevant budgetary information. The board was established after concerns were reported about the financial accountability of trade offices which have doubled in number over the past five years but which have disappeared from budget papers and departmental annual reports. It was reported that the board had met sporadically but was hamstrung over the lack of financial information. My questions to the Treasurer are:

1. Who are the five other members of the six person board appointed in December 1999 to oversee the operations of the state's 11 trade offices and chaired by Mr John Cambridge from the Department of Industry and Trade?

2. How many times has the board met?

3. What subject areas does the board cover in its meetings?

4. Who sets the agenda for these meetings?

5. Given that the board is chaired by the same person who already has responsibility for overseeing our international trade offices, do the other five board members have access to advice about our international trade office through sources other than the chair? If not, what is the point of the board's existence?

The Hon. R.I. LUCAS (Treasurer): I am happy to take the questions on notice and bring back a reply.

GAMING INDUSTRY

The Hon. NICK XENOPHON: I seek leave to make a brief explanation before asking the Treasurer a question about voluntary codes of conduct of the gaming industry.

Leave granted.

The Hon. NICK XENOPHON: On 18 August I attended a seminar organised by the heads of churches task force on gambling. At that seminar Professor Jan McMillen spoke on regulatory frameworks in the various states and desired regulatory frameworks that would advance the cause of harm minimisation with respect to problem gambling. Professor McMillen was quite critical of the South Australian model which had voluntary codes of conduct which did not have any method of allowing for an independent audit of those codes of conduct. As members are aware, voluntary codes of conduct have been in place for some time in South Australia, both with respect to the conduct of gaming machine operations and also with respect to the advertising of gaming machine operations and promotions. My questions to the Treasurer are:

1. What level of monitoring has been undertaken by the Office of the Liquor and Gaming Commissioner or the Gamblers Rehabilitation Fund with respect to compliance by hotels and clubs in relation to voluntary codes of conduct referred to, with respect to the conduct of gaming machine operations, advertising and promotions?

2. Will the Treasurer indicate how many complaints have been made pursuant to those codes and what action has been taken in relation to those complaints, including any disciplin-

ary action and any recommendations as to conduct being altered by venues?

3. Does the Treasurer concede that, based on the criticisms of Professor McMillan, there ought to be a review of the method of monitoring the effectiveness of such codes; and does the Treasurer endorse in principle that there be an independent audit of these codes based on Professor McMillan's recommendations? I understand she has met the Treasurer in relation to these issues.

The Hon. R.I. LUCAS (Treasurer): I have met with the professor, but we did not get into the detail of those issues, and on my recollection she did not raise them in the discussion she had with me. I think we talked about matters at a macro level rather than the individual issues that the honourable member has talked about. That is my recollection of the discussion. In answer to the honourable member's first question, I think he knows that a constant part of the activity of the Liquor and Gaming Commissioner and his staff is working with the hotel and club industry in ensuring that all the appropriate legislation, regulatory requirements and so on are carried out.

I assume that during those activities he is in a position to make judgments about the potential effectiveness or otherwise of the voluntary codes. I would need to get a comment from the gaming commissioner as to what is his judgment—if he has one—about the effectiveness or otherwise of the voluntary codes and whether he has particular concerns. He has not raised this matter with me to express any degree of concern.

In relation to the whole debate about whether codes should be voluntary or mandated in legislation, the honourable member would be aware of my colleague the Attorney-General's views in relation to codes of practice. I would say that he has generally been a relatively strong supporter of voluntary codes of practice, as opposed to necessarily having to legislate all the time for particular issues. If in the end a voluntary code of practice is not proving to be successful, his general view—

The Hon. Nick Xenophon interjecting:

The Hon. R.I. LUCAS: As I said, we have to wait for the gaming commissioner who, given his ongoing activities, is in the best position to know whether or not there are potential problems with a voluntary code of practice. Another point I would make is that I am not sure—and perhaps the honourable member would like to suggest—how one would conduct an audit of a voluntary code of practice. Clearly, you could do an interview with staff and proprietors as to whether or not they believed it had been successful. You could also talk to agencies.

The Hon. Nick Xenophon interjecting:

The Hon. R.I. LUCAS: But what is the audit mechanism in the other states? How do you audit in all circumstances such as whether someone who has walked through a door has been treated in the way that the voluntary code of practice—

The Hon. Nick Xenophon interjecting:

The Hon. R.I. LUCAS: I would be pleased to receive it. It is an interesting question as to how one would construct an audit that was effective in relation to these issues. You can always get complaints from people, and that would be one way of monitoring the effectiveness of a voluntary code of practice. It is difficult to know how someone could independently assess the validity of a complaint where a constituent complains that something was done, a staff member and proprietor say it was not, but no-one is there as an independent third umpire to say one party or the other was right. It is difficult to know how you would make judgments as to whether or not a complaint was valid and whom you would believe in a dispute about a particular issue.

So, if there are ways through those sort of issues that have already been instituted and are working effectively in other states, I would be pleased to hear it. I can only say that this is the sort of issue which, from our viewpoint, we would like to see further explored at the ministerial council on gambling in terms of greater consistency in gaming practices between the states. If procedures like this are working effectively in other states, the ministerial council on gambling gives us an opportunity to hear that directly and to see whether we can share that information and perhaps introduce processes that will be more consistent between the states in these areas. We are happy to look at any proposals that either the Hon. Mr Xenophon or the respective ministers for gaming or gambling in their jurisdictions might have.

WORKPLACE FATIGUE

The Hon. T.G. CAMERON: I seek leave to make a brief explanation before asking the Minister for Industrial Relations questions concerning workplace fatigue.

Leave granted.

The Hon. T.G. CAMERON: Recent research by the Centre for Sleep Research at the Queen Elizabeth Hospital has shown that fatigue is rapidly emerging as one of the greatest single safety issues facing the community. Some of us have recognised for a long time that fatigue is the main cause of road accidents. It also presents serious problems in the workplace. In fact, workplace fatigue resulting from longer work hours and changing work practices is fast matching drunkenness as a prime occupational health and safety risk.

The Hon. M.J. Elliott interjecting:

The Hon. T.G. CAMERON: That is probably true—you can tell me all about that later. The research shows that fatigue, like alcohol, delayed reaction times, affected logical decision making and impaired hand-eye coordination. Recent estimates show that fatigue related accidents, injuries and lost productivity cost Australian industry more than $1 billion a year, which would probably mean that it is costing us here in South Australia in the vicinity of $100 million annually.

The ACTU also released a survey of 7 000 workers which found that almost half suffered health problems caused by increasingly long, often unpaid, hours. Of those surveyed, 55 per cent said they worked more than 40 hours a week, while 26 per cent reported working more than 45 hours or more; 12 per cent said they worked an average of 50 hours or more every week. My questions to the minister are:

1. Has the government undertaken any recent research on the prevalence of workplace fatigue in South Australian workplaces?

2. Are figures available on the number of state government employees and private enterprise employees who may be consistently working an excessive number of hours?

3. Considering the health and productivity implications of workplace fatigue, what steps is the government taking to promote awareness of this serious occupational health and safety risk, both to the public and private sectors?

4. Would the minister be prepared to have discussions with the Trades and Labor Council about this serious subject affecting our workplaces?

The Hon. R.D. LAWSON (Minister for Workplace Relations): I am aware in a general sense of research which

was recently published, and which was undertaken over some recent years, in relation to workplace fatigue and the safety issues that arise therefrom. I am delighted that the honourable member has raised this important issue in the Council. The honourable member correctly identifies that workplace fatigue reduces the efficiency of workers, in both the government and private sectors, and is likely to increase accidents and injuries in the workplace.

I am not specifically aware of the research relating to delayed reaction times, but I will certainly look into that issue and bring back a more considered reply in relation to that research. I am prepared to discuss with the United Trades and Labor Council through the Workplace Relations Ministerial Advisory Council issues relating to workplace fatigue. It is fair to say that, as I understand it, under the Occupational Health Safety and Welfare Act, only a general duty of care is imposed on employers in relation to the health and safety of employees. Of course, there are specific provisions relating to dangerous machinery, dangerous premises and the like, and industrial awards lay the foundation for appropriate occupational health and safety issues surrounding hours, breaks and the like. However, so far as I am aware, there are not specific provisions in the occupational health and safety legislation directed to protecting workers from fatigue as such. I will take up the honourable member's suggestions. I will bring back a more detailed reply in relation to some of the statistical information that he sought, and I confirm that I am prepared to have discussions not only through the advisory council but also directly with any interested person or organisation concerning this important issue.

WORKCOVER

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Treasurer, I presume today representing the Minister for Government Enterprises, a question about WorkCover and LOEC.

Leave granted.

The Hon. M.J. ELLIOTT: My understanding is that WorkCover discontinued using LOEC payments in 1996; in fact, I understand it had issued some sort of manual which included instructions that LOEC was not to be used. At about that time, there were also debates in this parliament involving amendments to legislation, and I moved an amendment to have that section struck out, because it was considered to have a number of weaknesses and noting also that WorkCover had apparently resolved to no longer use it.

I have been contacted by one injured worker who tells me that, to his knowledge, he is the one person since 1996 who has been 'LOECed' as they call it. I am not sure that I understand all the implications of it, but it is his belief that certain powers under the act in relation to LOEC are being exercised particularly with regard to him. That is the reason LOEC was used with him, whereas it has not been used with any other workers since 1996. Can the Treasurer confirm that WorkCover did decide in or around 1996 that LOEC should no longer be used? Is it the case that since then only one worker has been involved with LOEC and, if so, what was the reason why the LOEC provisions were used for that one worker?

The Hon. R.I. LUCAS (Treasurer): I will refer the honourable member's question to the minister and bring back a reply.

ELECTRICITY PRICING

The Hon. L.H. DAVIS: I seek leave to make a brief explanation before asking the Treasurer a question about electricity prices.

Leave granted.

The Hon. L.H. DAVIS: Last week, in a headline the media gave some publicity to the fact that electricity bills in South Australia had increased by 18 per cent. The impression was given that on average the household bill for electricity consumption had increased by 18 per cent. I have noted that the South Australian Independent Industry Regulator has recently published his annual report for the year 1999-2000. Is the Treasurer in a position to advise as to what his comment is on the movement of electricity prices for consumers in South Australia?

The Hon. R.I. LUCAS: I was disappointed with some media interpretations of the Independent Industry Regulator's report because, as the honourable member indicated, it was certainly the impression among some that electricity prices had gone up 18 per cent in the past four years. What the media representatives did not do was to go to the Independent Industry Regulator's report which states:

> Electricity prices to residential consumers, after allowing for inflation, have been approximately constant through much of the 1990s.

That is a fair indication that, in real terms, electricity prices in South Australia have remained approximately constant all through the 1990s. This 18 per cent figure used in the Independent Industry Regulator's report was actually a figure which talked about the average household electricity bill between 1996 and 2000. The large driving force behind the 18 per cent increase in those four years was that consumers were, on average, consuming 13 per cent more electricity. Even if electricity prices had not increased at all, on that same measure there would have been a 13 per cent increase in the average household electricity bill over that period.

Sadly, the media interpretation of that report and some in the community have served to heighten concerns that electricity prices have increased significantly. Indeed, some political opportunists have sought to highlight this as a problem of privatisation. The privatisation of our business has occurred only in the past 10 to 11 months, whereas the figures referred to were over a four year period. So more than 75 per cent of that time was under the good old government monopoly owned and controlled electricity system that Mr Rann, Mr Foley and others of their ilk have supported through this period. We will seek to do what we can to disabuse those in the community who do have a view that prices have gone up 18 per cent in the past four years: that is not what the regulator has, indeed, said in his report.

AGRICULTURE INDUSTRY

The Hon. R.K. SNEATH: I seek leave to make a brief explanation before asking the Treasurer a question about ITABS, in particular the Agriculture and Horticulture Training Council.

Leave granted.

The Hon. R.K. SNEATH: In the *Stock Journal* of 16 November this year, there was an advertisement by the Agriculture and Horticulture Training Council of South Australia calling for expressions of interest. The advertisement states:

The council is now seeking expressions of interest for its board management from suitable qualified and interested persons. The board comprises eight people, five will be primary producers involved professionally in agriculture and horticulture production, or, in the case of the amenity horticulture industry, working in one of the designated sectors of that industry. Three people will be from the agricultural and horticulture service industries.

Over the past years, the trade unions have had guaranteed representation on ITABs. The Australian Workers Union has been very active and always had representation on this board, normally on the executive that has been now changed to a board. It goes on to state in the criteria for a board position that you need to be involved in industry, and the Australian Workers Union, in particular, is a union that is heavily involved in the agriculture and horticulture industries. It seems a pity that there has been a change in direction although I am not too sure when this came about. I am not aware whether there has been a change in the act that provides for representation on ITABs. My questions are:

1. Has the government decided to remove union representation from ITABs?

2. If not, why were unions not afforded the same representation as primary producers and businesses?

The Hon. R.I. LUCAS: I am happy to refer the honourable member's question to the appropriate minister and bring back a reply.

BOTANIC GARDENS AND STATE HERBARIUM

Adjourned debate on motion of Hon. Ian Gilfillan:

That the regulations under the Botanic Gardens and State Herbarium Act 1978 concerning admission charges, made on 31 August and laid on the table of this Council on 4 October, be disallowed.

(Continued from 16 November. Page 545.)

The Hon. T.G. CAMERON: While I appreciate the Hon. Ian Gilfillan's motivation in moving this disallowance motion—and I am sure that the members of the Adelaide Parklands Preservation Society, of which the honourable member is the President, will give him resounding applause at their next meeting—it seems to me that it is more motivated by the honourable member's views about what we should and should not do with the parklands than by any other reason. I had not taken the opportunity to go and look at the rose garden, but last week I was driving my mother home from hospital and, to my surprise, she asked me whether I knew where the rose garden was.

The Hon. T.G. Roberts: And, to her surprise, you knew.

The Hon. T.G. CAMERON: And, to her surprise, I knew, so we drove down to look at it. My mother was not well enough to get out of the car, so we did not take the opportunity to go inside for a walk around. No-one would be interested in my view about the rose garden because I would not know whether it was a good one or not, but my mother was suitably impressed and commented to me that it was a pity that dad was not still here, because he loved his roses and would have thoroughly enjoyed a walk through the rose garden.

My understanding is that the fees to go into the rose garden are $3 and $1.50. It is hardly a prohibitive fee. As I understand it, it is exactly the same fee that the Australian Labor Party, when it was in government, set for entry to the conservatory. I am unsure as to whether or not the Hon. Ian Gilfillan has ever moved a disallowance motion for that. It is my understanding that the conservatory is closed at the moment. I have never been down there to look at that, either.

The Hon. T.G. Roberts: It's worth a look.

The Hon. T.G. CAMERON: I have had a good look at it, because in 1989 when I was Secretary of the Australian Labor Party we filmed a political advertisement at the conservatory. I think I pulled the ad after three days, and I can recall the now Senator Nick Minchin saying to me that he thought so much of the ad that he was nearly going to ring me up and offer us $50 000 to keep running it. I must confess that the reason I pulled it was that it was going over like a lead balloon.

One of the reasons that we put the rose garden in at the botanic gardens, along with the conservatory, is that one of the things that South Australia desperately needs is more significant attractions—what I call big ticket attractions—to attract international and interstate tourists to South Australia. I note that South Australia's share of international tourists has risen significantly.

The Hon. T.G. Roberts interjecting:

The Hon. T.G. CAMERON: The Hon. Terry Roberts interjects and says that it is since we have had the rose garden put in. I was not going to say since when, but it is since we have had a government that is actually doing something about effectively promoting tourism, both interstate and internationally.

The Hon. T.G. Roberts: What have they promised you?

The Hon. T.G. CAMERON: They have not promised me any free trips anywhere: I pay my own way around the place. It is gratifying to see that South Australia is becoming a destination for international tourists. As someone who owns three apartments in the city and lets them out to visitors who come to South Australia, that pleases me no end. I put that on the record because I would not want to be accused by the Hon. Paul Holloway at some later date of having a conflict of interest.

I would have thought that the fee of $3 for adults, $1.50 for children and concession card holders and $7 for a family is extremely reasonable. If you travel overseas, and it almost does not matter which country you go to these days, countries that have icons that tourists want to visit charge an arm and a leg. Go to England and visit Windsor Castle, Buckingham Palace or any of its notable tourist attractions and you will find that you may pay $30 at times to get through the door. In many countries, particularly in South-East Asia and Asia, a tourist attraction will show two prices on the door: one for nationals and one for tourists.

I recall being at Victoria Falls in Zimbabwe. I think that the price for a tourist to look at Victoria Falls was 800 per cent higher than it was for a local. I do appreciate why some Second and Third World countries charge so-called rich tourists far more than their nationals to go to those tourist attractions, because they are desperately in need of foreign exchange. However, I do not think it would be appropriate for Australia or South Australia to walk down that path. It would be off-putting for tourists to walk through the door and see that they will be charged $25 and nationals will be charged $5. One of the reasons that some countries have such a large differential in price is that, unless they did, the locals could not afford to look at their own national treasures or scenic sights.

I take on board that quite a bit of government money has gone into the operation at the Botanic Gardens and I have no doubt that, irrespective of whether we had a Liberal government, a Labor government, a Democrat government or, heaven help us, an SA First government, each one of those groups in government would place a fee on admission to the rose garden. If anything, I am a little surprised that the fee has been set at only $3. It seems to me that it has been set at that level initially to try to attract people. I put on the record that the majority of people who will visit the rose garden will be interstate and international visitors. A significant sum—some would say an excessive amount—of money was poured into that complex and it is only reasonable that a modest fee like the one that has been imposed stays in place.

However, I would not support any government introducing a fee to gain admission to the Botanic Gardens themselves. The Botanic Gardens have been down there for 150 years. They have always been free and they should continue to remain free. Nevertheless, for projects like the conservatory and the rose garden, on which millions, sometimes tens of millions, of dollars of taxpayers' money has been spent in building them, and which incur substantial costs in maintenance and in putting on all the ancillary services for visitors, I think a modest admission price is in order. SA First will not be supporting the disallowance of this regulation.

The Hon. CAROLINE SCHAEFER secured the adjournment of the debate.

SOUTH AUSTRALIAN PORTS (DISPOSAL OF MARITIME ASSETS) BILL

Adjourned debate on second reading (resumed on motion).

(Continued from page 568.)

The Hon. T.G. CAMERON: The first thing I want to do is point out to the Council that I have not had the opportunity to go through the whole of the debate on the Ports Corp sale to date. However, being the sensitive person that I am, I do not want to shed any more crocodile tears over criticisms from the Hon. Paul Holloway that the Independents are delaying the passage of the legislation in this place. So, I will make a brief contribution and deal with some of the more substantive questions—and I do have questions in relation to this legislation—in committee.

The first thing that I want to put on the record is that I support the second reading. That should come as no surprise to any member of this Council because I support all second readings. However, I have some concerns about this legislation. Last week, I was contacted by AusBulk, which has some concerns. I advised AusBulk that I would be more than happy to meet and discuss those concerns, but I pointed out that my vote and that of the Hon. Trevor Crothers would not decide whether this piece of legislation was passed. I also said that it was my understanding that the Australian Democrats would support the sale of Ports Corp—and the Hon. Sandra Kanck confirmed that in this chamber yesterday. Although I have tried to read her contribution and whilst she is accurate about the Australian Labor Party's role in the disposal of Ports Corp, her contribution was not particularly helpful to me in arriving at a final decision in relation to this legislation.

I will briefly refer to some of the observations that have been made by the Hon. Paul Holloway, because I think he makes some valid points in his submission. Early in his contribution, the Hon. Paul Holloway said:

> We have had absolutely no justification whatever; no economic case has been made out by this government in relation to the sale.

I agree, in part, with what the honourable member said but, although I would not argue that no economic case has been made out by this government in relation to the sale, I do not think that we have seen a proper case to date from the government in relation to this matter. I think there has been—to use a word that, I think, the Treasurer used the other day—a paucity of information coming through on this matter. The Hon. Paul Holloway also stated (*Hansard*, page 525):

> That is the key point that needs to be made in this debate. We are talking about selling an asset that is probably worth about $150 million to $250 million.

The Hon. R.I. Lucas interjecting:

The Hon. T.G. CAMERON: It is not much when you say it quickly, but you can do a hell of a lot with $100 million. I am sure that the Treasurer would like $100 million in his back pocket to do something about our health system. I have read as much of the debate as I have been able to get to, and I have not yet been able to find anywhere where the government has even given a ballpark figure as to what we might receive for the Ports Corp.

I would like briefly to compare the Ports Corp sale process with the ETSA sale process. We did have an idea (and it was put on the record by the Treasurer) about the approximate price that we might get for ETSA and, because people like me and the Hon. Trevor Crothers were able then to come to a reasonably informed view about what we might receive for that asset, we were then in a position more accurately to assess, at least on economic credentials, whether or not there was merit in selling off the asset.

It would appear (and that is about all one can glean from his answers) that the Treasurer, by his own responses to a number of questions that I have asked in this place, and of his own volition, has indicated (and I will not go back and quote the Treasurer, because he was a bit rubbery with his answers as he was manoeuvring for room in relation to the questions) that he is reasonably comfortable with where we have got the level of debt here in South Australia. In fact, the government seemed so impressed by the progress that it had made on reducing debt here in South Australia that it spent some tens of thousands of dollars in advertising, telling the people of South Australia where we were.

In normal circumstances, I probably would have complained about that advertising program, but for the political lies that are being told about what our level of debt was and where it is now and how many assets have been sold—and we now have accusations that $2 billion has disappeared down the drain somewhere and no-one can find it. That is a load of nonsense. If it was $5, the Auditor-General would find it, if it went down the drain. But the Treasurer may be able to clarify in more detail during the committee stage (and I think it is clarification that not only the people of South Australia but also businesses here in South Australia are looking for) whether the government is satisfied with the current level of debt.

We all know that, since ETSA was leased, interest rates have risen significantly. I am not an economic moron: I have some idea about financial matters, as does the Hon. Paul Holloway. I accept the fact that the debt that the government had was short, medium and long-term, and that there would have been a phasing in, if you like, of the impact of interest rates on that debt. But, an inescapable fact is that the debt has been significantly reduced in this state. We have reached a

point where the South Australian public has been protected from excessive increases in interest rates and the damage that can be done to our economy by rising interest rates.

If one looks at what the various economic soothsayers are saying about where interest rates are going and where the Australian dollar is going, one can quickly appreciate that economics is a bit like the law: it is not a very precise science at times. One has to go back only 12 months and one could not find an economic forecaster in Australia who was predicting that the Australian dollar would fall: they were all predicting that the Australian dollar would be somewhere in the vicinity of (US) 62 cents to 64 cents.

The economists occasionally get it dead wrong: the Australian dollar fell to a low of 51.12¢, I think it was. It would be appreciated if at some stage the Treasurer would put on his thinking cap and think about precisely what careful words he can use to let people know just what the government's attitude is towards debt and whether it will continue to try to push debt down further, or whether it has reached a position where we can take a bit of a pause and look at some of the financial difficulties being experienced in areas such as health, education, transport etc.

I suspect that the government will do that anyway, because we have an election at the end of next year or early the year after, and I have no doubt that, when the Treasurer hands down his next budget, we will see increases, albeit reasonably modest ones—although you never know: that might depend on how the polls are looking—in some of those areas. In making that point I call on the government, because the minister has stated in *Hansard*, in response to media questions and in print that he has no intention at all of stating what he considers to be a reasonable price for Ports Corp.

I have now seen figures that range from $120 million to $500 million. With the modicum of financial expertise that the Hon. Trevor Crothers and I have, how on earth are we able to make any reasonable assessment on whether or not there is merit in this sale, when I have had to come to a conclusion based on what the Treasurer has advised me in this chamber in answer to some of my questions, that is, that debt is pretty close to being about right?

I guess that we will need to take him at his word on that until we find out whether we can trust him when we go through the papers of the next budget that he delivers. I cannot be brought to a decision in relation to Ports Corp motivated by the same reasons that led me to a decision in relation to the lease of ETSA. Back when we leased ETSA, state debt was running at $8.5 billion or $9 billion. I understand that we got $5.4 billion for the lease of ETSA after consultants' fees were paid and ETSA's own debts were extinguished.

We have now seen that debt fall to the figure that the Treasurer has been advertising of $3.5 billion, or $2 006 for every man, woman and child here in South Australia. And of course there is a whole range of other reasons, such as NEMMCO etc. I make the point to this Council that, in arriving at a decision as to whether or not Ports Corp should be sold, we need to have an idea about what sort of price we will get for it and we need to look in more detail at what proceeds will be extracted from the sale price and spent on railway lines, port deepening, new silos, etc.

I held a public meeting at Semaphore, where one of the issues we discussed was the port and the sale of Ports Corp. Whilst a few people who attended the meeting had a little to say about Pelican Point, surprisingly I was getting different feedback about the sale of Ports Corp. The feedback I received from that meeting and from people with whom I have spoken in the port would indicate that to say that morale is low at Port Adelaide would be a bit of an understatement. Port Adelaide is in trouble. One only has to travel down Commercial Street to see that. There are signs that the port is being rehabilitated but that is associated more with the residential development that has taken place down there.

The Treasurer may not appreciate—I know that the Hon. Legh Davis is aware—that I grew up in the port and, much to my mother's concern, spent many days and nights roaming the streets of Port Adelaide in my youth. The message coming through to me from the public at the port—and these were people whose ideology and views were simply that they did not believe in selling off state assets; they were opposed to that—was that they felt that if, somehow or other, the divesting of Ports Corp would allow or create an environment or situation where substantial money could be poured into the port's infrastructure in rehabilitating the port that perhaps—and it is only perhaps—that might give the port a new future.

There is no doubt that there are compelling arguments in relation to what is required to rehabilitate the port. I do not know whether any members have taken the time and trouble to drive around the port and through the wharfs and some of those areas. I grew up playing on the wharfs. Sometimes when we were mischievous we would try to swim along with the big ships as they came through the port harbour but the maritime inspectors soon got hold of us for doing that.

Not only did I take the opportunity of holding a public meeting in the seat of Hart but also I had discussions with Rick Newland, State Secretary and National Vice-President of the Maritime Union. He expressed a number of concerns to me that his union had in relation to the Ports Corp sale. I then convened a luncheon at Parliament House with representatives from the Farmers Federation, Sea-Land and the Maritime Union. I thought that it was an odd group of people who, coincidentally, were all echoing similar concerns about the sale of Ports Corp. I have also had numerous discussions with the minister (Hon. Michael Armitage), and I place on record my appreciation to him for making himself and his staff available and for the information that has so far been supplied to me. I know that the minister has taken up many of the concerns that I have raised with him because I have taken the opportunity to discuss those matters with some of those people, such as the MUA, etc.

I can recall the secretary of the MUA addressing a rather noisy group of demonstrators on the front steps of this place in relation to the ETSA dispute. If I have got the quote correctly, he suggested that one of my very good friends, if not my best friend, could 'rot in hell' for the decision that he had made over the ETSA lease.

I have been here every day this week and I was here every day last week but I cannot recall the MUA, Rick Newland or his members charging and demonstrating on the steps of Parliament House about the likely sale of Ports Corp. As I watched the news last night I thought, 'When is the MUA coming on; surely they will have something to say about the Democrats coming out and supporting the sale of Ports Corp.'

The Hon. Ian Gilfillan: We are not supporting the sale of Ports Corp. You should read the speeches and then you'll find out.

The Hon. T.G. CAMERON: I recognise the interjection, and I will go back and look at *Hansard*. I understood Sandra Kanck to say that they are supporting the passage of this legislation through the parliament. Is that correct?

The Hon. Ian Gilfillan: Yes.

The Hon. T.G. CAMERON: But you are still opposed to the sale?

The Hon. Ian Gilfillan: That's right.

The Hon. T.G. CAMERON: All right. The Democrats have now clarified their position for us. They are supporting the government: sell Ports Corp! But they are absolutely opposed to it, and that does not surprise me. I did read the Hon. Sandra Kanck's contribution and, whilst she was exactly accurate about the role the Labor Party has played in this, I think she is a bit confused too about why she is supporting the sale of Ports Corp, because I could not find any compelling evidence in her contribution that was in any way persuasive on me. That does not surprise me, because I could not find anything persuasive in the Hon. Sandra Kanck's contribution on ETSA, either. However, be that as it may,—

The Hon. L.H. Davis: How many thousands of hours research has she done on this one?

The Hon. T.G. CAMERON: Well, if you listen to the interjection from the Hon. Ian Gilfillan, they have done no research on it. They are absolutely opposed to it. However, they are supporting the government to get this bill through the parliament. I guess only a Democrat could come up with a position like that.

The Hon. L.H. Davis interjecting:

The Hon. T.G. CAMERON: No, I will not be misled by the Hon. Legh Davis's interjections. I wanted to go back to something the Hon. Paul Holloway said yesterday. He stated:

> I suggest that in no other parliament in this country would such major decisions be made on the basis that they have here, a series of deals outside parliament.

I would ask the Hon. Paul Holloway whether he is aware of any other deals into which the government has entered. I would be very interested to hear of any which the minister has not put on the record in another place. The Hon. Paul Holloway quoted a New South Wales academic. One day I may well be in this place quoting those words back to the Hon. Paul Holloway ad nauseam, as I have no doubt—

The Hon. P. Holloway interjecting:

The Hon. T.G. CAMERON: Well look, a state Labor government, just like the federal Labor government, Paul—right, I was in it for 40 years. The day after you blokes get in there you will be casting your eyes around looking for money and someone will be instructed to bring back a list of assets that you may be able to sell. But there will be a caveat placed on it. There will be a little PS at the bottom, 'But only those assets we think the party will let us get away with selling.' And another PS, 'Please remember we have to go to state council and get permission from the trade union movement to sell these assets. So, be aware of the political sensitivity in relation to this.'

The Hon. P. Holloway interjecting:

The Hon. T.G. CAMERON: Gee whiz, Paul!

The Hon. P. Holloway: There won't be any left.

The Hon. T.G. CAMERON: Your union supported the sale of the gas company.

The Hon. P. Holloway: Isn't that your union too?

The Hon. T.G. CAMERON: I am a member of that union but I did not have a vote. You would not let me have a vote at a Labor conference. Your union might even have been a delegate; you might have been a delegate.

The Hon. P. Holloway: Your union too.

The Hon. T.G. CAMERON: Are you deaf, or just stupid? I just said to you that I am a member of the Australian Workers Union.

The Hon. P. Holloway: So am I.

The Hon. T.G. CAMERON: You know that. You spent all your life opposing me becoming a member. I had to go to the national executive to get permission to remain a member of a union. I wonder why? I do not want to be distracted too much.

An honourable member interjecting:

The Hon. T.G. CAMERON: He would have if I had been there when he became secretary, but he did not get the chance. I support what the Hon. Paul Holloway said yesterday about governments. I do not care whether it is a Liberal or Labor government, it must be prepared to put as much information as is possible into the public arena. When will politicians get the message? What the public is looking for now is two things from governments. No wonder they do not trust either Labor or Liberal. They want transparency and accountability. If they get that then they will make a judgment about the government's political integrity. We have not seen that kind of transparency and accountability from a government in this state in 20 years. One has only to look at the dodging, ducking and weaving of the Labor government in response to questions Jennifer Cashmore asked about the State Bank. If the government had not spent 12 months trying to hide the matter, it might have saved the taxpayers of South Australia another billion or two.

I have not come to a final decision but I am leaning towards supporting the sale. I want the government to at least give an approximate value of the asset, even though the minister is refusing to do so. In relation to the TAB sale, for example, how on earth can one make a reasoned assessment? That is why I have asked the Hon. Legh Davis to do a financial analysis on it. How can we make a decision, based on merit, as to whether we should keep this asset or get rid of it if the advice on what we are going to get for that asset varies between $20 million and $150 million? It is not good enough for the government or ministers to sit on their hands and say, 'We can't tell you what we might get for it because we might prejudice the sale negotiations.' That is arrant nonsense.

The people of South Australia are entitled to have an approximate idea about what that asset might get. If we have no idea, what are we supposed to do up here, particularly if you are placed in the invidious position that the Hon. Trevor Crothers and I can be in, as we may well be with the TAB sale? Our votes could determine whether or not this asset gets sold. We are entitled to have at least a reasonable explanation about what that asset might fetch so that we can do some calculations and some analysis on whether or not it is in the best interests of the state to sell it off.

I am stronger on this point now than I have been before, because we have substantially reduced the debt. If you believe the Treasurer, it is down from $10.1 billion in real terms to $3.5 billion in real terms. The compelling motivation to sell the asset to reduce our debt, free up and give us a bit of flexibility is not quite there. There is now even more of an onus on the government to provide information if it wants to justify an asset sale than before. I note the Hon. Paul Holloway acknowledged that the government and the Treasurer were more forthcoming in relation to information about the ETSA sale than they have been about Ports Corp.

The Hon. L.H. Davis: They said nothing about the gas company value when they flogged it off for far too little; nothing at all.

The Hon. T.G. CAMERON: The Hon. Legh Davis interjects about the gas company. I think—

The Hon. L.H. Davis: They didn't get any approval from the parliament of South Australia to do it either.

The Hon. T.G. CAMERON: No. The honourable member has made two points; I will pick up the second point first. He makes the observation that parliamentary approval was not obtained when the gas company was sold. As I understand it, it did not have to. As I understand it, the government does not have to get parliamentary approval to sell Ports Corp, which was a reason that the Hon. Sandra Kanck put forward for supporting it and about which I was a little confused because, the government's now having brought it in here, in my opinion, if the proposals were rejected by parliament, it would have to accept it. If it did not accept it, it should resign immediately and we should go to an election. I was a little confused by the befuddled logic that the Hon. Sandra Kanck was taking us through.

The Hon. A.J. Redford interjecting:

The Hon. T.G. CAMERON: There is nothing there to analyse; that is why I am saying the government has to be a little more forthcoming. The Hon. Angus Redford interjects, but seriously it is not good enough for the government to come to the Hon. Trevor Crothers and me and say, 'Psst, psst, we reckon we'll get XYZ million for it,' and six months later when it gets ABC million Trevor Crothers and I have to look at each other and say, 'Well, we had the wool pulled over our eyes there.' We are entitled to know. If we are entitled to know and the government tells me, then it should go on the public record as well.

I do not want to be placed in that position—and I would not do it: if I have been told things in confidence by the government, I would not bring it up in this chamber. I am just making the observation. It is no good the Treasurer telling us privately what he thinks he will get for it. He has not done that to date, but I will be having a meeting with him next week and I will be discussing it with him. However, I do not want to know privately. I will be putting it to him: 'I want an idea about what we might get for this asset; but, if you tell me, minister, I will be going into the parliament and putting it on the record for the people of South Australia and, if you are not prepared to tell me, it does not make a bit of difference, anyway, because the Democrats will sell it whether you get tuppence for it or $500 million.'

My vote does not really affect the outcome on this issue. I am making the point to the minister that the people of South Australia are entitled to have an approximate idea of what that asset is worth. As is always, I support the second reading.

The Hon. R.I. LUCAS (Treasurer): I thank members for their contributions to the second reading debate. In the absence of the Attorney-General, who has carriage of the bill through the Legislative Council, I respond on his behalf. I have been provided with some responses from the Minister for Government Enterprises to the various questions that have been raised in the second reading stage up to and including the Hon. Mr Xenophon's contribution last evening. I thank the Hon. Mr Cameron for his contribution. To use the phrase that was used in the Casino debate this morning, he 'reasonably' interpreted my views in relation to state debt or net debt.

I have indicated and I will be happy to do so again that a net debt level of the order of $2.5 to $3 billion (which is about where we are at the moment, after the most recent sale) is a manageable level of state debt for South Australia. I am happy to check, but I think that a reasonable chunk of that—somewhere between $.5 billion and $1 billion—is probably net debt that is attributable to SA Water, so it is serviced by the water and sewerage charges paid by consumers for that share of the net debt. As a back-of-the-envelope figure, if the total non-commercial sector net debt is at $3 billion it may be at or just under $2 billion or about $2 billion.

For a budget of our size it is a manageable level of net debt. We would like it to be lower but, in the end, having come down in real terms from $10.1 billion in June 1993 (to refer back to the question that the Hon. Mr Elliott asked in question time today), a net debt in the ball park of $3 billion or under is manageable proportions.

The Hon. T.G. Cameron: Kennett left Bracks a $1.2 billion annual surplus. What were you left with?

The Hon. R.I. LUCAS: We certainly were not left with a $1.2 billion annual surplus: we were left with a $300 million annual deficit. So, all other things being equal in 1993-94, every year we would have added $300 million to the state's net debt level, if we had not reined in government expenditure during that period.

I am the minister representing the Minister for Government Enterprises in this chamber. It is really for the Minister for Government Enterprises, as acknowledged by the Hon. Mr Cameron, to continue his discussions on behalf of the government on the issues he has raised. The Hon. Mr Cameron has indicated that he has a meeting with the minister next week or some time in the near future and, as always, he will take up those issues directly with the minister to seek a response. The following comments have been provided to me by the minister and his staff in response to various questions that members have raised and, in responding to the second reading, I will place the minister's and the government's responses to the various comments and questions that have been raised in the second reading debate.

The Hon. Mr Holloway raised an issue in relation to consultants' fees. The minister advises me that there is no success fee associated with the Ports Corp divestment. The minister has indicated that expenditure on consultants will be provided to the House of Assembly, but I am sure it will be to both houses of parliament. I am happy to take up the time frame with the minister and provide further information on that in the committee stage, if that is required.

The honourable member raised issues in relation to grain terminal issues not yet having been resolved. The minister responds:

> The issue of who should operate the new bulk terminal at Outer Harbor is being worked through in close consultation with the Grains Council of the SA Farmers Federation, the peak body representing grain interests in South Australia.

Mr Holloway raised the issue of the over-emphasis risks as the reason for sale. The minister responds:

> Regarding the quote that Ports Corp has gone through its risky early growth phases this has to be put in context. The scoping review consultants regarded Ports Corp as a 'moderate' risky business on average and it is a high risk business in relation to container and some other trades. Certainly grain is the most stable part but this can also be risky in the long run, depending on overall freight chain costs in competing with other grain producing nations and this latter point was among those made by Leadenhall.
>
> The objectives of selling Ports Corp are four fold and are clearly listed at the start of the second reading speech. Moderate risk is only one of the four whereas for ETSA I understand there are only two objectives—related to sale price and risk, and the electricity business on average is certainly more risky than ports business on average.

I interpose that certainly the two key objectives from the government were maximising value and minimising risk. As members in this chamber will know, there are many other arguments we have placed on the public record as to why we

should no longer own and operate our electricity businesses, and members will not want me to repeat those arguments during the Ports Corp second reading reply. The minister's reply continues:

In addition, the risk in relation to Ports Corps is two fold:

- the first part is the normal commercial business risk associated with container trade.

- the second part as indicated in the second reading speech objective is related to the lost opportunities that will result if the first two objectives on economic development and improved supply management are not realised, that is, the opportunity cost risk of not realising the gains in government ownership that could be achieved by private sector innovation will result in higher than otherwise achievable lower costs. That would be passed on to importers and exporters.

A question was raised in relation to allocation of proceeds of sale, and the minister replies:

The need to use the $30 million to $35 million to invest in the ports begs the question that the Government may be called on to do more if government ownership was to continue. The 'government funding to private airport argument' is irrelevant as governments of any persuasion can grant industry support to private enterprise if and when needed, for example, the Leader of the Opposition's call today for the government to provide funding to assist Balfour's relocation from the CBD.

Mr Holloway raised the issue of whether we have a monopoly in grain exports. The minister replies:

In general it is not expected that South Australian grain will be exported from another state, but there will be competition at the margin, which is occurring already along the South Australian-Victorian border. AusBulk is building a facility at Werrimull in north-western Victoria and Grain Co has retaliated by seeking to build collection facilities in South Australia. Where rail is involved the Hon. Mr Holloway is partly right. It is cheaper already to export grain from the Port Pirie area via Port Adelaide than from Port Pirie due to strategic grain collection points such as Snowtown being connected by rail to Port Adelaide. As well this is partly due to the cost of shipping into Pirie, that is, the relevant cost are total costs of marketing a tonne of grain including transport.

The Hon. Mr Holloway made the point that little information had been provided to the public. The minister responds:

Mr Holloway's comments in this regard are untrue, which is proven by his own copious references to the large amount of information on the government's website. The many briefings (which were not secret) as long as 18 months ago to local councils, regional development and tourism board representatives throughout the whole state, along with briefings to many interested parties such as recreational, business and other groups as requested.

Mr Holloway raised the issue of the potential for port closures, and the Minister replies:

The existing lease arrangements with AusBulk, which were put in place when they acquired the bulk loading plants, allow for possible port closure in associated notice periods. This is in leases which are publicly registered. This situation therefore already exists and will be carried into the divestment process not only unchanged but strengthened, for example, in relation to partial port closure as well as along with other requirements such as strategic development plans that must be revealed to the government. If a port were to face closure, there is an inbuilt requirement for the government to become involved in discussions on an appropriate outcome that might be relevant at the time, so it is fallacious to argue that the government has nothing to do with it in future.

The state used to have more than 100 ports. We have twice as many commercial ports as most other states on average, so we must recognise that there may be a need for flexibility in the future linked with potential transport change innovation.

The final point raised by the Hon. Mr Holloway is in relation to consultation with employees and the public. The minister's reply is as follows:

As already indicated there has been consultation with the public and employees who are fully involved through their union representatives as reflected in a memorandum of understanding which was settled quite some time ago. The main features of this memorandum were displayed in the second reading speech. Our web site incorporating a public discussion forum has been available to all, along with normal communication channels. The key target seems to be the non-availability of the scoping review report which has never been made public outside of the cabinet decision process. The reasons for divesting Ports Corp are adequately reflected in the objectives and the retention versus sale value has never been revealed in order to protect the bidding process.

Last evening, the Hon. Sandra Kanck raised a series of questions. I provided copies of the minister's response to the honourable member last evening, and I now read onto the public record the minister's formal answers to the questions she outlined in her second reading contribution. The member raised the issue of the grain industry and Outer Harbor funding agreements. The minister states:

The government has reached agreement with grain industry representatives to contribute up to around $30-$35 million for the new grain berth and associated dredging at Outer Harbor, including land-based support infrastructure and for upgrading Port Giles and Wallaroo. The split-up of these costs is broadly $19 million for berth and dredging at Outer Harbor; $8 million for deepening Giles and strengthening Wallaroo; and $7 million for Outer Harbor on land to support infrastructure.

This was publicly announced as a range to take into account the preliminary costings and the potential for the dredging to be done concurrently, which would save costs. Funding arrangements for the $30-$35 million will generally be a requirement on the future port owner without increasing port-related charges to the farming communities, that is, there will be an indeterminate reduction in sale price by bidders to the extent that they believe they will not be able to offset the investment costs by increases in grain and possibly other trades. The on land infrastructure funding at Port Adelaide would generally be from sale proceeds.

An important part of the process the minister has outlined is that, in essence, this will be part of the bidding process from the prospective bidders. If one bidder takes an optimistic view that the bulk of the investment can be recovered in some way, that bidder will treat their bid price in a different way from that of a particular bidder who may well not see as much value in the $30-$35 million worth of infrastructure that is being incorporated into the business. In that way, it will be part of the competitive bidding process, where bidders will, among other things, be bidding on their estimates of the value of the additional infrastructure to the value of the Ports Corp business at Port Adelaide. The member asked a question about Wallaroo and Port Giles upgrades. The minister says:

Refer to question 1 above noting that Wallaroo is only strengthening, and work by Ports Corp is already progressing on both which also reduces the extent of additional funding required.

The third question was in relation to potential port closures. The minister states:

The 99-year lease arrangements that already exist with AusBulk make provision for notice arrangements in the event of a possible port closure. These arrangements are being strengthened in going into the sale process by incorporating notice on partial port closure as well, and the requirement for the lessee to periodically submit a strategic development plan, etc. Significant notice means a year.

The fourth question was: what will happen to homes near the Outer Harbor railway track? The minister replies:

Rail upgrading associated with the Outer Harbor new grain terminal proposal has been the subject of a number of discussions with Transport SA officers, and a working party will assist with detailed site selection and all associated development requirements including consultation with the Port Adelaide Enfield Council. A future modern main port at Port Adelaide for the state will require a new rail crossing for grain and potentially other export commodities as well.

The fifth question related to recreational anglers. The minister's reply is as follows:

The recreational access agreements in relation to Ports Corp's commercial wharves have been jointly agreed and signed by Ports Corp, and respectively the councils of Ceduna (for Thevenard), Yorke Peninsula (for Giles) and Copper Coast (for Wallaroo) and agreement for Port Pirie is imminent.

There has been consultation with the South Australian Recreational Fishing Industry Council, the Local Government Association and others in arriving at these agreements which will be binding on the new owner. No 'jetties' have been transferred to Transport SA beyond the large number of jetties that were transferred to them when Ports Corp was corporatised in 1995. Some facilities that become 'out-of-scope' on divestment, such as the public boat ramp at Outer Harbor, will transfer to Transport SA in due course.

Each of the above agreements designates the times and access areas, and the historical permitted access levels that presently exist have generally been preserved.

One of the benefits of the above agreements has been an agreed sharing of certain responsibilities so that local councils can be more involved in the management of some aspects of the facilities that they derive considerable tourism-related benefits from. The only difficulties being encountered are related to Port Lincoln council who at this stage does not appear to want to cooperate (compared with all the others who clearly have seen the benefits) and that council appears to have other objectives in mind in opposing arrangements that are not related to recreational access.

Question six is in relation to the commonwealth's stevedoring levy on Sea-Land and the answer from the minister is:

While there is no direct link between the levy and Ports Corp revenue loss, i.e., there are many other factors involved such as decisions by international shipping lines on which ports they will call at, the levy certainly has not been helpful to container trade competition with Melbourne. However, the Department of Industry and Trade, and indeed the government is, in fact, working on a case in respect to the levy. To the extent that there is no direct connection between the Ports Corp revenue loss and the levy, there is no certainty that the divestment price will be discounted. To the extent that there is any impact, Ports Corp or a future owner can take offsetting initiatives as part of their trade attraction plans.

Another issue was raised about dividends and loan repayments of $37 million. The answer is as follows:

This is the result for 1997-98 and 1998-99, which includes an amount of around $12 million which was a special dividend related to sale of the bulk loading plants and the woolstore. In any case, all this information has been taken into account in preparing estimates of retention versus divestment value and we expect to achieve a divestment value that is higher than the retention value.

In relation to performance agreements for the new owner, the minister replies:

If the 99 year lease contained mandatory performance targets the divestment would not be at arm's length. It would have the characteristics of a short-term lease and the new owner would not invest in long-lived assets, and we would get a much lower price. The 99 year lease of the land and sale of the assets on the land and over the water in conjunction with a range of lease conditions that ultimately protect the state's interest in the ports, while not being intrusive on management of the business, will allow the private sector to operate the business in the wider commercial environment and without impacting significantly, if at all, on divestment price.

In relation to application of proceeds, the minister replies:

See answers [to earlier questions]. Regarding when the deepening will happen, the agreement with the Grains Council indicates that the target is within three years from divestment.

The next issue was, 'Ports Corp existing $30 million debt', and the minister indicates:

Ports Corp current debt is actually only around $17 million and this will be paid out on divestment. Furthermore, debt level has been taken into account in assessing retention and divestment values.

In relation to investment in 50 years the answer is:

A 99 year lease provides sufficient certainty to the lessee to invest in long-lived assets.

The next issue is the risk of port closure, and the minister replies:

See previous comments on this subject regarding notice period, etc. The lease conditions in the contract will protect the government's ultimate commercial interest in the future of South Australia's ports while the Port Operating Agreements under the Harbors and Navigation Amendment Bill will protect marine safety within the ports.

The member raised the issue of it being environmentally disastrous, and the answer is as follows:

While the environmental issues are potentially manageable, there are significant risks such as the potential for algal blooms as a result of stirring up nutrients in the riverbed during the dredging process. It is expected that environmental interests would have views about a number of the environmental aspects which could significantly extend or put at risk the approval process associated with whole of river dredging.

The next issue was in relation to the third river crossing guarantees. The Minister replies:

While there are no guarantees yet for a third river rail crossing, it is certainly planned and a number of elements have to be brought together in any normal evolving process. Firstly, the zoning for port and port related uses in Port Adelaide needs to be finalised, the new grain facility and other industrial development planning needs to be sorted out in consultation with Port Adelaide Enfield Council in particular, which, in turn, will create the appropriate impetus to detail the rail solution.

[The government has a three years target] from the date of Ports Corp divestment to achieve all this.

There are further issues in relation to recreational access which were raised again through some specific questions from the member. The minister replies:

Regarding Port Adelaide there is no existing public access to any of the commercial wharf areas but there is access to other waterfront areas along the Port River. There will be continuing access on certain 'out-of-scope' areas that will be removed from Ports Corp on divestment.

There is a further comment in relation to the Sea-Land levy and there is a further note from the minister that a paper has been considered today by the Australian Transport Council in Launceston, at which the Minister for Transport is in attendance. The Premier has written to the Prime Minister on three separate occasions on this subject.

The Hon. Bob Sneath raised a question in relation to there being no cost savings for farmers. The minister replies:

The Grains Industry themselves indicate that there will be cost savings at various levels from $4 to $12 per tonne of grain. The Grains Council has put out newsletters to farmers throughout the state on how the savings will be achieved.

As a result of the deep sea ports upgrade, the government will require the work to be done without any consequential increase in port related grain handling charges.

I understand that the Hon. Mr Sneath also received a quick lesson from the Hon. Caroline Schaefer last evening in relation to that issue and other related matters.

Finally, the Hon. Nick Xenophon raised a series of questions. First, he asked why the government is using the legislative path? The minister replies:

The government is going down this path for efficiency reasons. It will save costs compared with doing it bit by bit under existing legislation and [the government is] not attempting to hide from public scrutiny, as evidenced by bringing it through parliament.

The Hon. Nick Xenophon raised issues in relation to the Port Adelaide turnaround. The minister says:

The Deep Sea Ports Committee report did not examine the dredging material disposal in sufficient detail. The government has now done this and the PPK report was completed and made publicly available.

The dredging costs have more than doubled compared with the previously estimated costs and the government believes the 'turnaround' is a more cost effective solution for the state, which the Grains Council supports.

The previous inner harbour dredging solution was, in any case, not a cost effective solution to start with. It was being supported on other, more general grounds and it would not have got on the short list on economic grounds.

The member raised the issue that the government is playing off AusBulk, the Wheat Board and the Barley Board against each other, and he claimed that there was no benefit from competition. The minister says:

In view of the potential for competition in grain handling which already exists in Victoria and up and down the South Australian-Victorian border, the government has to be very careful in ensuring that all parties are treated equitably. I am sure that the Grains Council has a similar view.

The member raised the issue that the previous Outer Harbor $79.6 million estimate in the Deep Sea Ports Committee process led it to being discarded as an option. The minister says:

The current proposal is unrelated to previous estimates which we understand were based on different parameters to the current proposal which is to be a modern loading facility not unlike the one recently constructed in the port of Melbourne.

The Grains Council, which was in charge of the Deep Sea Ports Committee report, now supports the Outer Harbor proposal.

The member asked about transport options west of the Mount Lofty Ranges. The minister says:

Port Lincoln is already a deep sea port.

Port Giles is to be upgraded to full deep sea port status.

Wallaroo is being strengthened to enable safe partial loading of panamax vessels.

The government will require an expenditure of up to around $8 million for the upgrade of Port Giles and Wallaroo with no increase to the current average port related charges for grain handling.

I am not sure whether that is an accurate reflection of the question and the answer.

With that, I thank honourable members for their contribution to the second reading. I indicate that, at this stage, given the absence of the Hon. Sandra Kanck, it is the government's intention to take this bill into committee, should it pass the second reading, and to have some debate on clause 1 without voting on it. It will enable the Hon. Mr Holloway—and, indeed, other members—to put questions to the government through me. At the conclusion of that process, I think we have a couple of speeches from the Hon. Mr Gilfillan on behalf of the Hon. Sandra Kanck on the other two port related bills.

The Council divided on the second reading:

AYES (11)

Cameron, T. G.	Crothers, T.
Davis, L. H.	Elliott, M. J.
Gilfillan, I.	Lawson, R. D.
Lucas, R. I. (teller)	Redford, A. J.
Schaefer, C. V.	Stefani, J. F.
Xenophon, N.	

NOES (4)

Holloway, P. (teller)	Roberts, T. G.
Sneath, R. K.	Zollo, C.

Majority of 7 for the Ayes.

Second reading thus carried.

In committee.

Clause 1.

The Hon. P. HOLLOWAY: I note from this morning's *Advertiser* that the Minister for Government Enterprises has revealed a situation that might apply in relation to job losses in the TAB sale process. Will the Treasurer provide similar information in relation to the ports sale?

The Hon. R.I. LUCAS: It certainly will be nowhere near the capacity for the potential job reductions there. The minister will take this question on notice and see what information he is prepared to provide. I am told that the total number of staff in the Ports Corp is about 150. So, clearly, we are not talking about a significant number of people compared with the number of people employed in, say, ETSA and, more latterly, as the minister has said in another place, in relation to TAB infrastructure (call centres, branches and agencies).

If 150 is the total number of staff, members can form their own judgment. However, there is clearly not the capacity for the sorts of reductions referred to on the front page of the newspaper today in terms of the TAB, because not that many people are employed by the Ports Corp, and any possible reduction will ultimately be a decision for the potential future owner. Obviously, it will be on a much smaller scale if there is any capacity for reduction at all.

The other point to make, I guess, is that there is a difference between the two assets. With respect to the TAB, I am assuming that the minister in his statements has referred to the call centre. Clearly, you do not have call centres in relation to the Ports Corp. So, call centres are an obvious area where, depending on who purchases your asset, there is the potential for rationalisation. In relation to the TAB, if there is a call centre here and a call centre of a prospective owner from interstate, clearly there is the immediate capacity for a rationalisation—either here, frankly, or in the state of origin of the prospective owner.

The other figures that I have seen on the front page of the paper to which the minister has referred with respect to the TAB are the significant overheads in relation to corporate headquarters. Clearly, again, if you have someone who is in exactly the same business, I guess there is always the capacity for some saving in overheads. That is obviously an area where there are potential savings for a new operator, depending on the particular business and where that business is for the potential future owner or operator. Again, that is why I am sure that the minister, when he provides a response to the member's question (which I will be happy to bring back when next we discuss this), will want to make those sorts of points. I guess that it will depend on the shape and the nature of the prospective new owner and operator. If they have no current infrastructure or staffing in the particular area of ports management, their capacity for rationalisation would be less than if they already are a major operator in this field but in another state, in which case they might have greater capacity for some rationalisation of staffing levels.

So, at this stage, I cannot provide much more than that, other than to again state that, clearly, any potential for a reduction in staffing will be much less than the minister has indicated in the worst case the potential for TAB rationalisation might be.

The Hon. P. HOLLOWAY: I note that the government is at least prepared for some job losses in relation to this sale. Perhaps while the Treasurer is obtaining that information from the minister he will also find out how much the department has budgeted in relation to job losses and associated packages with respect to this sale. Can the minister also obtain that information?

The Hon. R.I. LUCAS: I am happy to take up that issue with the minister.

The Hon. P. HOLLOWAY: Some information that I think would be useful to the committee at this stage is,

perhaps, a report on just at what stage the sale process is at. Obviously—

An honourable member: The parliamentary privilege stage.

The Hon. P. HOLLOWAY: That is an interesting question in itself. Perhaps I should ask the question for the minister to put on the record. Does the government need legislation to proceed with the sale? That is a question worth asking.

The Hon. R.I. LUCAS: I have noted the comments of the Hon. Sandra Kanck, who is not with us today, in relation to a similar issue. The best bet from my viewpoint as pinchhitter here is to take up the issue with the Minister for Government Enterprises as to the nature of any advice he has received through this long and tortuous process of getting to this stage, and bring back a reply when we return to clause 1 in a week and a bit.

The Hon. P. HOLLOWAY: I want to raise the issue of what stage the sale process has reached. For some 18 months now the government has been going through the process of selling the ports, so it is nothing new. Is the government in a position to indicate how many bidders it expects to have for the sale? I assume that there must have been some process whereby bidders expressed interest in the sale.

The Hon. R.I. LUCAS: No, we have not reached the expressions of interest stage: the government has decided to take this through the parliamentary approval process first and is awaiting the approval of the parliament to proceed. I recall answering, on the minister's behalf, a question as to why we are proceeding with legislation, and the minister's answer was that it was a more efficient process, or words to that effect. The minister and the government have taken the view that we should go through the legislative process.

Therefore, we have not gone to the various stages of the sale process, which will be an expression of interest stage and then a bidding stage. At the stage of expressions of interest we will know the field of potential bidders. It would be fair to say that the minister probably has a feeling, from the point of view of who has been sniffing around the ports, if I can put it that way, over the past 12 to 18 months, as to some people who might be interested.

However, from my experience with the electricity business, some of the people who ended up being the successful bidders for some of the electricity businesses were not those you would have named if you had been asked at the start of the process whether they would have been successful or whether they would even be bidders, because a number of the syndicates, particularly the Asian syndicates, who came into the bidding process came in after the UK and US companies had been very active in the utilities market in Australia. Then, for a variety of reasons we have talked about before, some of them went cool on investment in Australia.

As that occurred, a number of significant Asian based companies then had a look at our assets, and one of those was successful in ETSA Utilities, in particular. Even some of the other companies were not companies whose names were down as strong contenders in the early stages in terms of electricity businesses. So, the simple answer to that question is that, until we get parliamentary approval, we will not go through an expression of interest stage. At that stage we will have a reasonable indication of the strength of the field in terms of numbers and quality.

The Hon. P. HOLLOWAY: Does the government have a timetable for the sale process should this legislation be successful? If so, could the Treasurer share it with us?

The Hon. R.I. LUCAS: Knowing the minister, I am sure that, as soon as parliamentary approval is given, flags will be waving and we will be off and running to the extent that we can. It is, nevertheless, a difficult and complex process—again, having lived through it in terms of the electricity businesses. I understand that the minister may have made a public comment—which we will need to check to see whether he has been fairly reported—but his target objective might be in and around March next year. It would be a very good achievement if one could turn it around in four months, particularly with the Christmas-New Year break in the middle of that. It may be that it will be a little longer than that. I understand that that could be a recent public comment from the minister. We will check that and get any further available information for the honourable member.

The Hon. P. HOLLOWAY: Is the government confident that there will be sufficient bidders for the port to make it a competitive process and to achieve an optimum price? Perhaps the Treasurer could say how many bidders he believes would be necessary to make it a competitive process.

The Hon. R.I. LUCAS: I am sure that the minister believes that it will be a competitive process. I can tell the honourable member that, based on the electricity business, you need only two willing participants to have a competitive process. The more the merrier, of course; but, if you have two people or two organisations going head to head, that is sufficient. If either party knows that the other is just as interested as they are, that is sufficient for a very healthy, competitive bidding process; but, the more the merrier. If you have a significant number of people expressing interest, ultimately you must get the process down to manageable proportions. I think that the simple answer to the honourable member's question is, yes, the minister would believe that there is sufficient interest for a healthy and competitive bidding process.

The Hon. R.K. SNEATH: The Treasurer mentioned earlier the minister's answer in relation to savings to the grower with respect to freight. The Hon. Caroline Schaefer last night was kind enough to give me an explanation about where the savings might lie. Port Lincoln is a deep sea port and Port Giles will become a deep sea port. The minister said that Wallaroo might also be available with some alterations. Therefore, I would have thought that savings of $4 to $12 a tonne would not be applicable to all growers. To what percentage of growers might those savings apply? Is there a possibility of getting a more accurate figure on those savings—$4 to $12 is a fair margin, especially to a large grower?

It would be nice to get a more accurate figure. The Hon. Caroline Schaefer said that the South Australian Farmers Federation had played a role in calculating a figure, perhaps, closer to $6 a tonne. I am just a little sceptical about the savings to growers because privatisation does not have a good record with respect to savings to either the user or the consumer. Is it possible to calculate a more accurate figure—not a figure of $4 to $12, which has an $8 figure range? What percentage of growers would save because a large percentage of growers already use the ports of Port Lincoln, Wallaroo and Port Giles.

The Hon. R.I. LUCAS: I am happy to obtain a more considered reply, but the initial advice of my considerable battery of advisers, including the Hon. Caroline Schaefer in my left ear, is that these figures were not constructed by the government or its advisers. I am told that the figures were

produced by the Deep Sea Ports Committee, which circulated the figures to grain growers around South Australia.

There is natural cynicism from the honourable member,which is a bit disheartening for such a new member of parliament to have towards statements attributed to or made by government and its minister. If he has any greater faith in people outside parliament, namely the Deep Sea Ports Committee, he might like to have greater faith in those figures produced for him and for all of us.

In relation to the variation, I am told that it is not possible to have one particular figure because it depends on where the grain grower is and where they are currently exporting their grain from. I think it was part of what the honourable member said that, if you are currently close to Port Lincoln and you have access through the Port Lincoln harbour, your savings might be less than somebody else who either has further to travel or does not have access currently to that sort of costing.

The Hon. R.K. Sneath: It may not be anything.

The Hon. R.I. LUCAS: No. The figures are not zero to 12 or 14; the figures are $4 a tonne to $12 a tonne. I think the honourable member has spent enough time in country South Australia to know that $4 a tonne for a farmer is not something they will sneeze at in terms of a saving, and nor should they—

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: Well, the Hon. Terry Roberts said that, not I. I certainly would not agree with that. I notice that the statements were unattributed to federal ministers, so I am sure they will all be steadfastly denying that any of them said it or even thought it. But it would not surprise me that a Labor member such as the Hon. Terry Roberts would say that they would grab the $4 and take more. A saving of $4, even if it is only that sum, is a significant saving to an operator of a business such as a farm. It is not something to be sneezed at. Clearly, for those who have got savings at $8, $10 or $12, if that is to eventuate, obviously it is an even more significant benefit. But whatever it is, if it is in that region of $4 through to $12, depending on where the farmer happens to be and where his or her port happens to be, the Deep Sea Port Investigation Committee—and the government obviously—agrees evidently with the broad parameters of the analysis that has been undertaken by the committee.

The Hon. CARMEL ZOLLO: I ask the minister how many staff are employed at the moment at the ports of Port Giles, Wallaroo and Klein Point, and I know that we spoke in general terms about employment, but what specific arrangements have been made for all the existing employees of SA Ports Corp in relation to future employment and conditions?

The Hon. R.I. LUCAS: Again, I can provide some general information about specific questions and I am happy to try to get specific responses. If in the next 10 days I can get more detailed information for the honourable member, I certainly will.

In broad terms, I understand that there is a memorandum of understanding with the MUA and the Australian Maritime Officers Union—the two unions involved. There is an MOU between the government and both the unions. Some parameters were outlined in the second reading or in committee by the minister in the House of Assembly. I am happy to get that detail but, broadly, as I understand it, the members of the unions will have the opportunity to work with the new operator or, if there are not sufficient positions there, then broadly again, to take a targeted separation package, which by and large is based on the broad public sector TVSP with an additional benefit woven into that to take account of the special circumstances that apply to maritime workers and, I think, in relation to overtime—

The Hon. T.G. Roberts: Superannuation.

The Hon. R.I. LUCAS: —I am not sure and will have to check that point—or to take redeployment into the public sector. In broad terms, it is either a job with the new operator, a targeted separation package or employment in the public sector.

The Hon. CARMEL ZOLLO: Just to follow on from that, I understand that a colleague in another place asked whether the minister would consider tabling that memorandum of understanding in parliament, and the minister said he would take advice. Does the minister now know what advice he has received on that?

The Hon. R.I. LUCAS: I will take the same advice. I understand the minister is still taking advice. I understand that discussions are still going on with the signatories to the agreement. It is not just an agreement signed by the government: it has been signed with the two unions and, evidently, it is an issue that is being discussed with the unions as well. At this stage, obviously I am not in a position to table the document, but I can say that discussions continue and we are not in a position to table it at this stage.

The Hon. T.G. ROBERTS: The Treasurer has mentioned that there is no preferred bidder and I understand that it is in the competitive field of tendering. Given that restructuring and discussions are occurring about the integration of rail and road transport linking ports for a totally integrated transport service system not only in South Australia but in Australia, what current committees are running in relation to those aspects of integrating ports, harbors and transport hubs, including rail and road transport? What state representation is on that committee (or committees) that is currently running representing government interest? What commitments can those representatives make in relation to a current restructuring program, given that a finalised owner through the tender regime cannot be known for at least another three months—you said—

The Hon. R.I. Lucas interjecting:

The Hon. T.G. ROBERTS: Given that a successful tenderer cannot be named for at least four to five months, who will represent the state government's interest on those running committees?

The Hon. R.I. LUCAS: In general terms, until there is a preferred bidder, whether that is March or indeed later, the current management and government arrangements in relation to Ports Corp will continue. The port will be there and the current staff and management will continue. If anyone is on a committee, the assumption is that they will continue to represent Ports Corp's interests and South Australia's interests. If the honourable member between now and the next committee stage of the bill has any particular committees in mind, then if he would like to correspond with the Minister for Government Enterprises and ask about a particular committee, I am sure the minister would be happy to provide a response through me.

The Hon. R.K. SNEATH: To return to the Treasurer's answer to the Hon. Carmel Zollo's question, is there any provision to offer the employees a transfer to other departments? The Treasurer also mentioned targeted redundancies. Are there provisions for voluntary redundancies to be offered in the first instance?

The Hon. R.I. LUCAS: They are offered a targeted voluntary separation package (TVSP). So, the new employer

will obviously decide the total numbers. The two other alternatives are then that, if they do not have ongoing employment with the new employer—whenever that is to occur—they will have the choice of a targeted voluntary separation package or the opportunity for some public sector employment. I have had a quick discussion, and I understand that their first port of call will be within the Department for Administrative and Information Services (DAIS), and from there some endeavour would be made to find them appropriate work in the public sector generally. They are broadly the three options the employees will have. Again, all I can state is that the arrangements for this have been agreed between the two unions involved representing their members, the workers involved and the government. My advice is that there is a signed memorandum of understanding between the union representatives and the government.

The Hon. P. HOLLOWAY: On the question of the price that could be received from the Ports Corp sale, I know that about 18 months ago some work was done by, I think, the Centre for Labour Research, which put out a figure of $500 million.

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: The figure was $500 million for the ports. The government subsequently asked Leadenhall consultants to prepare a report, which I have before me, and they came to the conclusion that some of the analysis was wrong. One of the reasons why is that they said that the report overestimated 1997-98 revenue to Ports Corp by 34 per cent by continuing to include income from assets which had already been divested, for example, the bulk loading facilities. That error was then compounded.

The Hon. R.I. Lucas: What centre did this study?

The Hon. P. HOLLOWAY: The Centre for Labour Research.

The Hon. R.I. Lucas: That's not John Spoehr's group is it?

The Hon. P. HOLLOWAY: I do not know, but obviously it did not have all the information. My question is relevant to the return we get from the ports: what were the details and value of those assets which were divested and which affected the 1997-98 revenue by 34 per cent? Do you have a list of those and the price the government received for them, given that they have reduced the income by 34 per cent?

The Hon. R.I. LUCAS: The safest bet is to say that we do not have concise answers to the series of questions the honourable member has raised. I will take them on notice on behalf of the minister and bring back a reply. I would like to check on who are the authors of the first report, because if that is John Spoehr's group—

The Hon. P. Holloway: That is not really the issue.

The Hon. R.I. LUCAS: From the government's viewpoint it is the issue because we have some fruitloop economists out there in relation to all of these privatisation issues and John Spoehr is one of them, and John Quiggan is another. If anybody wants to have some research done—

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: Is Quiggan in there as well? No wonder it is wrong.

The Hon. P. Holloway: That is not the point.

The Hon. R.I. LUCAS: It is the point.

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: I understand. In relation to the specific value of the assets and those sort of things, I will take the questions on notice and bring back a reply. One of the problems you have in relation to a sensible and rational debate is that you get people like Quiggan and Spoehr on all of these things, the usual suspects, and whenever you want to oppose a privatisation you can rely on Quiggan and Spoehr to come up with some extraordinary evaluation in relation to the particular business and that, if the government does not sell at that particular price, it should not sell it. It is in their interest to put an unrealistically high valuation on it because they come from an ideological viewpoint that one should not be selling it.

As I said to friend John Spoehr in a radio debate, his credibility would improve a little bit if at one stage in our living memory and his life he could actually agree that something the Liberal government does is right, as opposed to opposing everything the Liberal government does. It might actually restore marginally some of the credibility he may have to comment on some of these issues. I am happy to say that here because I said it during a debate with him. He knows my views and I am not saying anything I have not said to him face to face during a public debate. I would be very cautious if one is relying on Quiggan and Spoehr for anything in relation to a privatisation debate. I will take advice on the valuation of the particular assets the honourable member referred to and when next we meet try to provide some more detailed information for him.

The Hon. P. HOLLOWAY: I do not see it as my role to defend any particular economist, but I make the point that at least the Centre for Labour Studies for all its fault tried to make some sort of estimate and tried to put some detail out into the public. It is extraordinary that the government should have got a consultant, presumably at some considerable cost, to rebut its figures, but it has not put anything out to the public that would provide the information that Quiggan and Spoehr were trying to provide in the first place. Surely it would have been better if the money the government used was to do some sort of analysis in the first place about a range of options and put that sort of information on the public record. I will not waste the time of the committee as I am sure we would all like to go home as quickly as possible.

The minister said earlier that the operation of the new grain terminal will be determined in some way through the Grains Council of the grains industry. Are there any agreements or undertakings as to how this process will work? Exactly how will this process be undertaken, and exactly what will the operator be responsible for in this new grain terminal?

The Hon. R.I. LUCAS: I really cannot say much more at this stage other than that which I have said in the information I have provided in response to one of the member's questions in the second reading, that is, discussions are occurring with the Grains Council, representing the grains industry, about possible processes. At this stage, no final conclusions or decisions have been reached; therefore, I am not in a position to offer any more detail. It may well be that, when next we discuss this on Tuesday week, I will be in a position to provide a bit more information on behalf of the minister. I will take up the issue with the minister on behalf of the honourable member.

The Hon. P. HOLLOWAY: Is there a deadline as to when this decision has to be made or when this whole process has to be wrapped up?

The Hon. R.I. LUCAS: Obviously, the sooner these things can be decided one way or the other the better. However, at this stage no deadline has been set.

The Hon. P. HOLLOWAY: With regard to the third river crossing and its impact on the sale, I note in the past day

or two some glossy brochures have appeared in members' pigeon holes that gives some information about the new expressway leading into this third crossing, and the commonwealth's role in that. Of course, the new road bridge and the highway are part of a later stage. How confident is the government that it will be able to find a private bidder to fund this work to build the third crossing, without the need for any injection of taxpayers' funds?

I know that we have passed legislation in this parliament that allows a toll to be introduced. I have done a back of the envelope calculation and found that it will cost $30 million or $40 million to build this bridge. Even just to get 10 per cent of that cost, which would scarcely fund the interest, would be about $3 million or $4 million a year. That would require, at a reasonable toll level of about $5, an awful lot of trucks crossing this bridge each year. What work has the government done in relation to the third crossing? Is it confident that it will find a private investor for the bridge? Will the minister provide information as to what work has been done to evaluate the feasibility of it, particularly in terms of the numbers of trucks and so on that are likely to use the third crossing?

The Hon. R.I. LUCAS: I am not in a position—and I do not think anyone would be at this stage—to either guarantee or even say that we are supremely confident about these issues. The government, through the various ministers, is doing the work and looking at the various options in relation to the financing of the Gillman project.

Clearly, the legislation has been passed which allows a variety of options in terms of funding and financing the infrastructure. We will not really know until we get further down the track when that might be. Again, I cannot provide further details to the member at this stage. It may be that either the Minister for Government Enterprises or the Minister for Transport can provide some more detail by Tuesday week, but I suspect that the answer is probably not. At this stage, we are not in a position to be placing our guesstimates on the public record about the likely success or otherwise of private financing. Given that it is the responsibility of the Minister for Transport, I am happy to take up the issue with her or the Minister for Government Enterprises and try to bring back some information on Tuesday week for the member.

The Hon. P. HOLLOWAY: In relation to that crossing, the government has set aside a certain amount of money, I think $15 million, for infrastructure. That includes the rail loop which serves the new Outer Harbor terminal. How much of that funding will be spent on upgrading the existing rail line which would be made redundant by a third crossing?

The Hon. R.I. LUCAS: In relation to those sorts of detailed figures about the cost, I understand that discussions and consultations are still going on with a variety of state and federal agencies. I think the best bet, rather than delaying the committee today, is to take those requests for information on notice, and I will see what information I can bring back Tuesday week.

The Hon. P. HOLLOWAY: The minister, in answer to the question on the TAB sale, provided in the House of Assembly some information on consultants. I do not think the Treasurer was able to provide that information earlier today. Given that the minister has been able to provide details of what has been spent on the TAB sale, can he do the same thing for this sale? I appreciate that the minister will have to take that question on notice.

The Hon. P. HOLLOWAY: I will have to take it on notice, but the minister did respond to the Hon. Mr Holloway's question, and the notes that were prepared for me indicated that he had given an undertaking to provide information to the parliament. I have taken on notice the questions as to when he will provide that information. I did note that he has evidently provided information of a similar nature in the TAB debate. I will take up the issue with the minister to see whether he can indicate when he might provide that information.

The Hon. P. HOLLOWAY: I referred in my second reading speech to the fact that the government had said earlier that there was no reserve price. Will the government sell this asset—the ports—at any price? Is it a fact that there is no reserve price and that, if the price is low, the government will sell it, anyway?

The Hon. R.I. LUCAS: I am not sure whether I heard the member correctly, but did he say that the government had said that it would sell it with no reserve price?

The Hon. P. HOLLOWAY: It was stated in some of the earlier documentation that was given out, and in this respect I refer to the 'frequently asked questions' kit that came out in relation to the sale. On page 4, 'Frequently asked questions', 30 August 1999 states:

> The government is not going to give a ballpark figure because that would be like telling everyone what price you would settle for before an auction starts. We don't have a reserve price set down but we do, of course, have a pretty good idea of what Ports Corp is worth.

The Hon. R.I. LUCAS: I do not think one can read into that, if that is where the member has taken the statement from, that the government will sell at any price. I am happy to take further advice from the minister on the issue, but I repeat that I do not think one could read into that that the government has adopted a position that it will sell at any price. If someone comes to us and says, 'We will give you $1 million for the Ports Corp', I can only speak as one minister, but I would take some convincing that that would be a deal worth settling for.

The government's general position in relation to this has been—and I have highlighted before—that we are not interested in a fire sale of assets: we are interested in getting a benefit to the community from any privatisation process. Indeed, that has been our record. In relation to the Casino sale, it was on the market back in 1997-98 during the depths—I was going to say at the height—and we withdrew the Casino from sale because we believed that we were not going to get fair and reasonable value for the Casino asset in that investment climate. So I think the government has demonstrated, at least on one occasion, its preparedness to make the hard decision in relation to a sale process. In that case we held it off for a year or two years until the investment climate had changed and, as a result, got a significantly better price during that sale process than the earlier projected sale price during the earlier sale process.

So I will take up the issue with the minister, but I hasten to say that I would not read into the quote that the member has cited that that implies that the government is prepared to sell at any price.

The Hon. R.K. SNEATH: As it is a Friday afternoon when everybody is heading out fishing on Saturday and Sunday, I am a bit concerned about access to jetties and fishing places on the land if this sale goes through. I understand that there is some provision for a recreational access agreement. However, it also looks at amendments that could

be made by the relevant councils to change that down the track. Will there be any provision for access for people on a recreational basis—such as fishing and so forth—or is there a possibility that that could be left totally in the control of local government and the occupier of the land, resulting in fishermen and the like not having access to all jetties or other facilities on that land in the future?

The Hon. R.I. LUCAS: Under arrangements for recreational access agreements, as I have indicated, an agreement will be signed between the future owner and operator and the local council. If that is to be changed, it has to be a mutually agreed change. The new operator cannot come in and say, 'We are going to change it without the agreement of the council.' My experience with local councils, and I suspect that the Hon. Mr Sneath has had considerable experience with some regional councils as well, is that they are not likely to give up lightly recreational access to jetties, wharves and whatever else it might happen to be, particularly if they want to be re-elected at the next local government election.

I believe that, under the arrangements in place, local government is the local protector of individual rights or recreational fishing rights in the local community but, in the end, if there was a strong reason why the local community and the council wanted to take a different view from the future owner and operator, technically the provisions of the legislation allow that. I cannot envisage a set of circumstances in which recreational fishing access would be removed with the agreement of the local council. If the honourable member has a particular example or council in mind, he might like to raise it, but the scheme of arrangement that has been entered into is one that allows local people, through the local council, to protect the fishing interests of local recreational fishers in that area.

The Hon. R.K. SNEATH: Sometimes when an occupier takes over land and this sort of agreement is made, the occupier puts up hazard signs or signs concerning occupational health and safety to keep recreational people out of the area. I do not think there are any provisions for such people or local councils to have to fix such hazards in a specific time and open up the access for recreational people as quickly as possible.

The Hon. R.I. LUCAS: Each of the recreational access agreements have designated times and access areas and the historical permitted access levels that presently exist have generally been preserved. The further aspect of the member's question about hazard areas is a difficult area because potentially that is an issue even if it stays in government ownership. With due respect to the legal advisers present and lawyers generally, I suspect that the possibility of people injuring themselves with recreational access to fishing, for example, will continue to be an issue in the law as people continue to seek resolution of any complaint they might have. In the past couple of months I saw reported in the *Advertiser* that someone won a healthy sum of money in terms of damages in a not dissimilar area.

There is also the issue of people who have used walking trails for years and years without warning signs being in place but, when someone gets injured and action is taken, councils, government departments and agencies have to decide whether to erect signs, put up walking rails or whatever it might be to try to protect their legal position in terms of liability. The second part of the honourable member's question will potentially be an issue irrespective of whether or not there is government or private ownership. If someone takes legal action in terms of a hazard or something like that, whoever is the owner or operator potentially will have to take action. In this case, if it is something that impacts on the recreational access agreement, it will need to be agreed between the two parties.

Progress reported; committee to sit again.

MARITIME SERVICES (ACCESS) BILL

Adjourned debate on second reading.

(Continued from 9 November. Page 398.)

The Hon. IAN GILFILLAN: This bill is one of three associated with the privatisation of the SA Ports Corp. As my colleague the Hon. Sandra Kanck, who has been handling the privatisation of Ports Corp, is unable to be in the chamber today, I am delivering her second reading speech for her.

It is important for the record to reflect that the Democrats are opposed to the privatisation of monopoly infrastructure. Consequently, we oppose the sale of Ports Corp. Unfortunately, the state government does not need legislation to privatise Ports Corp; it can be sold or leased without parliamentary approval. Therefore, the Democrats decided to support the passage of the three bills to ensure a robust regulatory regime and the best possible return for taxpayers.

This bill, as its name implies, is designed to guarantee third party access to maritime services at proclaimed ports. A regulated commercially viable access regime is essential when monopoly infrastructure is privatised. The Democrats support the second reading.

The Hon. P. HOLLOWAY secured the adjournment of the debate.

HARBORS AND NAVIGATION (CONTROL OF HARBORS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 9 November. Page 400.)

The Hon. IAN GILFILLAN: This bill is one of three associated with the privatisation of the SA Ports Corp. My colleague the Hon. Sandra Kanck has been handling the privatisation of Ports Corp and, unfortunately, as she is unable to be in the chamber today, I am delivering her second reading speech for her.

I take this opportunity to again put on the record that the Democrats are opposed to the privatisation of the SA Ports Corp. The reality is that the state government does not need legislation to privatise Ports Corp: it can be sold or leased without parliamentary approval. Hence, the Democrats have reluctantly decided to support the passage of this and its two companion bills.

The three bills dealing with the lease of the SA Ports Corp are designed to give legislative force to how the state government wants the private operators to run the ports. This begs the question: why sell the Ports Corp in the first place? However, I will not discuss the flawed logic of that decision here.

The Harbors and Navigation (Control of Harbors) Amendment Bill will regulate the operational duties of the lessee. This will primarily be achieved through port operating agreements between the Minister for Transport and Urban Planning and the lessee. The Democrats support the second reading.

The Hon. P. HOLLOWAY secured the adjournment of the debate.

EDUCATION (COUNCILS AND CHARGES) AMENDMENT BILL

Second reading.

The Hon. R.I. LUCAS (Treasurer): I move:

That this bill be now read a second time.

I seek leave to have the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

The purpose of this Bill is to amend the *Education Act 1972* to establish a system of governance and management of government schools and to allow a range of compulsory and voluntary charges.

For governance and management of government schools, the intent of the amendment is to establish, in the Act:

- a system of governance based upon school councils and governing councils as incorporated bodies operating under a constitution approved by the Minister;
- the flexibility and risk management required to implement governance and local management of schools;
- provisions for affiliated committees to operate under a constitution, approved by the Minister.

This amendment provides that every school council is a body corporate that operates under a constitution approved by the Minister, and is not an agency or instrumentality of the Crown. The requirement for approval of the constitution will allow schools the flexibility, not currently available to them through legislation, to reflect local considerations in their governance regime.

The constitution adopted by a council will distinguish between a governing council and a school council. It will specify the membership and the wide-ranging functions of a council, including accounting and auditing procedures and practices.

Provision is made for the establishment and dissolution of school councils and governing councils in a range of situations to accommodate new and existing individual schools, amalgamation, clustering and closure of schools. It is proposed that future councils will determine whether they are to be established as governing councils, or not.

The functions and responsibilities of head teachers who work with a governing council will change, commensurate with the strengthened role and functions of the governing council from an advisory to a decision-making body. The roles of both will be articulated, they will jointly exercise authority and control, and will therefore have responsibility for the successful integration of leadership, governance and management.

The head teacher will continue to be the educational leader, and will be accountable both to the governing council and the Chief Executive for the management of the site, with responsibility for the supervision of all staff.

Council accountability will be strengthened to reflect its greater powers. It will be accountable to the Minister for Education and Children's Services and responsible to the whole community for the strategic objectives and policies of the school or preschool.

All government schools will have either a school council or a governing council. Government schools will teach programs consistent with the department's broad curriculum goals as defined by the Curriculum Standards and Accountability Framework, and the department will remain the employing authority for teachers.

Students will continue to have right of access to their local school or preschool. The increased staffing flexibility afforded by local management will respect the industrial rights of employees, and staffing entitlements for schools and preschools will be based on current industrial agreements and will be the same for all departmental schools and preschools.

Under proposed arrangements, it will be possible for a governing council to operate as the Management Committee for a children's services centre within the meaning of the *Children's Services Act 1985*.

The amendment ensures that protection is given to council members in the proper discharge of their duties, but also gives power to the Minister to remove council members should certain specific circumstances arise, and, in writing, to suspend powers or functions of councils in urgent circumstances.

The status of affiliated committees will be enhanced through provision for them to also operate under a constitution approved by the Minister. The constitution is to contain provisions regarding its membership, functions, meetings, accounting and auditing practices and conduct.

For compulsory materials and services charges, the intent of the amendment is to establish in the Act:

- a compulsory materials and services charge in respect of students who reside in South Australia and who are eligible for permanent residency in Australia;
- authority for the Director-General to establish charges for tuition, materials and services in respect of full-fee-paying non-residents, and in certain other circumstances;
- provision for charges in respect of elective curricular activities undertaken by students;
- provision for voluntary contributions to be made to schools by parents of students.

The materials and services charge will be limited to course materials such as stationery, books, apparatus, equipment, organised activities or other materials and services, the lease or hire of curriculum-related goods and the costs directly related to an education course, and other activities provided in accordance with the curriculum determined by the Director-General.

The maximum compulsory charge will be prescribed in the Act, applying respectively to secondary and primary courses of instruction across the government school system (excluding preschool, which is exempt from compulsory charges in accordance with Government policy). The head teacher is responsible for fixing the materials and services charge which must be approved by the school council. Any amount up to the maximum amount will be subject to legal recovery in a court by a school council. In the event that legal recovery of a debt is required, the school council is the legal entity who must take action through the court.

In order to ensure transparency to parents in the matter of charges, the payment advice issued by schools to parents must be in accordance with the instructions of the Director-General. The written notification to parents will clearly specify that the materials and services charge is a compulsory, legally-enforceable payment. If a voluntary contribution is also requested of parents, the discretionary nature of this component will be disclosed. It is intended that the Director-General's guidelines issued to all schools will require that all components must be itemised on the payment advice issued to parents.

The head teacher has the capacity to enable payment by instalments over the school year, with full payment being met, however, by the end of the third school term.

Charges can be waived or refunded where appropriate. Parents who qualify for School Card arrangements are not at present legally obliged to pay any portion of the materials and services charge, and this practice will continue. If there is a gap between the amount of the School Card and the amount of the compulsory charge, the gap payment may be requested as a voluntary contribution only, it will not be legally recoverable from the parent.

The Act will provide that a student must not be refused materials or services for non-payment of the materials and services charge by his or her parents, as responsibility for non-payment lies with the parent, not the student.

Activities made available to students on an elective basis will be subject to the payment of a fee, as is current practice and payment for these activities would be legally recoverable.

The Amendment Bill expands the powers of the Minister to include the provision of preschool, primary and secondary education or other educational services to students who do not reside in this State. This enables Australian students in other States seeking educational programs through on-line or correspondence courses in conjunction with studies in their home State to be enrolled in South Australian schools, and to be charged tuition and other fees.

In some circumstances, students of registered non-government schools participate in subjects delivered through the Open Access College. The amendment will regularise this arrangement, and enable the College, and other government schools, to fix fees and charges to the non-government school, and to exempt as appropriate. Similarly, schools will be able to apply fees and charges in respect of adults undertaking, on an elective basis, courses and training programs provided by government schools. However, such fees will not be applied to adults who re-enter government schools to complete their post-compulsory secondary education.

Relevant fees will be published by the Director-General in the *Government Gazette*.

I commend this bill to honourable members.

Explanation of Clauses

Clause 1: Short title

Clause 2: Commencement

These clauses are formal.

Clause 3: Amendment of s. 5—Interpretation

This clause inserts definitions necessary for the amendments contained in this measure.

In particular, it inserts a definition of a governing council—a school council for a Partnerships 21 site. The distinguishing feature is that the council is jointly responsible with the head teacher of the school for the governance of the school.

The definition of head teacher is substituted so that it results in a designation of a particular person as the head teacher of a school, rather than a description of the duties of a head teacher. In the case of governing councils, the responsibility of the head teacher for the governance of the school will be a joint responsibility with the governing council.

Clause 4: Amendment of s. 9—General powers of Minister

A new subsection is added to make it clear that the Minister may provide correspondence courses to students who reside interstate or overseas.

Clause 5: Substitution of Part 8

The Part dealing with school councils is substituted.

PART 8
SCHOOL COUNCILS

83. School councils

This section reflects the current situation that all Government primary and secondary schools have school councils.

As in the current Act, the section contemplates that there may be one school council for a group of schools and a school council is given the status of a body corporate.

The requirement for a school council to operate under a constitution is new. Currently, the Act and the regulations govern various aspects of the operation of school councils.

The new section includes express recognition that school councils are not agencies or instrumentalities of the Crown.

84. Constitution of school council

This section sets out various matters that must be included in the constitution of a school council.

In the case of a governing council, the council is to be given a role (specified in the constitution) in respect of—

- strategic planning for the school;
- determining policies for the school;
- determining the application of the total financial resources available to the school;
- presenting operational plans and reports on its operations to the school community and the Minister.

The members of a governing council are to comply with a code of practice approved by the Minister and the council is required to participate in a scheme for the resolution of disputes between the council and the head teacher.

The section contemplates a governing council also constituting the management committee of a registered children's services centre.

The section also contemplates the functions of school councils extending to pre-school education and the education, care, recreation, health or welfare of students outside of school hours.

Allowance is made for a constitution to provide for the establishment of committees which may comprise members, non-members or both members and non-members and for delegations to committees or to other school councils.

85. Establishment and dissolution of school councils

This section provides for the establishment of school councils for Government or proposed Government schools and the restructuring of school councils where schools are amalgamated or councils are to be amalgamated or split.

The Minister is to determine the constitution under which a newly established school council is to operate. However, a governing council constitution cannot be chosen unless the council is replacing one or more existing governing councils.

Where restructuring occurs, provision is made for the distribution of assets and liabilities of a dissolved school council by order of the Minister without payment of stamp duty.

86. Affiliated committees (eg Parents & Friends)

This section is similar to the existing provision for the establishment of affiliated committees.

As with school councils, the requirement for an affiliated committee to operate under a constitution approved by the Minister is new.

87. Constitution of affiliated committee

This section sets out the types of provisions to be included in the constitution.

88. Amendment of constitution of school council or affiliated committee

Under this section an amendment to a constitution proposed by a school council or affiliated committee is of no effect until approved by the Minister. A school council may only submit an amendment to the constitution of the council that would result in the council becoming a governing council to the Minister for approval if the council, the head teacher of the school and the Director-General are signatories to an agreement that contemplates that result.

The Minister is given power to direct a school council or affiliated committee to amend its constitution, but only after having given 3 months notice to the council or committee and given proper consideration to any representations.

The Minister cannot give a direction under this section that would result in the school council becoming a governing council. That can only be achieved through approval of an amendment to the constitution submitted to the Minister by the council.

89. Model constitutions

The Minister may publish model constitutions. Any alterations to the model must be noted and the Minister is given absolute discretion to approve or refuse to approve a constitution that contains such an alteration.

90. Copies of constitutions and codes of practice to be available for inspection

Under this section the Minister is required to keep copies of constitutions and codes of practice available for public inspection.

91. Limitation on power to deal with real property

This limitation is the same as that under the current Act—the Minister's consent is required to any acquisition or disposal of real property by a school council.

92. Limitation on power to borrow money

This limitation is the same as that under the current Act—the Minister's consent is required before a school council may borrow money. Provision is made for a Treasurer's guarantee.

Details of the School Loans Advisory Committee are no longer set out in the Act but provision is still made for such a committee to be established to provide advice to the Minister on proposals of school councils to borrow money.

93. General limitation in respect of curriculum, discipline and staff

Subsection (1) makes it clear that a school council (including a governing council) is not to interfere in—

- the provision of instruction in accordance with the curriculum;
- the day to day management of the provision of that instruction;
- the administration of discipline within the school.

Subsections (2) and (3) largely reflect provisions currently in the regulations. Under these subsections, a school council is prevented from interfering in how staff members go about the performance of their duties.

94. Conflict of interest

This section elevates the conflict of interest provision from the regulations to the Act. A member of a school council must not take part in deliberations in relation to a contract or proposed contract in which the member has a direct or indirect pecuniary interest.

95. Accounts

The Director-General or Auditor-General is given power to inspect and audit the accounts of a school council or affiliated committee.

96. Administrative instructions

Under the current Act the Minister may issue binding administrative instructions relating to borrowing by school councils. Under the current regulations other administrative instructions may be issued.

This section generalises the power of the Minister to issue binding administrative instructions to school councils and affiliated committees.

97. Minister's power to remove members

This section gives the Minister power to remove a member of a school council or affiliated committee from office—

- for misconduct;
- for failure or incapacity to carry out the duties of office satisfactorily;
- if of the opinion that the membership should be reconstituted for various stipulated reasons;
- for any other reasonable cause.

98. Minister's power to suspend powers or functions in urgent circumstances

This section gives the Minister power to prohibit or restrict the exercise of a power or the performance of a function of a school council or affiliated committee if the Minister considers that necessary or desirable as a matter of urgency.

99. Validity of acts

This is a standard provision providing for the validity of acts of a council or committee despite a vacancy in membership or a defect in the election or appointment of a member. The current regulations only partially cover this matter.

100. Immunity

This provision provides immunity to members or former members of school councils, committees established by school councils and affiliated committees.

Clause 6: Insertion of ss. 106A to 106C

This clause inserts sections 106A to 106C which deal with charges.

106A. Materials and services charge

This section gives the head teacher of a Government school power to fix a materials and services charge for students enrolled at the school.

The section imposes certain restrictions on the setting of the charge namely that the charge is not to exceed a specified amount (subject to CPI increases), that in setting the charge, certain factors may and may not be taken into account and that the basis for the charge must be disclosed to the school council and the proposed charge approved by the council.

The section contemplates the setting of differential charges according to year level or any other factor.

Liability for the charge is provided for as follows:

- for a child student, the parents are liable;
- for a dependent adult student, the parents and the student are liable;
- for a non-dependent adult student, the student is liable.

The section provides that written notice must be given of the amount of the charge and that payment may not be required before 14 days from the date of the notice.

The section gives the head teacher of a Government school power, in a particular case or class of cases, to allow for payment of the charge by instalments, to waive or reduce the charge or to refund the charge in whole or in part. However, this power is subject to any directions of the Director. The section makes the charge recoverable as a debt due to the school council.

The section further provides that in any legal proceedings an apparently genuine certificate signed by the head teacher stating certain specified matters relating to an outstanding charge is, in the absence of proof to the contrary, proof of the matters so specified. This standard evidentiary provision essentially means that the onus would be on the person specified in the certificate as liable for the debt to disprove the matters specified.

A significant safeguard is afforded to students by the inclusion of a provision that prohibits the withholding of materials or services from a student by reason of non-payment of the charge.

106B. Charges for certain overseas and non-resident students

This section gives the Director-General power to fix charges for certain overseas students of Government schools and students of Government schools who reside outside the State.

The section contemplates the setting of differential charges according to year level, subject or any other factor.

Liability for the charge is set out as follows:

- for a child student, the parents are liable;
- for a dependent adult student, the parents and the student are liable;
- for a non-dependent adult student, the student is liable.

The section also gives the Director-General power, in a particular case or class of cases, to allow for payment of the charges by instalments, to waive or reduce the charges, to refund the charges in whole or in part or to require a person to give security (eg. a bond) for payment of the charges. The section makes the charge recoverable as a debt due to the Minister.

The section provides that in any legal proceedings an apparently genuine certificate signed by the head teacher stating certain specified matters relating to an outstanding charge is, in the absence of proof to the contrary, proof of the matters so specified. This standard evidentiary provision essentially means that the onus would be on the person specified in the certificate as liable for the debt to disprove the matters specified.

The section defines a 'student' as including a prospective student, so that application fees may be fixed pursuant to this section for prospective students.

106C. Certain other payments unaffected

This section provides that nothing in the Act prevents—

- charges being made for—
  - instruction other than for that provided in accordance with the curriculum;
  - extra-curricular activities;
  - curricular activities not forming part of the core of compulsory activities (eg. excursions, performances at the school etc.);
- charges being made for instruction or activities for adults not enrolled in secondary education;
- charges being made to the governing authority of a non-Government school for a student of that school undertaking a course of instruction provided by a Government school;
- certain invitations being made to parents, students or others to make, or the receipt from such persons of, voluntary payments (eg. fund-raising payments) for the purposes of the school.

106D. Review of sections 106A to 106C

This section requires the above sections to be reviewed in light of the report of the Parliamentary Select Committee on DETE Funded Schools.

Clause 7: Amendment of s. 107—Regulations

This clause amends section 107 of the principal Act by removing references to certain matters to do with school councils, now covered by new Part 8. The clause also substitutes for subsection (2)*(sa)* a broad regulation-making power in respect of any matter pertaining to school councils, affiliated committees or their operation.

SCHEDULE 1

Transitional Provisions

Clause 1: Head teachers

This clause ensures that current head teachers remain designated as head teachers for the purposes of the Act.

Clause 2: School councils

This clause ensures that current school councils continue to operate. Each school council is given the opportunity to adopt a constitution and seek the Minister's approval of that constitution. The Minister may determine the constitution under which a council is to operate if no action is taken by the council within 6 months of commencement or if the Minister rejects the council's proposal. However, the Minister cannot determine that the constitution is to be that appropriate to a governing council unless the school is a Partnerships 21 site.

Clause 3: Affiliated committees

This clause ensures that current affiliated committees continue to operate. As with councils, affiliated committees are given an opportunity to adopt a constitution but may have one determined for them by the Minister if they do not do so within 6 months of commencement or if the Minister rejects the committee's proposal.

SCHEDULE 2

Amendment of Children's Services Act

This amendment complements proposed new section 84(3) by expressly contemplating that the management committee of a registered children's services centre may constitute a school council.

The Hon. P. HOLLOWAY secured the adjournment of the debate.

ADJOURNMENT

At 5.39 p.m. the Council adjourned until Tuesday 28 November at 2.15 p.m.